



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.5267 of 2010
and M.P.(MD).No.1 & 2 of 2010

The Management
Tamilnadu State Transport Corporation,
(Kumbakonam) Ltd.,
Karaikudi Division,
Karaikudi.

.. Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.A.Sundar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records pertaining to the award dated 27.11.2008 in I.D.No.55 of 2006 on the file of the first respondent and quash the same.

For Petitioner : Mr.Thilak Kumar

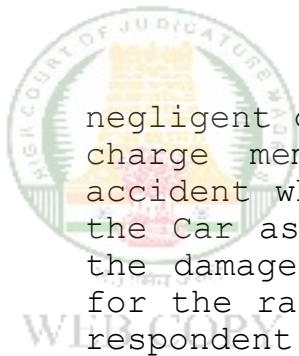
For Respondents : R1 - Court.

Mr.P.Natarajan for R2

ORDER

This writ petition is filed by the Transport Corporation as against the award of Labour Court, Madurai in I.D.No.55 of 2006.

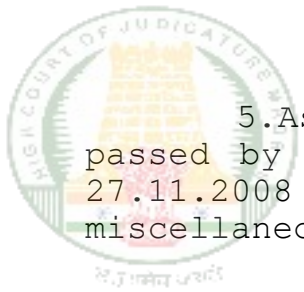
2.The second respondent was working as driver in the petitioner Corporation. When the second respondent was on duty, on 15.07.2000, in a bus bearing registration No.TN 45 N 0783 in the route of Karaikudi - Dindigul, the bus driven by the second respondent met with an accident. The bus dashed against a Car which was coming from the opposite direction. Due to the accident three persons died and three persons sustained injuries. For rash and



negligent driving, the second respondent was charge sheeted. In the charge memo, the petitioner was shown as responsible for the accident which resulted in the death of three persons and damage to the Car as well as the Bus. Apart from the allegation relating to the damage caused to the bus, the petitioner was primarily charged for the rash and negligent driving. To the charge memo, the second respondent submitted his explanation and Domestic Enquiry was conducted as per rules. After giving sufficient opportunity to the second respondent, the Enquiry Officer filed his report holding that the charges against the second respondent are proved. Stating that the second respondent had similar antecedents and punished for negligent driving on earlier occasions, the petitioner terminated the second respondent from service. The second respondent raised an Industrial Dispute in I.D.No.55 of 2006 before the Labour Court, Madurai and the Labour Court set aside the order of punishment and directed reinstatement without back wages with continuity of service. As against the order of Labour Court, the Management preferred the above writ petition.

3.Before the Labour Court, the Management has not examined any one except marking the documents relating to the Enquiry proceedings. Before the Enquiry Officer no one was examined on the side of Management. However, it appears that the Conductor of Bus who travelled on that day was examined before the Enquiry Officer. Though the evidence of the Conductor corroborated with the evidence of second respondent, the Enquiry Officer did not accept the evidence and held that the second respondent was guilty of rash and negligent driving.

4.The Labour Court after elaborately considering the facts from records and applying law laid down by several precedents with regard to appreciation of evidence and the role of Labour Court, came to the conclusion that the second respondent was not responsible for the accident. Even though, it was observed that the accident could have been avoided by the second respondent, the Labour Court found that the Management has failed to examine any witness or produce material to prove the charge. Though it is true that in a Departmental Proceedings the standard of proof is not the same as required to prove criminal charges, the Labour Court has considered the evidence of Conductor corroborating the evidence of second respondent. After examining the documents and statement of witnesses, the Labour Court came to the conclusion. This Court is not supposed to take a different view unless there is perversity or irregularity in the award of Labour Court. Considering the fact that the evidence of Conductor can be accepted and the petitioner Management has not let in any independent witness to prove that the accident was caused by the rash and negligent driving of the second respondent, this Court has no reason to interfere with the order of Labour Court.



5.As a result, this writ petition is dismissed and the award passed by the Labour Court, Madurai, in I.D.No.55 of 2006, dated 27.11.2008 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

TM

+1 CC to M/s.P.THILAK KUMAR, Advocate SR-92693.
+1 CC to SPL GP SR-93122.

W.P. (MD) .No.5267 of 2010
17.10.2019

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