

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.34927 of 2014

and

M.P.Nos.1 of 2014, 1 of 2015 and W.M.P.No.20966 of 2016

Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division III Ltd.,
Kancheepuram
Rep. by its General Manager.

...Petitioner

vs.

G.Gopal (Deceased)
1.Roopavathi (Wife)
2.Kannan (Son)
3.Jayanthi (Daughter)
4.Sasikala (Daughter)
5.The Presiding Officer
II Additional Labour Court
Madras High Court,
Chennai-104.
6.The State of Tamil Nadu
Rep. by Transport Secretary
Fort St.Geroge,
Chennai.

...Respondents

* R6 Suo-motu impleaded as per order dated 02.08.2016 in
W.M.P.No.20966 of 2016 in W.P.No.34927 of 2016.

Writ Petitions filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
to call for the records of the 5th respondent made in
I.D.No.190 of 2005 dated 12.11.2013 and to quash the same as
illegal.

For Petitioner : Ms.Rajeni Ramadass

For Respondents : Mr.C.Manohar
for R1 to R4
Mr.D.Suriyanarayanan
Additional Government Pleader
for R6

O R D E R

This writ petition is filed challenging the award of the
Labour Court dated 12.11.2013 made in I.D.No.190 of 2005,
wherein and whereby, the petitioner-Management was directed to
pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) as

compensation to the respondents 1 to 4 herein, who are the legal heirs of the deceased employee of the petitioner-Corporation.

2. Heard the learned counsel for the petitioner and the learned counsels for the contesting respondents.

3. One G.Gopal was working as a Driver at the petitioner-Corporation. On 14.02.1999, the vehicle which was driven by the said Gopal met with an accident and as a result of such accident, 3 persons died. According to the said Gopal, the accident was not due to his negligence or rashness and on the other hand, the vehicle was not properly maintained by the petitioner-Corporation. However, after framing charges, the Management conducted a domestic enquiry and based on the report filed by the Enquiry Officer, finding that the charge is proved, the Management terminated the service of the said Gopal with effect from 16.08.1999. The said Gopal filed I.D.No.190 of 2005 challenging the order of dismissal. However, he died on 05.01.2011 during the pendency of the Industrial Dispute. Thereafter, the respondents 1 to 4 herein were brought on record in the place of the deceased employee. The Tribunal, after considering the fact that in the domestic enquiry, no eye witnesses were examined to substantiate the charge leveled against the deceased employee, also by finding that the very claim petition itself was filed after a period of 6 years, has chosen to pass the impugned award only by directing the Management to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) as compensation.

4. The learned counsel for the petitioner-Corporation submitted that even though eye witnesses were not examined, the FIR filed against the deceased employee has clearly spoken to about the manner, in which, the accident took place and therefore, non-examination of the eye witnesses cannot be a reason for the Labour Court to grant the relief to the respondents 1 to 4.

5. On the other hand, the learned counsel appearing for the respondents 1 to 4 submitted that the domestic enquiry, being an independent enquiry, ought to have been conducted, by examining the material witnesses viz., eye witnesses and therefore, in the absence of examination of those witnesses, the Labour Court was right in awarding compensation, with which, this Court need not interfere.

6. It is true that the deceased employee was issued with a charge that he has committed the accident due to rash and negligent driving, resulting in the death of 3 persons. The said charge was denied by the deceased employee. His case was that the vehicle was not properly maintained by the Corporation and therefore, he cannot be blamed for the said accident. Needless to say that the right persons to speak about the accident are the eye witnesses to the same. Only those persons will be in a position to speak as to whether the

deceased was driving the vehicle in a rash and negligent manner. Admittedly, no such eye witness was examined in this case. The Management, while conducting the independent domestic enquiry, is not justified in simply relying on the FIR alone, without examining the eye witnesses. Therefore, the Labour Court was right in coming to the conclusion that the dismissal of the deceased from the service is not just and proper. It is also seen that the Labour Court has only awarded a compensation of Rs.2,00,000/- (Rupees Two Lakhs Only) and the said award is not questioned by the respondents 1 to 4. Therefore, it is evident that they have accepted the relief granted by the Labour Court. In view of the above stated facts and circumstances, I find that the findings rendered by the Labour Court are not perverse requiring any interference by this Court.

7. Accordingly, this Writ Petition is dismissed. Consequently, the petitioner-Management is directed to pay the amount awarded by the Labour Court to the respondents 1 to 4 within a period of eight weeks from the date of receipt of a copy of this order. If any amount was already received by the respondents 1 to 4, during the pendency of the proceedings, the petitioner-Management is entitled to give credit to such amount and pay the balance as directed supra. If any amount is lying in the Court deposit, the respondents 1 to 4 are permitted to withdraw the same. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Presiding Officer
II Additional Labour Court
Madras High Court,
Chennai-104.

2. The Transport Secretary
The State of Tamil Nadu
Fort St. George, Chennai.

+1cc to Mr. Rajeni Ramadass, Advocate SR.No.1803

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