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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.20861 OF 2018

AND

WMP.NO.24494 OF 2018

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem Limited)
Dharmapuri Zone, Bharathipuram
Dharmapuri 636 705.

...Petitioner

-VS-

1.State General Secretary
Tamil Nadu Workmen Grievance Redressal Trade Union,
173B, 6th street,
Erode 638 012.

2.D.Narasimman

...Respondents

R2 impleaded vide order dated 23.03.2021
made in WMP.No.1487 of 2021 in
W.P.No.20861 of 2018 by MGRJ

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the order dated 03.04.2017 passed by the Labour Court, Salem in I.D.No.115 of 2013 and to quash the same.

For Petitioner : Mr.D.Raghu

For Respondents : Mr.R.Dillikumar for R2

O R D E R

The Petitioner / Management has come forward with the present writ petition, challenging the award of the Labour Court



in I.D.No.115 of 2013 dated 03.04.2014, wherein the Labour Court held that as the employee suffered 70% disablement, while in service, he should be provided with an alternative employment from 20.11.2003 together with continuity of service, without loss of income and back wages and that the benefits granted from 28.04.2009 till 31.12.2013 should be deducted and the balance amount to be paid within a period of three months from the date of award.

2. Learned counsel for the Management submitted that due to the accident, the employee suffered injury and he moved the Motor Accident Claims Tribunal, claiming loss of income and the Tribunal has granted the relief. Therefore, he cannot claim wages again for the same period and it amounts to unjust enrichment and the award to that extent needs to be interfered with, by allowing this Writ Petition. The Management also produced a copy of the EP order, wherein the amount of Rs.7,67,589.77 has been determined.

3. Per contra, learned counsel for the 2nd Respondent / Workman contended that the Workman lost a limb due to the accident that had taken place on 23.06.2003 on Hosur-Coimbatore route, on account of which, there was amputation of his left leg and that there is 70% of disablement. He was examined by the Medical Board and was certified that he is unfit to the post of Conductor. The Tribunal, taking note of the fact that the Workman is entitled to alternative employment and that the Workman has also attained the age of superannuation, directed the Management to pay compensation of Rs.7,41,649/- to the Workman within three months. Hence the award is perfectly justified and need not be interfered with, especially when it is based on finding of fact.

4. Heard both parties and perused the materials available on record.

5. Admittedly, the Workman was employed as a Conductor and he met with an accident on 23.06.2013, pursuant to which, there was an amputation of his left leg. It is also not in dispute that he has attained the age of superannuation as early as on 31.12.2013 and the Motor Accident Claims Tribunal (MACT) had awarded a compensation of Rs.7,41,649/-, which is inclusive of loss of income on account of loss of employment. The Workman



has not disputed the fact that he has approached the MATC and received a compensation under the head loss of income along with other heads. When he has got the benefit of loss of income from one Court, he cannot seek for the same benefit of loss of income from the employer through a different Forum, which would amount to receipt of double payment for the period in which he was not in employment.

6. It was brought to the attention of this Court that pursuant to the interim order of this Court, the Management has deposited a sum of Rs.3,83,795/- Though I find substance in the case of the Management and the amount awarded by the Tribunal may be either set aside and reduced, taking note of the fact that the Workman has lost his left leg while in service, instead of granting the entire amount awarded by the Labour Court (as it would amount to unjust enrichment), this Court is inclined to modify the award of compensation granted by the Tribunal into the one of Rs.3,83,795/- which has already been deposited by the Management. The amount so deposited, can be withdrawn by the Workman together with accrued interest and the Labour Court is directed to release the amount to the Workman, after adjusting the amount mentioned in the penultimate paragraph of the award. It is needless to mention here that the balance amount, if any, shall be returned to the Management.

7. With the above modification in the Award, this Writ Petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

dpq

To :

1.The Labour Court,
Salem.



2.State General Secretary,
Tamil Nadu Workmen Grievance Redressal Trade Union,
173B, 6th street,
Erode 638 012.

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+1cc to Mr.D.Raghu, Advocate SR.No.28803

+1cc to Mr.T.Pichappa, Advocate SR.No.28743

W.P.No.20861 of 2018

SR(CO)
RVM(18/10/2021)