



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD)No.6204 of 2012

and

M.P. (MD)No.2 of 2012

WEB COPY

The Management
Rep. by its General Manager,
State Express Transport Corporation,
Tamil Nadu Ltd.,
Chennai - 2.

... Petitioner

versus

1. The Labour Court,
Madurai.
2. Tmt. Selvi
W/o. (late) Ramaiah
3. Thulasiraman
S/o.Ramaiah
4. Minor Dhanalakshmi
D/o.Ramaiah
5. Minor Mangaryarkarasi
D/o.Ramaiah
6. Minor Kanagavalli
D/o.Ramaiah
7. Minor Muthumurugan
S/o.Ramaiah
(R4 to R7 - minors are represented by
their Guardian and mother R2-Tmt. Selvi)
- 8.Tmt. Lakshmi Raman

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records from the 1st respondent Labour Court, Tirunelveli, relating to the Award passed by it in I.D.No.85 of 2006 dated 19.09.2011 and quash the same.

For Petitioner : Mr.K.Sathiyasingh

For Respondents : m Mr.K.K.Samy



for M/s.J.Mathesh for R2 to R8

ORDER

This writ petition has been filed seeking for the issuance of Writ of Certiorari, to call for the records from the 1st respondent Labour Court, Tirunelveli, relating to the Award passed in I.D.No.85 of 2006, dated 19.09.2011 and quash the same.

2. The case of the petitioner Management is that the respondents are the legal heirs of the deceased Ramaiah, who worked as Driver in the petitioner Management. When the said deceased Ramaiah was working as s Driver, on 29.04.2000, he drove the bus bearing Reg.No.TN01 N 6487 from Madurai to Madras and dashed against another vehicle which was coming from Madras to Madurai near Tholudhur, due to which, the driver and conductor and 5 passengers were injured and caused damage to the vehicle to the tune of Rs.1,76,891/-. Thereafter, a charge memo was issued to the petitioner. In the enquiry, it was found that the driver Ramaiah was solely responsible for the accident. Therefore, the petitioner Management dismissed the said Ramaiah from service. The dismissal order was made in the year 2000. But, in the year 2003, the said Ramaiah died due to the injuries sustained by him in the accident. Therefore, the legal heirs of the deceased filed a case before the Labour Court, Madurai, namely, the first respondent herein, challenging the order of dismissal passed by the petitioner Management on the ground that the deceased Ramaiah did not involve in a rash and negligent driving of the bus and due to improper maintenance of the bus, the accident had occurred. The Labour Court, vide its order dated 19.09.2011, held that the punishment is a disproportionate one and set aside the punishment and also ordered for payment of terminal benefits and other dues. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the Labour Court set aside the punishment and ordered for payment of terminal benefits, the fact remains that the deceased Ramaiah alone is responsible for the accident and further, he caused damage to the vehicle to the tune of Rs.1,76,891/- and loss to the Management. Therefore, the dismissal order passed by the Management is legally valid.

4. Per contra, the learned counsel appearing for the respondents 2 to 7 would submit that before the Labour Court, it was proved through evidence that the said accident had occurred due to improper maintenance of bus and not due to the negligence of the deceased. After considering the evidence placed on record, the Labour Court set aside the order of dismissal and ordered for payment of terminal benefits, which does not warrant any



interference.

5. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court, in a catena of decisions, has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

6. Admittedly, the facts in the present case are not in dispute. The deceased driver also passed away. The accident is also not in dispute. Further, the Labour Court, after analysing the entire evidence placed before him, arrived at a conclusion that the order of punishment is disproportionate on the ground that the deceased driver alone is not responsible for the said accident. Hence, the order of the Labour Court cannot be interfered with. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Labour Court,
Madurai.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-6459[F] dated 22/02/2021)

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18.02.2021

GS (04.05.2021) 3P 3C