



WEB COPY

W.P.(MD)No.19841 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.12.2021
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.19841 of 2013

and

M.P (MD)No.1 of 2013

- 1.The Management,
State Express Transport Corporation Ltd.,
Kanyakumari Branch,
Kanyakumari.
 2. The Management,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai. ... Petitioners
- vs
1. The Secretary,
State Express Transport Corporation,
Empolyees Union,
Kanyakumari Branch,
51, Meenakshipuram,
Nagercoil-1.
 2. The Presiding Officer,
Labour Court,
Tiruneveli. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the award passed by the second respondent in I.D.NO.95 of 2004 and I.D.No.40 of 2007, dated 19.08.2011.

For Petitioner : Mr.P.Prabhakaran

For Respondents : Mr.S.Arunachalam for R1
Labour Court for R2

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records relating to the award passed by the second respondent in I.D.NO.95 of 2004 and I.D.No.40 of 2007, dated 19.08.2011.

2. The Management, State Express Transport Corporation has filed this writ petition against the award passed by the Labour
<https://hcservices.ecourts.gov.in/hcservices/>



Court in I.D.No.95 of 2004. The first respondent has raised the I.D. passed before the Labour Court on behalf of their members, namely, D.Alexander and S.Rabeek Ahmed , who are working as Technical employees (Tradesmen) in the Kanyakumari District on 16.04.2001. The said employees have attended the maintenance work of the vehicle No. A393 (TN-01-N-6450). During the course of their duties, they failed to check and replace the right side spring leaves Nos.2 and 7 of the vehicle, which were already broken and allowed the vehicle to run. Therefore, the vehicle was capsized and there was loss of Rs.1,36,415/- (Rupees One Lakh Thirty Six Thousand Four Hundred and Fifteen only).

3. The Management has alleged that it is due to the negligence of the said two employees that there was loss. The contention of the management is that the technical person ought to have inspected properly before allowing the vehicle to drive on the road. However, the Union contended that the accident occurred because of some pit on the road and it is not the mistake and negligence on the part of the technical person.

4. The petitioner and the respondent both agrees that the vehicle met with an accident, but the liability ought to be fixed either on the technical person or on the road. Accidents may occur due to several reasons, but it cannot be concluded on the ground that the employees have not checked the spring leaves. It is not known whether the spring leaves was broken due to accident or it was broken after the accident. Admittedly there was a pit on the road and the bus capsized. Therefore, this Court is granting the benefit of doubt to the employees and in order to meet the ends of justice, the punishment is modified as Censure.

5. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate, litigant concerned.



To

1. The Presiding Officer,
Labour Court,
Tiruneveli.

COPY TO

The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-39370[F] dated
17/12/2021)

Order made in
W.P. (MD) No.19841 of 2013
16.12.2021

tp(CO)

TR(09.02.2022) 3P 5C