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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2023

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The Honourable Mr.Justice SUNDER MOHAN

**C.M.A.No.551 of 2022
and C.M.P.No.3985 of 2022**

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division – 2, Ramakrishna Road,
Salem.

...Appellant

Versus

Mrs.Jayalakshmi

...Respondent

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the order dated 27.12.2019 made in W.C.No.12 of 2019 on the file of the Commissioner for Employee's Compensation/Joint Commissioner of Labour, Salem.

For Appellant	:	Mr.D.Raghu
For Respondent	:	Mr.T.Pichappa

JUDGMENT

The appellant/Transport Corporation has filed the present appeal seeking to set aside the order dated 27.12.2019 passed by the Commissioner for Employee's Compensation/Joint Commissioner of Labour, Salem in W.C.No.12 of 2019.



2. The brief facts of the case are as follows:

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On 22.04.2015, one Mr.M.Venkatesan who was working as conductor in Rasipuram Depot belonging to the appellant/Transport Corporation, went to the Depot and stayed in the rest room provided therein, in order to join duty on 23.04.2015. While so, on 23.04.2015, at around 1.15 a.m., the said Venkatesan fell down from the staircase in the Depot, due to which, he had sustained severe injuries. Hence, immediately, he was taken to Rasipuram Government Hospital for treatment and from there, he was taken to Salem Government Hospital for further treatment where he was taking treatment as in-patient for nearly two months and in the end of June 2015, he was discharged from the Hospital. Thereafter, the said Venkatesan died on 12.08.2015. The respondent (wife of deceased Venkatesan) filed a claim petition in W.C.No.12 of 2019 before the Court of Commissioner for Workman's Compensation/Deputy Commissioner of Labour, Salem seeking compensation for the death of her husband.

3. The appellant/Transport Corporation filed its counter statement denying all the averments made by the respondent/claimant in the claim petition. In the counter statement, the appellant/Transport Corporation had



stated that at the time of accident, the deceased Venkatesan was not in duty and the accident had occurred due to his negligence alone; further, the deceased Venkatesan was not earning Rs.16,455/- as monthly salary as stated by the claimant in claim petition and he was earning only Rs.5,038/- as monthly salary and hence, the claim petition is liable to be dismissed.

4. Before the Labour Commissioner, on the side of respondent/claimant, the respondent/claimant examined herself as P.W.1 & one other witness as P.W.2 and marked 10 documents as Exs.P1 to P10. On the side of appellant/Transport Corporation, one witness was examined as R.W.1 and 8 documents were marked as Exs.R1 to R8.

5. On appreciation of the oral and documentary evidence produced before it, the Tribunal had held that the deceased Venkatesan died in the accident arising out of and in the course of his employment with the appellant/Transport Corporation and hence, the appellant/Transport Corporation is liable to pay compensation to the respondent/claimant. Accordingly, the Tribunal had directed the appellant/Transport Corporation to pay the compensation of Rs.7,36,680/- with interest at 12% per annum from the date of accident till the date of deposit and also, directed the



appellant/Transport Corporation to pay a sum of Rs.5,000/- as Funeral Expenses of the deceased Venkatesan, to the respondent/claimant.

6. Aggrieved over the quantum of compensation awarded by the Labour Commissioner, the appellant/Transport Corporation has preferred this appeal before this Court.

7. Mr.D.Raghu, learned counsel for the appellant/Transport Corporation submitted that there was no necessity for the deceased Venkatesan to go to the Depot on 22.04.2015 since he had to join duty only on 23.04.2015; and further, though it is true that the accident had occurred in the Depot, it cannot be said that the deceased Venkatesan died during the course of his employment with the appellant/Transport Corporation. He further submitted that the respondent/claimant did not produce any documentary evidence to establish the manner in which the accident had took place and hence, the appellant/Transport Corporation is not liable to pay any compensation to the respondent/claimant.

8. *Per Contra*, Mr.T.Pichappa, learned counsel appearing for the respondent/claimant submitted that normally, it is the practice of the



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employees who work in the appellant/Transport Corporation use to take rest in the rest room provided at the Depot; since the deceased Venkatesan had to join the duty on 23.04.2015, he went to the Depot on 22.04.2015 and stayed in the rest room provided wherein for taking rest. He further submitted that the appellant/Transport Corporation had not let in any evidence to dispute the fact that on 23.04.2015, at around 1.15 a.m., the deceased Venkatesan fell down from the staircase in the Depot and due to which, the accident had occurred; and hence, the Labour Commissioner had rightly held that the deceased Venkatesan died in the accident which took place during his course of employment with the appellant/Transport Corporation. The learned counsel also submitted that the appellant has not raised any substantial question of law in this appeal.

9. Heard the learned counsel on either side and perused the materials available on record.

10. Admittedly, in the present case, one Venkatesan was working as conductor in the Rasipuram Depot belonging to the appellant/Transport Corporation. Since the said Venkatesan had to join duty on 23.04.2015, he went to the Depot on 22.04.2015 and stayed in the rest room provided



therein for taking rest. While so, on 23.04.2015, at around 1.15 p.m., the said Venkatesan fell down in the Depot and sustained severe injuries. These facts are not disputed by both the parties.

11. Now, the only issue to be decided in the present case is that whether the Labour Commissioner was right in holding that the conductor Venkatesan died due to the accident which took place during the course of his employment with the appellant/Transport Corporation?

12. From a perusal of the materials on records, it is crystal clear that the deceased Venkatesan went to the Depot on 22.04.2015 and stayed in the rest room since he had to join duty on 23.04.2015. Therefore, it cannot be said that at the time of accident, the deceased Venkatesan was not on duty. Hence, this Court is of the opinion that the Labour Commissioner had rightly held that the conductor Venkatesan died due to the accident which took place during the course of his employment with the appellant/Transport Corporation.

13. So far as quantum of compensation is concerned, the amount of compensation awarded by the Labour Commissioner is just and reasonable,



and hence, no interference is called for. The interest awarded by the Tribunal as per the provisions of the Employee's Compensation Act is just and reasonable and no interference is called for. As rightly stated by the learned counsel for the respondent/claimant, no substantial questions of law are involved in this appeal.

14. In the result, this Civil Miscellaneous Appeal stands dismissed.

02.08.2023

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Commissioner for Employee's
Compensation/Joint Commissioner of Labour,
Salem.

2.The Section Officer,
Vernacular Records Section,
High Court, Madras.



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SUNDER MOHAN, J.

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