



W.A.Nos.3541 and 3555 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM:

THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR JUSTICE C.KUMARAPPAN

W.A.Nos.3541 and 3555 of 2024
and
C.M.P.Nos. 27453 and 27553 of 2024

W.A.No.3541 of 2024

The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Salamedu, Vazhuthareddy,
Villupuram Region,
Villupuram 605 602.

...Appellant

Vs.

1. The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai.

2. A.Krishnamurthy

...Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 15.06.2023 in W.P.No.4749 of 2014 passed by this Court.



W.A.Nos.3541 and 3555 of 2024

WEB COPY **W.A.No.3555 of 2024**

The Management,
Tamil Nadu State Transport Corporation Ltd.,
Salamedu, Vazhuthareddy,
Villupuram, Villupuram District.
Rep. by its General Manager

...Appellant

Vs.

1. A.Krishnamurthy

2. The Presiding Officer,
Labour Court,
Cuddalore.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 15.06.2023 in W.P.No.29386 of 2014 passed by the learned Judge.

For Appellant : Mr.M.Aswin
in both W.As

For R2 in W.P.No.3541 : Ms. C.S.Monica
of 2024
and R1 in W.P.No.3555
of 2024

For R1 in W.P.No.3541 : Court
of 2024
and R2 in W.P.No.3555
of 2024



W.A.Nos.3541 and 3555 of 2024

COMMON JUDGEMENT

WEB COPY (*Judgement of the Court was delivered by **R.SUBRAMANIAN, J.***)

These Writ Appeals are by the Management. They challenge the orders of the Writ Court made in two Writ Petitions, i.e., W.P.Nos.29386 and 4749 of 2014. While W.P.No.29386 of 2014 was against the order of the Labour Court made in I.D.No.21 of 2011, W.P.No.4749 of 2014 was against the order of the authority refusing approval for the dismissal of the employee in A.P.No.104 of 2011.

2. The charge against the workman/driver was that he was guilty of rash and negligent driving, which resulted in an accident causing the death of one Thirumal. The Labour Court found that the enquiry was not fair and proper. The order on the preliminary issue regarding the fairness of the enquiry was not the subject matter of challenge. Thus, the evidence was placed before the Labour Court by the Management as well as the workman, and the Labour Court, upon consideration of the evidence, found that the Management has not proved that the accident occurred due to the rash and



negligent driving of the driver of the bus. The Labour Court faulted the Management for not having examined the conductor or any other eyewitness to the accident. Though three witnesses were examined by the Management, none of them were eyewitnesses, and their evidence was only hearsay. Even that hearsay evidence did not make out negligence on the part of the driver, according to the Labour Court.

3. The Labour Court has observed that MW1 had deposed that the pedestrian crossed the road suddenly and tried to turn back on seeing a motorcycle. This sudden crossing and returning by the pedestrian caused the accident. Therefore, the Labour Court found that the Corporation had miserably failed to prove rash and negligent driving on the part of the workman. This order was challenged in the Writ Petition and the Writ Court concurred with the finding of the Labour Court and dismissed the Writ Petition. The order refusing approval made in A.P.No.104 of 2011, which was the subject matter of challenge in W.P.No.4749 of 2014, was also upheld as a consequence of the dismissal of the main Writ Petition, i.e., W.P.No.29386 of 2014.



W.A.Nos.3541 and 3555 of 2024

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4. We have heard Mr.M.Aswin, learned counsel appearing for the Management.

5. The learned counsel would contend that the Motor Accident Claims Tribunal, in a claim arising out of the very same accident, had held that the accident occurred due to the rash and negligent driving of the driver of the bus and therefore, the Labour Court was not right in coming to the opposite conclusion. He would also stress on the fact that this is the third fatal accident caused by the driver.

6. Law is settled to the effect that the Court exercising jurisdiction under Article 226 of the Constitution of India will not interfere with the award of the Labour Court, unless it is shown that the award is perverse or there was any procedural irregularity which renders the award *non est*. The Writ Court has concluded that the award is a reasoned one and it cannot be termed as perverse. Therefore, interference under Article 226 is not possible.



W.A.Nos.3541 and 3555 of 2024

7. Sadly, the Management has not even chosen to mark the order of the Motor Accident Claims Tribunal before the Labour Court. We should also point out that the driver/workman was not made a party to the proceedings before the Motor Accident Claims Tribunal. A finding obtained against a person in his absence cannot be used against him in collateral proceedings also. Hence, we are unable to fault the Writ Court for having dismissed the Writ Petitions. The Writ Appeals fail and are accordingly **dismissed**. Consequently, the connected Miscellaneous Petitions are closed.

No costs.

(R.S.M., J.) (C.K., J.)
06.12.2024

kv
Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No



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To

WEB COPY

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D.M.S. Compound,
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