



W.A.(MD).No.1967 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:21.10.2024

CORAM :

**THE HON'BLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD).No.1967 of 2024
and
C.M.P.(MD).No.14489 of 2024

The Management,
Tamil nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Division,
Ranithottam,
Nagercoil,
Kanyakumari District. ... Appellant

Vs.

E.K.Hutsun ... Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent,
praying this Court to set aside the order dated 20.03.2024, passed in



W.A.(MD).No.1967 of 2024

W.P.(MD).No.20434 of 2022 on the file of this Court.

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For Appellants : Mr.D.Jebaraj

For Respondent : Mr.R.Murugan

JUDGMENT

[Order of the Court was made by **Mr.K.K.RAMAKRISHNAN, J.**]

The appellant corporation filed this intra Court appeal challenging the dismissal of the writ petition in W.P.(MD).No.20434 of 2022, dated 20.03.2024, wherein the punishment order imposed by the appellant corporation against the respondent was set aside by the Labour Cour in I.D.No.103 of 2018.

2.The appellant corporation initiated disciplinary proceedings against the respondent for causing huge monetary loss due to his rash and negligent driving, which resulted in the accident and death of one person on 19.06.2015. On 19.06.2015, the respondent drove the vehicle as a driver of the appellant corporation plying between Marthandam and Aarukani route. At that time, near Malayanakavi turning, at CheriyaKolai,



W.A.(MD).No.1967 of 2024

the appellant corporation bus dashed against the TVS Motorcycle bearing Registration No.KL 01 AE 8985. As a result, the rider sustained fatal injuries and died on the spot. Thereafter, FIR was registered against the respondent driver in Crime No.583 of 2015 and he was suspended from service. Thereafter, the legal heir of the deceased filed a petition in O.P. (M.V.).No.2471 of 2015 before the learned Motor Accident Claims Tribunal, Trivandrum and the same was awarded and therefore, there was loss of Rs.20,00,000/- to the appellant corporation. Hence, the said loss was due to the rash and negligent driving of the respondent. Therefore, the departmental proceeding was initiated and enquiry officer was appointed. After enquiry, the enquiry officer found that the accident was caused both due to the negligence of the deceased and the driver of the appellant corporation bus namely, the driver/respondent herein. On the basis of the enquiry report, the disciplinary authority passed the punishment of deduction of the increment. The said punishment was challenged before the labour Court in I.D.NO.103 of 2018 and the learned Labour Court after considering the entire evidence found that the disciplinary authority gave a perverse finding relating to the cause of the accident and on the basis of the said finding, he set aside the punishment imposed against the respondent. The same was challenged before the writ



W.A.(MD).No.1967 of 2024

Court in W.P.(MD).No.20434 of 2022 and the writ Court also perused the entire records and concurred with finding of the labor Court and dismissed the writ petition. Challenging the same, the appellant corporation has filed this intra Court appeal.

3.The learned counsel appering for the appellant corporation submitted that both the authorities relied the judgement of the Hon'ble Division Bench of this Court in the case of ***Tamil Nadu State Transport Corporation, Managing Director, Trichy, and another Vs. P.Karuppasamy*** reported in ***2008 1 MLJ 694*** and the same was subsequently over ruled by the Full bench of this Court in W.P.(MD).No. 39563 of 2004, dated 01.04.2024. Hence, he seeks to interfere with the said order of both the learned Labour Court in I.D.No.103 of 2018 and the writ petition in W.P.(MD).No.20434 of 2022.

4.This Court considered the submission made by the learned counsel appearing for the appellant and perused the materials available on record.



W.A.(MD).No.1967 of 2024

WEB COPY

5.The learned Tribunal Judge rendered a finding on the basis of the judgment of the Hon'ble Division Bench of this Court in the case of ***Tamil Nadu State Transport Corporation, Managing Director, Trichy, and another Vs. P.Karuppasamy*** reported in ***2008 1 MLJ 69***. Firstly, the learned Tribunal Judge considered the entire evidence in Paragraph Nos. 14 and 15. In paragraph No.15 of the Labour Court judgment, the learned Labour Court judge has made a detailed discussion on the basis of the evidence of the enquiry officer and his report and also evidence of the department. The learned Tribunal Judge has specifically held that there was a contributory negligence on the part of both the deceased and the respondent. There was no finding that the respondent was solely responsible for the accident in the enquiry report. Without such a finding of rash and negligence on the part of the respondent alone, the punishment was imposed. The learned Labour Judge considered this aspect and gave a finding that the disciplinary authority given a perverse finding. The said appreciation of the learned Labour Court in I.D.No.103 of 2018 was approved by the writ Court. The Writ Court also concurred with the said finding. Apart from that the writ Court relied the Division Bench of this Court. On the date of the judgment, there was no judgment



W.A.(MD).No.1967 of 2024

of the Hon'ble Full Bench. Even otherwise, this Court is not going to the legal issue of the said principle laid down by the Hon'ble Full Bench. On facts, this Court considered the finding of the learned Labour Court in Paragraph No.15, where it is clearly stated that the disciplinary authority committed perversity in holding that the accident happened because of rash and negligence of the respondent, which is against the report of the enquiry officer.

6. Apart from that, the manner of the accident itself had been correctly appreciated by the learned Labour Court Judge. As per the version of the enquiry officer, when the appellant corporation was proceeding, one Bullet bearing registration No.TN W8025 came in the opposite direction and the said bullet dashed against the appellant corporation bus and the said impact caused accident of the following vehicle of the deceased's two wheeler. In the said circumstances, this Court finds no rash and negligence on the part of the driver, which was appreciated by the Labour Court. Hence, in all aspects, this Court finds no merit in the writ appeal. This writ appeal is liable to be dismissed.



W.A.(MD).No.1967 of 2024

7. Accordingly, this writ appeal is dismissed confirming the order of the Writ Court in W.P.(MD).No.20434 of 2022, dated 20.03.2024. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

[P.V.J.] & [K.K.R.K.J.]

21.10.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
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To:

The learned Judge,
Labour Court,
Tirunelveli.



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W.A.(MD).No.1967 of 2024

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and
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