



W.P(MD)No.9023 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.9023 of 2021

and

W.M.P(MD)No.6792 of 2021

The Management,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Nagarkoil Zone,
Ranithottam, Nagarkoil,
Kanniyakumari District.

... Petitioner

Vs.

General Secretary,
The State Transport Employees Union,
4KKM CITU,
Ranithottam, Nagarkoil.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the Labour Court, Tirunelveli, dated 07.11.2019 passed in I.D.No.44 of 2018 and to pass such further or other orders as this Court.

For Petitioner : Mr.R.Rajamohan



WEB COPY



W.P(MD)No.9023 of 2021

For Respondent : Mr.K.Vamanan

ORDER

The present writ petition has been filed by the Management of the Tamil Nadu State Transport Corporation, Nagercoil Zone challenging the award of the Labour Court, Tirunelveli in I.D.No.44 of 2018, dated 07.11.2019.

2. One Mr.A.Joye, who was working as a Driver in the petitioner Transport Corporation was issued with a charge memo on 11.05.2013 for being involved in a fatal accident on 06.04.2013. He has submitted an explanation on 25.02.2014. Not being satisfied with the explanation, a domestic enquiry was ordered and an enquiry report was submitted on 04.12.2015 to the effect that the charges as against the delinquent stood proved. A second show cause notice was issued to the delinquent on 23.01.2016 and he submitted his explanation on 17.03.2016. On 29.03.2016, the Management issued an order imposing punishment of postponement of increment for a period of three years with cumulative effect. Challenging the said order, the delinquent, through the Union, had raised the industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947.



W.P(MD)No.9023 of 2021

WEB COPY

3. The Labour Court after going through the oral and documentary evidence arrived at a finding that, the accident has taken place only due to the carelessness on the part of the deceased person and proceeded to set aside the order of punishment. Challenging the said order, the present writ petition has been filed.

4. According to the learned Counsel appearing for the writ petitioner, incase if the delinquent has driven the bus in a slow and steady manner, he could have very well avoided the accident. Only due to the rash and negligence on the part of the delinquent, the accident has taken place, which has resulted in huge financial loss to the Management towards payment of compensation to the family members of the deceased person. He further submitted that the Labour Court has not properly appreciated the documents filed on the side of the Management and had arrived at an erroneous finding.

5. Per contra, the learned Counsel appearing for the delinquent submitted that the family members of the deceased person have filed M.C.O.P.No.228 of 2013 before the Sub Court, Valliyoor. The Management has filed a counter in



W.P(MD)No.9023 of 2021

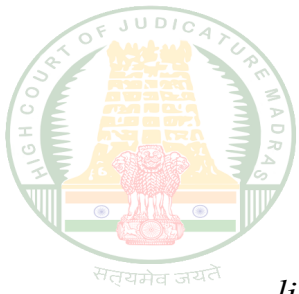
WEB COPY

the said claim petition contending that the accident has taken place only due to the negligence on the part of the deceased person. That apart, a criminal case that was laid as against the delinquent has also ended in acquittal. In such circumstances, the delinquent cannot be imposed with a punishment and he has been rightly exonerated by the Labour Court.

6. Heard both sides and perused the materials available on record.

7. The delinquent has been issued with a charge memo for being involved in a fatal accident on 06.04.2013. The family members of the deceased person have filed M.C.O.P.No.228 of 2013 before the Sub Court, Valliyoor. The counter statement filed by the Management, which was marked as Exhibit W.8 before the Labour Court was submitted for consideration. A portion of paragraph No.4 of the said counter statement is extracted as follows:

"4.The entire accident took place due to the carelessness and negligent manner of the deceased to crossing without observing the traffic in the said road. This respondent submits that the driver of the respondent was in no way responsible for the alleged accident and this respondent is not



W.P(MD)No.9023 of 2021

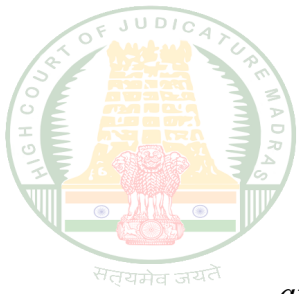
WEB COPY

liable to pay any amount to the petitioners towards compensation."

8. Immediately after the accident, a basic report has been prepared by an official of the respondent Transport Corporation and it is marked as Exhibit W.2. A perusal of Exhibit W.2 reveals that, the official has arrived at a finding that, there was 50% negligence on the part of the driver and the deceased person was also responsible for the accident.

9. The Labour Court after considering all these documents has arrived at a finding that, the accident has taken place only due to the carelessness on the part of the deceased person and the delinquent could not have avoided the accident. The Hon'ble Supreme Court in a judgment reported in **2025 (4) SCC 321 [Maharashtra State Road Transport Corporation Vs. Mahadeo Krishna Naik]** in paragraph Nos.30 and 32 has held as follows:

"30. The Corporation did not deliberately refer to the award of MACT at two different tiers, and thereby actively suppressed relevant material from a Court of law. We do not propose to enter the arena of controversy as to whether the award of MACT is binding on the Labour Court. However, the Corporation could not have at any rate resiled from what it pleaded in its own written statement before MACT on a sworn



W.P(MD)No.9023 of 2021

WEB COPY

affidavit and deliberately withhold the same. This Court has always taken a serious view against suppression of evidence in a judicial proceeding.

32. Even if we keep the award of MACT aside, it is clear from the pleadings of the Corporation before MACT and the Labour Court that the Corporation has attempted to get the best of both worlds. The contradictory nature of the stances taken by the Corporation before the Labour Court and MACT reeks of the Corporation trying to approbate and reprobate on the same issue. It is bound to cause immense prejudice to Mahadeo if the Corporation is allowed to reverse its stance to suit its own interests."

10. In view of the judgment of the Hon'ble Supreme Court, the petitioner Management cannot take contradictory stands before the Motor Accident Claims Tribunal and in the domestic enquiry proceedings. Once the Transport Corporation takes a stand that the accident has taken place only due to the carelessness on the part of the deceased person, thereafter, cannot initiate domestic enquiry proceedings as against the driver. In such circumstances, the Labour Court has rightly set aside the order of punishment imposed by the Management. There are no grounds have been made out to interfere in the order of the Labour Court. The petitioner Transport Corporation is directed to release



W.P(MD)No.9023 of 2021

WEB COPY

the monetary benefits, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

11. The writ petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

24.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The General Secretary,
The State Transport Employees Union,
4KKM CITU,
Ranithottam, Nagarkoil.

2.The Labour Court,
Tirunelveli.



WEB COPY



W.P(MD)No.9023 of 2021

R.VIJAYAKUMAR, J.

BTR

W.P(MD)No.9023 of 2021

24.07.2025