



W.P(MD)No.24228 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24228 of 2018

and

W.M.P(MD)No.21913 of 2018

The Management,
Tamil Nadu State Transport Corporation
Kumbakonam Division 2 Limited,
Tiruchirapalli,
Represented by its General Manager.

... Petitioner

Vs.

N.Kanagasabai

... 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 award on the file of the Labour Court, Tiruchirappalli in I.D.No.3 of 2007, dated 26.04.2016, quash the same and pass such further or other orders as this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : No appearance



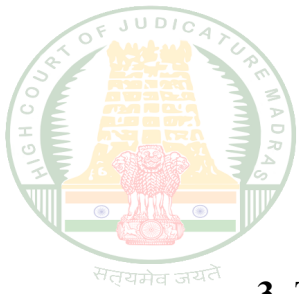
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ORDER

The present writ petition has been filed by the Management of Tamil Nadu State Transport Corporation, Kumbakonam Division challenging the award of the Labour Court, Tiruchirappalli in I.D.No.3 of 2007, wherein the order of dismissal passed by the petitioner Management has been set aside and a direction has been issued for reinstatement with 50% of back wages with continuity of service.

2. The respondent herein, who was employed as a Driver in the petitioner Transport Corporation was issued with a charge memo on 29.05.2002 on the allegation that he was involved in a fatal accident and the accident has taken place only due to the rash and negligent driving on his part. He had submitted his explanation on 04.06.2002. Not being satisfied with the explanation, an enquiry was ordered. In the enquiry, the charges stood proved. The workman was issued with a second show cause notice and he was terminated by way of an order, dated 27.03.2003. Challenging the same, the workman had raised an industrial dispute before the Labour Court, Tiruchirappalli in I.D.No.3 of 2007.



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3. The Labour Court has arrived at a preliminary finding that, the enquiry has not been conducted in a fair manner after strictly complying with the principles of natural justice. Thereafter, the Management has chosen to mark several documents and examined two witnesses on their behalf to prove that the charges as against the workman. The Labour Court after considering the records has arrived at a finding that, the accident has taken place not due to the negligence on the part of the driver and has proceeded to set aside the order of punishment. Challenging the same, the present writ petition has been filed by the Management.

4. According to the learned Counsel appearing for the petitioner Management, the front left side of the bus has dashed against the TVS 50 vehicle that was coming from the opposite direction. Therefore, it is clear that though the driver had an opportunity to avoid the accident, he had been negligent. He further pointed out that the bus stop was very nearby and there was also a speed breaker. In such circumstances, the accident has taken place only due to the negligence on the part of the driver of the Transport Corporation. He pointed out that the Labour Court has not properly considered



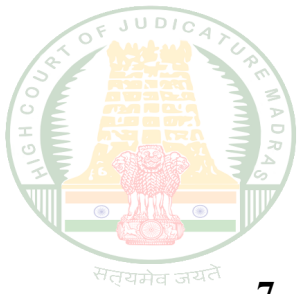
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Exhibit M.1 basic report and the evidence of M.W.2, who has visited the spot and prepared the sketch.

5. On the last two occasions, there was no representation on the side of the respondent. Even today, when the matter was called in the morning session, there was no representation on the side of the respondent. Therefore, this Court proceeds to pass orders on merits after hearing the learned Counsel appearing for the petitioner.

6. A perusal of Exhibit M.1 basic report and the evidence of M.W.2 would clearly reveal that, the bus was moving from west to east direction and TVS 50 was moving from east to west direction. The front left side of the bus has been damaged in the accident. Therefore, it is clear that the driver had an opportunity to foresee the accident. Despite the said fact, he had been very careless and the accident has taken place which has resulted in the death of the rider of the two wheeler. It is also clear that a bus stop is very nearby and there is a speed breaker. In such circumstances, it is clear that the accident has taken place only due to the negligence on the part of the driver.



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7. A perusal of Exhibit M.7 second show cause notice reveals that, the respondent has suffered 10 previous punishments. Out of which, 3 are accidents. Out of the 3 accidents, one is a fatal accident. Therefore, the present one is a second fatal accident. In such circumstances, the order of dismissal cannot be found to be disproportionate to the proved charges.

8. In view of the above said deliberations, the award of the Labour Court is set aside and the punishment imposed by the Management stands restored. This writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

08.07.2025

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

To

The Labour Court,
Tiruchirappalli.



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R.VIJAYAKUMAR, J.

BTR

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