



W.P(MD)No.4178 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4178 of 2017
and
W.M.P(MD)No.3336 of 2017

The General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Region,
Tirunelveli District.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.R.Subramanian

... Respondents

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 from the first respondent Labour Court, Tirunelveli relating to the impugned award passed by its in I.D.No.18 of 2013, dated 20.02.2014 and quash the same and to grant such further or other orders as this Court.

For Petitioner : Mr.K.Sathiya Singh

R-1 : Labour Court
For R-2 : Mr.K.Guhan



W.P(MD)No.4178 of 2017

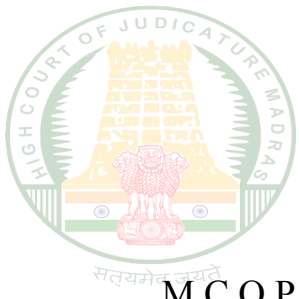
WEB COPY

ORDER

The Management of the Tamil Nadu State Transport Corporation, Tirunelveli has filed the present writ petition challenging the award of the Labour Court, Tirunelveli in I.D.No.18 of 2013, wherein, the punishment imposed by the Management has been set aside and an order of reinstatement has been issued with 25% back wages.

2. One Mr.R.Subramanian, who was working as a Driver in the petitioner Transport Corporation was issued with a charge memo on 13.10.2003 for being involved in a fatal accident. Not being satisfied with the explanation submitted by him, domestic enquiry was conducted and a report was submitted on 06.12.2003 to the effect that the charges as against the workman stood proved. A second show cause notice was issued on 15.12.2003 and an order of punishment of dismissal from service was imposed on 12.01.2004. This order was put to challenge by the workman by initiating proceedings under Section 2A of the Industrial Disputes Act, 1947 before the Labour Court.

3. The Labour Court after considering the basic report submitted by the Management under Exhibit M.1 and the counter filed by the Management in

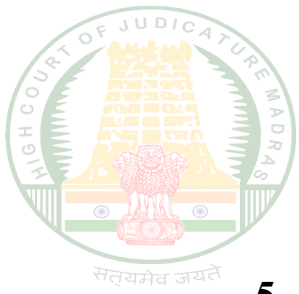


W.P(MD)No.4178 of 2017

WEB COPY

M.C.O.P proceedings under Exhibit W.8 has proceeded to allow the industrial dispute and has set aside the order of dismissal and proceeded to pass an order of reinstatement with 25% of backwages. This order is put to challenge in the present writ petition.

4. According to the learned Counsel appearing for the petitioner Management, had the petitioner driven the bus in a slow and steady manner, he could have avoided the accident. In fact, the basic report filed under Exhibit M.1, dated 09.10.2003 clearly points out that, incase if the driver had looked into the side mirror, he would have seen that a lady passenger attempting to alight from the bus in the turning and he could have been slowed down the vehicle. This could have avoided the accident. He further pointed out that the domestic enquiry has been conducted in a fair manner. In such circumstances, the Labour Court should not have ordered reinstatement. He pointed out that the Management has incurred huge financial loss due to the award of the Motor Accident Claims Tribunal in M.C.O.P.No.1518 of 2005. Therefore, in such circumstances, the order of dismissal ought to have been upheld by the Labour Court.



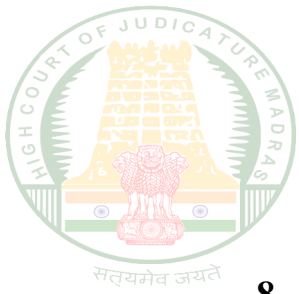
W.P(MD)No.4178 of 2017

WEB COPY

5. Per contra, the learned Counsel appearing for the respondent contended that the Management has taken a different stand before the Motor Accident Claims Tribunal contending that, there was no negligence on the part of the driver of the Transport Corporation. In fact, the conductor of the bus has not been examined during domestic enquiry proceedings. That apart, the basic report would clearly establish the fact that, the lady passenger was attempting to alight from a running bus which has resulted in the accident. In such circumstances, the Labour Court has rightly allowed the industrial dispute.

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

7. As could be seen from the basic report marked as Exhibit M.1, dated 09.10.2003, it is clear that when the bus was taking a left turn, even before the bus could reach the bus stop, a lady passenger has attempted to alight from the moving bus. She had lost her balance, fallen down and crushed under the rear side tyre of the bus. The manner of the accident clearly establishes that there was negligence on the part of the passenger also. The conductor, who was responsible for looking into the steps in the front and the rear side of the bus has not been examined.



WEB COPY

8. A perusal of Exhibit W.8, which is the counter filed by the Management in the M.C.O.P proceedings clearly reveal that, the Management has taken a specific stand that there is no negligence on the part of the driver of the Transport Corporation. 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 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



W.P(MD)No.4178 of 2017

WEB COPY

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."

9. In view of the judgment of the Hon'ble Supreme Court and the facts and circumstances of the case, it is clear that the punishment imposed upon the petitioner is not sustainable in the eye of law and the Labour Court has rightly allowed the industrial dispute. Considering the fact that the Labour Court has just awarded 25% of the back wages, this Court is not inclined to interfere in the said portion of the award.

10. In view of the above said deliberations, the writ petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

07.07.2025

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



W.P(MD)No.4178 of 2017

WEB COPY To

1.The Presiding Officer,
Labour Court,
Tirunelveli.



WEB COPY



W.P(MD)No.4178 of 2017

R.VIJAYAKUMAR, J.

BTR

W.P(MD)No.4178 of 2017

07.07.2025