



WA(MD)No.548 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 09.04.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR
and
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

WA(MD)No.548 of 2026
and
CMP(MD)No.5128 of 2026

The Management,
By its General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye Pass Road,
Madurai – 625 016.

... Appellant

Vs.

1.The Controlling Authority,
(Under the Payment of Gratuity Act, 1972
Appellate Officer) Officer of the
Additional Commissioner of Labour,
Madurai-625 020.

2. K.Deivamani

... Respondents

PRAYER :- Writ Appeal filed under Clause 15 of Letters Patent, against
the order made in W.P(MD)No.15181 of 2018 dated 20.11.2024.

For Appellant

: Mr.S.Gladson Michael Rajadurai



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For R1

: Mr.S.P.Maharajan
Additional Government Pleader

For R2

: Mr.S.Arunachalam

JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

This Writ Appeal is directed against the order made in W.P(MD)No.15181 of 2018 dated 20.11.2024.

2. Challenging the calculation of gratuity of the deceased employee at Rs.82,987/- with interest at the rate of 10% per annum by the 1st respondent, the appellant management filed writ petition contending that based on the 12(3) Settlement arrived in the year 2008, gratuity was calculated by the 1st respondent, but as per the Settlement arrived in the year 2010, permission ought to be obtained from the Government for implementing the Settlement, as such, the gratuity arrived at by the 1st respondent cannot be granted to the legal heirs of the deceased employee. The Writ Court finding that copy of 2010 settlement has not been produced by the appellant management, declined to accept the contention of the appellant and dismissed the writ petition, against



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which, this appeal has been filed by the management.

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3. Learned counsel for the appellant contended that the deceased employee rendered only 6 years and 10 months of qualifying service excluding the period of break in service and therefore, gratuity can be quantified for that qualifying period only and not for the entire alleged service of 27 years. He would further contend that the 1st respondent wrongly included the break in service while calculating gratuity. He would also submit that the gratuity would be payable only up to the date of death of the employee, whereas the impugned order directing payment of gratuity up to the date of superannuation, is contrary to the statute. Further, mere non production of 2010 settlement before the Writ Court would not justify the impugned order before it and therefore, sustaining the order of the 1st respondent calculating gratuity, by the Writ Court is liable to be interfered with and the writ appeal is to be allowed.

4. Heard both sides.

5. It is relevant to note that Sections 4 and 5 of the Payment of



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Gratuity Act, 1972, make it clear that nothing contained in Section 4 shall affect the right of an employee to receive better terms of gratuity under any award, agreement or contract with the employer. Though Section 4 provides that gratuity shall be payable on the death of an employee, it also stipulates that completion of five years of continuous service is not necessary where termination of employment is due to death or disablement. Further, Section 5 does not in any manner restrict the employer from extending better terms of gratuity under any award, agreement or contract.

6. In the case on hand, it is not in dispute that a 12(3) Settlement has been entered into between the Management and the employees. Clause 26 of the said Settlement clearly provides that, in the event of death of an employee during service, gratuity shall be computed by taking into account the period up to the date of superannuation. Once such a settlement has been arrived at between the parties, namely, the employer and the employees, the appellant cannot now contend that gratuity is payable only up to the date of death of the employee. Therefore, we find no merit in the writ appeal.



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7. Accordingly, this Writ Appeal is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

[N.S.K., J.] & [M.J.R., J.]
09.04.2026

Index : Yes / No

Neutral Citation : Ye / No

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To

The Additional Commissioner of Labour,
Controlling Authority under the Payment of Gratuity Act, 1972,
(Appellate Officer)
Madurai-625 020.



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