



W.P(MD)No.4248 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

Writ Petition(MD)No.4248 of 2026

1.P.Kavitha

2.P.Mohan Harish

3.Minor P.Sarvesh Aryan
rep. by Mother
the first petitioner

4.M.Rajeswari

.. Petitioners

Vs

The Management of
Tamil Nadu Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
rep. by its General Manager,
Karaikudi.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records from the Special Joint Commissioner of Labour (Conciliation), Chennai relating to the order dated 14.02.24 in IA No. 10 of 2021 in A.P.No.97 of 2019 quash the same and consequently direct the Authority to restore the case A.P.No.97 of 2019 in to file and



W.P(MD)No.4248 of 2026

to permit the petitioners to conduct the same in the place of deceased workman M.Pathmanathan and to decide the same on merits within a time frame as may be fixed by this Court.

For Petitioners : Mr.S.Arunachalam

For Respondent : Mr.S.C.Herold Singh

ORDER

The petitioners challenge the order dated 14.02.2024 passed by the Special Joint Commissioner of Labour (Conciliation), Chennai, in I.A. No. 10 of 2021 in A.P. No. 97 of 2019. By the said impugned order, the application filed by the petitioners to set aside the ex parte order dated 23.12.2019 was rejected.

2.The respondent/Management had filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking approval for the dismissal of one Thiru Padmanathan, Driver. The said application was allowed on the ground that the workman had neither entered appearance in person nor was represented by any authorised representative to defend his case. Consequently, the approval sought by the respondent Management for the order of dismissal was granted.



W.P(MD)No.4248 of 2026

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3.The workman died on 07.07.2021. Thereafter, the petitioners, claiming to be the legal heirs of the deceased workman, filed an application to set aside the ex parte order dated 23.12.2019. The said application came to be rejected on the ground that there is no provision under the Act enabling the legal heirs of a deceased workman to file an application to reopen the proceedings and set aside an ex parte order.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.The learned counsel for the respondent/Management placed reliance upon the judgment of the Division Bench of this Court in **V. Veeramani vs. Madurai District Cooperative Supply and Marketing Society Limited, Madurai and another (Civil Appeal No. 8269 of 1983)**, wherein it was held that the power under Section 18(3)(b) of the Industrial Disputes Act to summon parties cannot be construed so broadly as to include impleading the heirs or legal representatives of a deceased workman, as such an interpretation would effectively alter or enlarge the reference made under Section 10(1) of the Act. It was further held that the jurisdiction of the Labour



W.P(MD)No.4248 of 2026

Court or Tribunal is circumscribed by the terms of reference and that the power to summon parties is limited to ensuring effective adjudication of the dispute as referred. The Division Bench also observed that, under the scheme of the Act, the heirs or legal representatives of a deceased workman have no locus in proceedings pending adjudication. While Section 33C(1) permits recovery of money based on an adjudicated claim by a workman or his heirs or legal representatives, Section 33C(2) contemplates only a workman seeking computation of benefits, and does not extend such right to legal representatives.

6.However, the Hon'ble Supreme Court, in ***Rameshwar Manjhi vs. Management of Sangramgarh Colliery and others*** reported in ***(1994) 1 SCC 292***, has held that upon the death of a workman, even in respect of an individual dispute under Section 2-A of the Act, the proceedings do not abate, nor does the Tribunal become functus officio. It was further held that the heirs and legal representatives of the deceased workman are entitled to continue the proceedings. The applicability of the maxim actio personalis moritur cum persona depends upon the nature of the relief claimed and the facts of each case. In industrial disputes relating to termination of service, the adjudication may have wider implications, including on the service



W.P(MD)No.4248 of 2026

conditions of other workmen. Therefore, the death of the workman during the pendency of proceedings cannot deprive the legal heirs of their right to pursue the matter and claim consequential benefits.

7.In the present case, the petitioners, being the legal heirs of the deceased workman, seek to set aside the ex parte order passed under Section 33(2)(b) of the Act approving the dismissal of the workman, inter alia, on the ground that the said order is non-speaking and that no proper enquiry was conducted.

8.In view of the authoritative pronouncement of the Hon'ble Supreme Court, this Court is of the considered opinion that the application filed by the petitioners, as legal heirs and representatives of the deceased workman, is maintainable. The competent authority ought to have examined the application on merits and passed an appropriate order. The failure to do so has resulted in a miscarriage of justice, warranting interference by this Court.

9.Accordingly, this writ petition is allowed and the impugned order dated 14.02.2024 passed in I.A. No. 10 of 2021 in A.P. No. 97 of 2019 is set aside. The Special Joint Commissioner of Labour (Conciliation), Chennai, is directed to reconsider the application in I.A.



W.P(MD)No.4248 of 2026

No. 10 of 2021 in A.P. No. 97 of 2019 on its own merits and pass an appropriate orders in accordance with law within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

06.04.2026

NCC : Yes/No
Index : Yes/No
Internet:Yes
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W.P(MD)No.4248 of 2026

HEMANT CHANDANGOUDAR, J.

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Writ Petition(MD)No.4248 of 2026

06.04.2026