



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 13<sup>TH</sup> DAY OF SEPTEMBER, 2022**  
**BEFORE**  
**THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ**  
**WRIT PETITION NO. 24370 OF 2019 (L-KSRTC)**

**BETWEEN:**

THE KARNATAKA STATE ROAD TRANSPORT  
CORPORATION  
BENGALURU CENTRAL DIVISION,  
BY ITS CHIEF LAW OFFICER,  
K.H.ROAD,  
SHANTHINAGAR,  
BENGALURU-560027.

...PETITIONER

(BY SRI. ANEPPANAVAR R B.,ADVOCATE)

**AND:**

SRI GANGANNA  
S/O GUDDADA THIMMAIAH,  
RESIDING AT M.H.PATNA,  
KASABA HOBLI,  
GUBBI TALUK,  
TUMKUR DISTRICT 5

...RESPONDENT

(BY SRI. L. SHEKAR, ADVOCATE)

THIS W.P. FILED UNDER ARTICLES 226 AND 227 OF THE  
CONSTITUTION OF INDIA, PRAYING TO A WRIT OF CERTIORARI OR  
ORDER OR DIRECTION QUASHING THE IMPUGNED AWARD DTD  
12.10.2018 PASSED BY THE PRINCIPAL DISTRICT JUDGE, AT  
TUMKURU IN APPLICATION NO.10[4][A]NO.1/17 PRODUCED AT  
ANNEXURE-M.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY,  
THE COURT MADE THE FOLLOWING:



**ORDER**

1. The petitioner-Road Transport Corporation, is before this Court seeking the following reliefs:

- a. *A writ of certiorari or order or direction quashing the impugned award dated 12.10.2018 passed by the Principal District Judge, at Tumkur in Application No.10(4)(A) No.1/2017 produced at Annexure-M.*
- b. *Issue any other appropriate writ, order or direction as deemed fit, under the facts and circumstances of the above case, in the interest of justice and equity.*

2. The respondent-workman was appointed as a driver with effect from 04.07.2020. On 26.07.2015, while discharging his duty in a bus bearing registration No.KA-06-F-952 plying in route No.23/24 i.e., Bengaluru to Hosadurga at 11.45 hours near Nelamangala on Joss Toll of National Highway-4 after crossing white line of divider due to rash, high speed and negligent driving of the respondent-workman, the driver dashed against a two-wheeler which came from the opposite direction due to which the two-



wheeler rider expired at the spot and pillion-rider expired on the way to the hospital.

3. It is alleged that this accident was caused due to the rash and negligent driving of the driver-workman. The Divisional Controller submitted an accident report stating specifically that the accident was caused due to the rash and negligent driving of the workman-driver. On the basis of the said report of the Divisional Controller, the Disciplinary Authority, on 29.07.2015, suspended the respondent-workman.
4. On 05.08.2015, the Deputy Chief Security and Vigilance Officer, K.S.R.T.C, Bengaluru, wrote a letter to the Chief Security and Vigilance Officer, K.S.R.T.C., Bengaluru, intimating about the accident due to negligent driving. On the basis of the said report article of charges was issued on 18.08.2015 towards which a reply was submitted by the workman, which was not accepted.



5. The Enquiry Officer being appointed submitted a report stating that the charges had been proved, and the respondent-workman was called upon to give a reply to the enquiry report, a reply when given was not accepted, and the respondent-workman was dismissed from service on 02.08.2016.
6. Being aggrieved by the said order, the respondent-workman filed a Claim Statement under Section 10(4-A) of the Industrial Disputes Act, 1947, before the Principal District & Sessions Judge, Tumkuru in Application No.10(4) A No.1/2017. The said Principal District Judge held the enquiry to be fair and proper. But however, allowed the claim petition of the workman and set aside the dismissal order directing the reinstatement of the respondent-workman into service with continuity of service and without back wages from the date of dismissal, but withholding three increments. It is aggrieved by the same that the petitioner-Corporation is before this Court.



7. Sri. R.B. Annappanavar, learned counsel appearing for the petitioner would submit that:

7.1 There is serious delinquency on the part of the workman-driver inasmuch as an accident has been caused due to the rash and negligent driving of the said driver, which has resulted in two deaths, and as such, the Tribunal ought to have upheld the order of dismissal instead of reinstating the workman.

7.2 The Labour Court has also further erred in taking into account certain lower punishments awarded to certain other workmen to support its order of reduction of punishment, which ought not to have been done.

8. Per contra, Sri. L. Shekar, learned counsel appearing for the respondent-workman, would submit that the Labour Court has rightly taken into consideration the various factors and had reduced the punishment,



which cannot be found fault with. The respondent-workman has been discriminated against *vis-a-viz* other workmen who were awarded a lesser punishment. The Road Transport Corporation has in the Motor Accident claim filed has supported the workman and as such disciplinary proceedings could not have been initiated. Therefore, this Court ought not to interfere in the matter and the petition above filed would have to be dismissed.

9. When the said arguments were advanced, this Court called upon Sri.R.B.Annappanavar to enquire into as to whether any motor vehicle accident Claim Petition had been filed under the Motor Vehicles Act, and what was the defence if any, which had been taken by the Road Transport Corporation.

10. Today, Sri. R.B. Annappanavar, produces the judgment of the Motor Accident Claims Tribunal in M.V.C.Nos.3282 and 3283/2015 dated 08.09.2016. By relying upon the same, he submits that the



Tribunal has come to a categorical conclusion that the respondent-workman has driven the vehicle in a rash and negligent manner. Therefore, this Court ought to take the same into consideration and set aside the order of the Labour Court and confirm the order of dismissal.

11. Heard Sri. Annappanavar R.B., learned counsel for the petitioner and Sri. L. Shekar, learned counsel for the respondent and perused papers.

12. The points that would arise for determination of this Court are:

- 1. Whether the Road Transport Corporation can take a different stand than that taken before the Motor Accident Claims Tribunal (M.A.C.T.), while dealing with the disciplinary proceedings?**
- 2. Whether the principle of estoppel would apply to the Road Transport Corporation?**
- 3. Whether the order passed by the Labour Court suffers from any legal infirmity requiring interference?**
- 4. What order?**



13. I answer the above points as under:
14. **Answer to point Nos.1 and 2: Whether the Road Transport Corporation can take a different stand than that taken before the M.A.C.T., while dealing with the disciplinary proceedings? and Whether the principle of estoppel would apply to the Road Transport Corporation?**

12.1 There is no dispute about the occurrence of the accident on 26.07.2015 and the involvement of the vehicle, which was driven by the respondent-workman. There is also no dispute about the fact that two persons died due to the said accident, who was the rider and the pillion rider of the motorcycle against which the said bus of the Road Transport Corporation dashed against.

12.2 The contention of Sri. R.B.Annappanavar, learned counsel for the petitioner is that the Divisional Controller of concerned divisions had submitted an accident report stating that the respondent-workman was riding the same in a





rash and negligent manner. A fax message had been sent by the Divisional Controller to the Managing Director, and a report from the Deputy Chief Security and Vigilance Officer, K.S.R.T.C., Bengaluru, also indicated that the said driver was riding in a rash and negligent manner, and it is on that basis that the article of charges were issued.

12.3 In M.V.C.Nos.3282 and 3283/2015, the M.A.C.T. at Bengaluru (SSCH-15) has dealt with the contents of the written statement in para '6' which reads as under:

*"6. In the written statement of respondent: he admits that he has the owner of JA-06/F-952 and denied all other allegations made in the petition and contended that, on that day the driver of said bus driven slowly and carefully on the left side of road, at about 11.30 a.m. when the said bus reached near the JOSS Toll which is an one way road in which a rider of motor cycle bearing Regn. No.KA-41/U-1520 came from the opposite direction with a pillion rider in a rash and negligent manner and dashed against to the front right side of the said bus, further contended that, the rider of motor cycle came in a wrong direction, to avoid direct collusion, the driver of the bus all of a sudden slowly and cautiously applied brake and he was already in the extreme*



*left side of the road. As such, the rider of the Motor Cycle bearing Reg.No.KA-41/U-1520 was wholly and solely responsible for the alleged accident. Hence, respondent prays to dismiss the petition."*

12.4 A perusal of the same would indicate that in the written statement which has been filed in the said M.V.C.Nos.3282 and 3283/2015, the Road Transport Corporation has certified the driving of the respondent-workman and has categorically stated that the bus was being driven slowly and carefully on the left side of the road and it is further alleged that the rider of the motor vehicle came from the opposite direction in a rash and negligent manner and dashed against the front side of the bus.

12.5 It is further stated that the rider of the motorcycle came in the wrong direction and to avoid a direct collision, the driver of the bus slowly and cautiously applied the brake on the extreme left side of the road. As such, it was contended that sole responsibility for the



accident rested with the rider of the motorcycle, and on that basis, it was contended that the Road Transport Corporation ought not to be made responsible for the compensation which has been sought for in the M.V.C. case.

12.6 From the above, it is clear that in the written statement filed, the Road Transport Corporation has categorically exonerated the respondent-workman from any wrongdoing and has certified that the respondent-workman has driven the vehicle in a proper and required manner.

12.7 Shockingly, it is further averred and contended that it is the rider of the motorcycle who has driven in a rash and negligent manner. Though the Tribunal, after considering all the evidence, has come to the conclusion that the defence that has been taken by the Road Transport Corporation has not been established by any



documentary or ocular evidence and taking into consideration the spot of the accident, has come to the conclusion that the driver of the bus of the Road Transport Corporation was driving the said bus on the wrong side of the road. The fact, however, remains that what we are concerned with in the present matter is the disciplinary enquiry which has been initiated by the Road Transport Corporation.

12.8 The Road Transport Corporation, being a Government company and instrumentality of the state, the Road Transport Corporation as also its officers, are required to act in a proper manner.

12.9 In the present petition, it is categorically averred that the Divisional Controller of K.B.S. Division was of the opinion that the bus was being driven in a rash and negligent manner, which was informed by way of a fax message



dated 26.07.2015 to the Managing Director. In furtherance thereof the Road Transport Corporation has suspended the respondent-workman on 29.07.2015. The Deputy Chief Secretary and Vigilance Officer, has submitted a report on 05.08.2015.

12.10 If that be so, it remains to be explained by the concerned as to how the defence in M.V.C.Nos.3282 and 3283/2015 was taken that the driver was driving in a proper manner and that it is the two wheeler rider who was driving in a rash and negligent manner.

12.11 The Road Transport Corporation, in order to escape its liability in the M.A.C.T. matter, has taken up the contention that the driver was driving in a proper manner and rider of the two wheeler was driving in a rash and negligent but on the other hand in the disciplinary proceedings it is contended that its own driver



was rash and negligent. It is required for any litigant more so an instrumentality of the state to adhere to one set of facts and not change the set of facts depending on its convenience and/or requirements.

12.12 Despite the existence of the fax dated 26.07.2015, of the Divisional Cum Controller to the Managing Director, and the report of the Deputy Chief Security and Vigilance Officer dated 05.08.2016, a written statement had been filed absolving the respondent-driver of any liability. Once the driver stood absolved by the said written statement, it is impermissible for the Road Transport Corporation to initiate the disciplinary enquiry.

12.13 It was for the respondent, Road Transport Corporation to have come clean and clearly and categorically stated in M.V.C.Nos.3282 & 3283/2015 that it was the driver's fault for



driving the vehicle in a rash and negligent manner and offered to make payment of the compensation due in the said proceedings. It is only in order to try and escape the payment of compensation that a false stand has been taken by the Road Transport Corporation, which is established to be false by the contents of the present writ petition as also by the M.A.C.T. in its order dated 08.09.2016 in the aforesaid M.V.Cs.

12.14 It is also relevant to take note that not only was the precious time of the M.A.C.T. wasted by taking the said false defence offered by the Road Transport Corporation, but more importantly, the victim of the road accident was denied, immediate relief, and succour by way of payment of compensation. The said payment being delayed until the finding being rendered by the M.A.C.T. after evidence being led. These



kind of actions on part of the Road Transport Corporation are required to be deprecated and are deprecated.

12.15 Learned counsel for the petitioner is directed to bring the above facts and observations to the knowledge of the Managing Director of the Road Transport Corporation to issue necessary directions to all the concerned while dealing with similar matters that no contradictory stand is taken by any of the disciplinary authorities and/or the authorities who file written statement in the M.V.C. proceedings and if any such event occurs, necessary disciplinary proceedings to be initiated against such persons by following the applicable rules. Instructions to be also issued that a statement to be made in any written statement filed in a Motor Vehicle Accident claim petition if any disciplinary proceedings are initiated or not.





12.16 In view of the above, I answer point Nos.1 and 2 raised by holding that the Road Transport Corporation cannot take different stands in different proceedings more so, when they are diametrically opposite to each other. The stand having been taken by the Road Transport Corporation in the M.V.C. proceedings the Road Transport Corporation is estopped from taking any stand otherwise.

15. **Answer to point No.3: Whether the order passed by the Labour Court suffers from any legal infirmity requiring interference?**

13.1. In view of my finding in respect of point Nos.1 and 2 above, I am of the considered opinion that though this matter has not been considered by the Labour Court, the finding of the Labour Court is not required to be interceded with.

16. Answer to point No.4: In view of the all aforesaid reasons, I pass the following:



**::ORDER::**

- i. The writ petition is ***dismissed***.
- ii. The Managing Director, Karnataka State Road Transport Corporation (K.S.R.T.C.) is directed to institute a proper Standard Operating Procedure (SOP) to deal with similar kind of matters on the basis of the observations made herein above and submit the said Standard Operative Procedure to this Court within a period of six weeks from the date of receipt of a copy of this order.
- iii. Though the above petition is dismissed, for reporting compliance with the above observations, re-list on 15.11.2022.
- iv. All pending interlocutory applications stand dismissed.

**Sd/-  
JUDGE**

GJM