



C.M.A(MD)No.916 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2024

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THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.916 of 2021

Tamil Nadu State Transport Corporation,
Bye Pass Road,
Dindigul Post and District.
Through its the Managing Director.

... Appellant

Vs.

M.Priya

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree, dated 29.05.2020 passed in M.C.O.P.No.20 of 2018 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Theni.

For Appellant : Mr.R.Ravindran

For Respondent : Mr.K.Hemakarathikeyan

JUDGEMENT

This appeal is filed by the Transport Corporation against the award, dated 29.05.2020 passed in M.C.O.P. No.20 of 2018 by the Motor Accident Claims Tribunal [Chief Judicial Magistrate], Theni.



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2. The accident took place on 16.08.2017. While the claimant was alighted from the running bus the accident had occurred and the claimant has sustained severe injuries.

3. The claimant has filed petition in M.C.O.P. No.20 of 2018 on the file of the Motor Accident Claims Tribunal [Chief Judicial Magistrate], Theni. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the Corporation and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the appellant herein and directed the appellant to pay a sum of Rs.2,80,500/-as compensation. Aggrieved over the same, the Corporation has preferred this Appeal.

4. As per medical records, the petitioner's disability is fixed as 25%. While calculating the compensation under various heads the Tribunal has failed to take note of the contributory negligence on the part of the claimant. The claimant ought not to have alighted from the



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running bus. After perusal of records this Court is of the considered opinion that if Rs.50,000/- is reduced towards contributory negligence on the part of the negligence of the claimant, the same would be appropriate. Hence Rs.50,000/-is deducted from the total award amount of Rs.2,80,500/- granted by the Tribunal which would meet the ends of justice.

5. In view of the said modification, this Civil Miscellaneous Appeal is partly allowed, and the award amount of Rs.2,80,500/- granted by the Motor Accident Claims Tribunal [Chief Judicial Magistrate], Theni, is reduced to Rs.2,30,500/- with 7.5% interest and costs. The appellant is directed to deposit the award amount, within a period of Twelve weeks, from the date of receipt of copy of the order. After depositing the same, the claimant is permitted to withdraw the entire amount by filing appropriate application. No costs. Consequently, connected miscellaneous petition is closed.



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6. With these observations and directions, this Civil

Miscellaneous Appeal is partly allowed. No costs.

12.01.2024

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

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To

1. The Motor Accident Claims Tribunal
[Chief Judicial Magistrate],
Theni,
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No.916 of 2021

12.01.2024