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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.899 of 2021

and

C.M.P(MD)No.8442 of 2021

The Managing Director,
The Tamil Nadu State Transport Corporation,
Madurai Division Bye Pass Road,
Palanganatham, Madurai.
Represented Through Their Branch
at Virudhunagar.

... Appellant

Vs.

Ramamoorthy

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree, dated 31.10.2019 passed in M.C.O.P.No. 143 of 2013 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Virudhunagar.

For Appellant : M/s.K.Sudalaiyandi

For Respondent : Mr.G.Prabhu Rajadurai

JUDGEMENT

The Transport Corporation has preferred this appeal to set aside the Judgment and Decree, dated 31.10.2019 passed in M.C.O.P.No. 143 of 2013 on



the file of the Motor Accident Claims Tribunal (Subordinate Judge),
Virudhunagar.

2. It is a case of injury. The claimant was travelling in the bus and was well inside the bus. The nature of the injury is that the claimant's right elbow was crushed and also lost his left-hand index finger. The contention of the claimant is that the said two buses ought to have left sufficient distance on the side wards, hence there is negligence on the drivers of the bus.

3. The contention of the Transport Corporation is that the claimant was travelling with excessive heavy luggage. Further the injured had travelled by standing position inspite of availability of seats. Despite the request of the conductor and the driver of the Corporation, the injured had failed to sit and travel. Since the injured had not travelled in cautious manner, contributory negligence ought to be fixed on the injured. The said plea of the Corporation cannot be accepted. Moreover, it is only plea and the same is not proved and there is no evidence to this effect. The Transport Corporation has not taken steps to prove the same, simply the driver's deposition cannot be relied on when the claimant had vehemently opposed before the Tribunal.



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4. Considering the facts of the case, this Court is of the considered opinion that the amount of compensation cannot be reduced. Infact, the Transport Corporation has filed this Appeal only to reduce the compensation, but had admitted their liability to the extent of 70%. Therefore, this Court is not inclined to entertain this Civil Miscellaneous Appeal.

5. Accordingly, this Civil Miscellaneous Appeal stands dismissed.

No Costs. Consequently, connected miscellaneous appeal is also closed.

13.02.2024

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

To

1. The Motor Accident Claims Tribunal
Subordinate Court,
Virudhunagar.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Judgment made in
C.M.A(MD)No.899 of 2021**

13.02.2024