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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 409 of 2023

Abdul Rahim

... Appellant

Vs.

Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
Office at Bypass Road,
Madurai.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the award passed in M.C.O.P.No.294 of 2018 dated 10.11.2021, on the file of the Motor Accident Claims Tribunal (Special Sub Judge), Tirunelveli.

For Appellant : Mr.T.Selvakumaran

For Respondent : Mr.A.A.Thirumalaiappan

JUDGEMENT

This appeal is filed against the award passed in M.C.O.P.No.294 of 2018 dated 10.11.2021, on the file of the Motor Accident Claims Tribunal (Special Sub Judge), Tirunelveli.



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2. It is a case of injury. The nature of accident as narrated in the claim petition is that the injured was driving a motor vehicle from north to south. Before him a bus was plying from north to south. The contention of the claimant is that the bus was suddenly stopped in order to alight the passengers from the bus. The bus has suddenly stopped without any indication, whatsoever. Therefore, the injured could not control the speed and hit behind the bus and fell down and sustained injuries. But the contention of the bus is that after the passengers had alighted from the bus, the bus was moving in a slow speed but the injured has hit the bus behind the back of the bus.

3. After hearing the rival submissions, this Court has perused the First Information Report. In the First Information Report, it has been categorically stated that the bus had stopped suddenly. But the driver has refuted the said contention and submitted that even for arguments sake, it is accepted that the bus had stopped suddenly, it is incumbent on the part of the two-wheeler to maintain a particular distance. Since the said distance was not maintained by the injured had hit the bus and fell down and injured.

4. By considering the above narrated circumstances, this Court is of the considered opinion that the injured ought to have maintain 10 feet



distance. And the bus has also failed to follow the traffic rules. Since the driver suddenly stopped the bus, the rider of the two-wheeler hit the bus. The contributory negligence is fixed on the rider of the two-wheeler is higher side and therefore, this Court modifying contributory negligence as 20% on the two-wheeler.

5. With aforesaid modification, this Appeal is partly allowed and this Court is not inclined to interfere with the other heads. The Transport Corporation has already deposited 50% of the awarded amount. Since this Court is fixing 20% contributory negligence on the claimant, the Transport Corporation is directed to deposit the balance amount, within a period of 12 weeks from the date of receipt of a copy of the order. On such deposit, the claimant is permitted to withdraw, as per Law. No Costs.

01.02.2024

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

1. The Motor Accident Claims Tribunal
(Special Sub Judge), Tirunelveli.
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.409 of 2023**

01.02.2024