
IMMUNITY - NEW YORK

Jourdain v. Metropolitan Transportation Authority

Supreme Court, Appellate Division, Second Department, New York - August 30, 2023 - N.Y.S.3d - 219 A.D.3d 876 - 2023 WL 5598571 - 2023 N.Y. Slip Op. 04421

Driver brought personal injury action against town and transportation authority, alleging that she sustained injuries when a tree on an embankment owned by the authority fell onto her vehicle while driving.

The Supreme Court, Rockland County, granted town's motion for summary judgment and denied authority's motion for summary judgment. Driver appealed and authority cross-appealed.

The Supreme Court, Appellate Division, held that:

- Town's duty to maintain road extended to tree adjacent to road, and
- Authority was not entitled to governmental immunity.

A municipality's duty to maintain its roadways in a reasonably safe condition encompasses those trees, adjacent to the roads, which could reasonably be expected to pose a danger to travelers; however, liability will not attach unless the municipality had actual or constructive notice of the dangerous condition and subsequently failed to take reasonable measures to correct the condition.

Town's duty to maintain road extended to tree adjacent to road, for purposes of driver's personal injury action against town, alleging that she sustained injuries when a tree on an embankment fell onto her vehicle while driving, although tree was not located on the town's property, where town owned and maintained the road where driver's vehicle was struck by the tree.

Transportation authority was not entitled to governmental immunity, in driver's personal injury action against authority, alleging that she sustained injuries when a tree on an embankment owned by authority fell onto her vehicle while driving; driver's claim arose out of the authority's duties as a landowner, which was a proprietary function.

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