BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, CHENNAI

(In the IV Court of Small Causes, Chennai)

Present:Tmt.M.Arundhadhi, B.A. B.L.,
IV Judge

Monday, the 10th day of August 2026

M.C.O.P. 365 of 2025

CNR No.TNCH09-014445-2024

Shanthi,
W/o.Rajendran,
No.892/2, B V Colony,
27th Street, Vyasarpadi,
Chennai – 600 039. ....Petitioner

-Vs-

1. Murali,
   No.547, LIC I type, NHH,
   Ayyapakkam,
   Chennai – 600 077.

2. Reliance General Insurance Company Limited.,
   Building No.10 & 11, Chennai City Center,
   No.13, 5th Floor,
   Dr.Radhakrishnan Salai,
   Mylapore, Chenai– 600 004.

….Respondents

This petition is came up before me for final hearing on 01.07.2026 in the presence of M/s.K.Balaji, D.Roobanmani, Counsels appearing for the Petitioner, 1st respondent remained exparte, M/s.Kency Niromila, Counsel appearing for the 2nd respondent upon hearing the arguments on both sides and upon perusing the entire records of the case, having stood over for consideration till this date, this Tribunal pronounces the following:-

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ORDER

1. This petition has been filed under Section 166 of the Motor Vehicles Act and Rule 3 of the Motor Vehicles Rules, seeking for compensation of Rs.25,00,000/- for the injuries sustained by the Petitioner in a motor accident.

2. The averments made in the petition are briefly as follows:-

(i) The case of the petitioner is that on 24.03.2024 at about 15.30 hrs, while the petitioner was travelling in Auto bearing Reg.No. TN 18-AK-9920 in Vyasarpadi Sivan Kovil, at that time a Tata Ace bearing Reg.No. TN 13-A-5788 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner and suddenly opened the door without any indication and hit against the petitioner and thus caused the accident to the petitioner. As a result, the petitioner sustained grievous injuries as stated in Column No.11 of the petition. The accident was reported to Pulianthope Police Station, Chennai and the case was registered in Crime No.163/2024 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the driver of the respondent’s vehicle.

(ii) As mentioned in the petition, the petitioner was aged 54 years and she is a proprietor of Catering Service and earning Rs.80,000/- per month at the time of accident. Due to the injuries sustained by the petitioner, she is unable to do the activities as before the accident. The 1st respondent being the owner and 2nd respondent being the insurer of the vehicle viz., Tata Ace bearing Reg.No. TN 13-A-5788 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.25,00,000/- with interest along with cost. Hence this claim petition.

3. The averments made in the counter filed by the 2nd respondent are briefly as follows:-

(i) The 2nd respondent denies the age, occupation and income of the petitioner. Further denies that the accident occurred due to the negligence of the 1st respondent vehicle driver and denies the manner of accident.

(ii) Further denies that the driver of the 1st respondent's vehicle possessed valid driving license, fitness certificate, permit and RC and his vehicle was insured with this respondent at the time of accident.

(iii) The respondent further submits that the petition is barred by limitation which is filed after 6 months of the accident. The accident occurred only due to the rash and negligent driving by the driver of the auto in which the petitioner was travelling at the time of accident and hit against the 1st respondent's Tata Ace bearing Reg.No.TN 05-BH-4708 and thus invites the accident. The driver of the 1st respondent's vehicle not responsible for the accident. The 2nd respondent is not liable to pay compensation to the petitioner.

(iv) Further denies the nature of injury, period of treatment and medical expenses of the petitioner and alleges that the claim is excessive. The respondent craves leave to file section 170 petition under M.V. Act and also reserves its right to file additional counter and therefore prayed to dismiss the petition.

(v) The 1st respondent remained exparte.

4. On the above pleadings the following points arise for determination:

(1) Whether the claim petition is barred by limitation?

(2) Whether the accident has occurred due to rash and negligent driving by the driver of the vehicle viz., Tata Ace bearing Reg.No.TN 13-A-5788 which is owned by 1st respondent and insured with 2nd respondent?

(3) Whether the 2nd respondent is not liable to indemnify the 1st respondent for breach of policy condition?

(4) Whether the Petitioner is entitled for any compensation? If yes, what is the quantum of compensation and from which respondent?

(5) To what relief the petitioner is entitled to?

5. ON THE POINTS:

(i) On the side of the petitioner, PW1 Shanthi examined on proof affidavit and Ex.P1 to P11 & Ex.C1 were marked.

(ii) 1st respondent remained exparte. On the side of 2nd respondent, RW1 Karan, Insurance official examined on proof affidavit and Ex.R1 and R2 were marked.

(iii) Based on the above materials the Learned Counsel for the petitioner and 2nd respondent submitted their arguments. After hearing both sides and perusing material records and after giving careful consideration to the submission made on either side, the above points are answered as below.

6. <u>Point No.1:</u>

(i) The present claim petition has been filed under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the injuries sustained in the motor accident that occurred on 24.03.2024. The claim petition was presented on 20.12.2024.

(ii) The respondent/Insurance Company has raised an objection that the claim petition is barred by limitation under **Section 166(3) of the Motor Vehicles Act, 1988**, since the petition was not filed within six months from the date of accident.

(iii) Admittedly , the six-month period prescribed under Section 166(3) would expire on 24.09.2024. The present claim petition was filed only on 20.12.2024 and, therefore, it was presented beyond the period of six months prescribed under the said provision. The Hon'ble Madras High court in Malaravan Vs Parveen Travels pvt ltd in CRPNo 2558 of 2023 as held as follows :-

> @ para 31.The upshot of the discussion is that on registration of an FIR, a claimant is entitled to present the petition without the fear of it being thrown out, on the ground of limitation. This would be the correct reading of the present legal dispensation in all cases where FIR is registered within six months, of the date of any motor accident which takes place after 01.04.2022.
>
> @ para 32.Consequently, applying the Law discussed above to the facts of the present case, this Civil Revision Petition is allowed. The FIR having

been registered, in this case, within two days from the date of the accident on 13.10.2022 by Oragadam Police Station, the petition filed in M.A.C.T.O.P.(SR).No.3280 of 2023 has to only be treated as a reminder to the Court to call for the FIR and other reports and register the same as a Claim Petition".

(iv) In the present case the FIR is filed on 29.03.2024,within 5 days from the date of accident on 24.03.2024 by Pulianthope Police station, which is well within the period of 6 months. Therefore the contention of the 2nd respondent that the petition is barred by limitation is not sustainable. Hence Point.No.1 answered against the respondent.

7. <u>Point No.2:</u>

(i) The 2nd respondent denies the manner of accident and the negligence upon the driver of respondent's Tata Ace. So the burden of proof is upon the petitioner to establish the manner of accident and negligence is upon the driver of offending vehicle bearing Reg.No.TN 13-A-5788. The petitioner examined herself as PW1 on proof affidavit, she reiterated the petition averments and attributing the total negligence upon the driver of the 1st respondent's vehicle that on 24.03.2024 at about 15.30 hrs, while the petitioner was travelling in Auto bearing Reg.No. TN 18-AK-9920 in Vyasarpadi Sivan Kovil, at that time a Tata Ace bearing Reg.No. TN 13-A-5788 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner and suddenly opened the door without any indication and hit against the petitioner and thus caused the accident to the petitioner In the said road traffic accident the petitioner sustained grievous injury.

(ii) In support of her case PW1 relies upon Ex.P1 FIR , Ex.P6 AR copy and ExP10 Rough sketch.

(iii) On the other hand, the 1st respondent remained exparte, inspite of service of summons.

(iv) Though the 2nd respondent denies the negligence & manner of accident upon the driver of 1st respondent's vehicle but fails to substantiate the same with oral and documentary evidence. Whereas the petitioner through Ex.P1 FIR, Ex.P6 AR copy & Ex.P10 Rough Sketch clearly establishes that criminal Prosecution is lodged against the driver of the 1st respondent vehicle for the road traffic accident caused by him. Therefore from the oral evidence of PW1 documentary evidence Ex.P1, P6 & P10 the petitioner proves the negligence upon the driver of the offending vehicle namely Tata Ace bearing Reg.No.TN 13-A-5788 . Hence Point No.1 answered affirmatively.

8. <u>Point No.3</u> :-

The 2nd respondent insurance company contended that the Fitness certificate of the offending vehicle got expired and there was no valid FC at the time of accident. The 1st respondent owner of the vehicle knowing well as permitted the vehicle to ply the vehicle without FC. Hence it is a clear violation of policy condition. So the 2nd respondent is not liable to indemnify the 1st respondent. In support of its contention, RW1 insurance official examined on proof affidavit, Ex.R1 and R2 were marked. R1 is the Authorisation Letter, Ex.R2 is the Policy Copy. The 2nd respondent insurance company relies upon the MVI Report of the offending vehicle, which is marked as Ex.P8 wherein, it is mentioned as FC expired on 22.07.2020. Admittedly, the accident occurred on 24.03.2024. Except, the MV Report the 2nd respondent as not examined independent evidence to substantiate the said contention. No officials on the licensing authority was examined nor the relevant records produced to establish the absence of FC to the offending vehicle. The mere mentioning in MVI Report is not sufficient to establish the contention of the 2nd respondent. Therefore, the insurer as failed to discharge the burden of proving the policy violation. Accordingly, the contention of the 2nd respondent is rejection. Hence Point.No.2 is answered accordingly.

9. <u>Point No.4</u> :-

(i) In view of the findings in Point No.1 the petitioner is entitled for just & reasonable compensation for the injuries suffered by her in the accident. There is no dispute that the offending vehicle Tata Ace bearing Reg.No.TN 13-A-5788 is owned by the 1st respondent and insured with the 2nd respondent at the time of accident. No dispute with respect to the accident and the petitioner got injured. Hence both the respondents 1 & 2 are jointly severally and vicariously liable to pay compensation to the petitioner.

(ii) The factors that are relevant to be considered in order to arrive at just compensation and the quantum of loss of income are the age of the claimant, the nature of employment, income, the nature of disability suffered and the impact of the permanent disability upon the earning capacity of the injured having regard to the nature of the employment.

(iii) The occurrence has taken place on 24.03.2024. As per the medical records in Ex.P2 Discharge summary, the age is given as 53 years as on the date of accident (i.e., 24.03.2024). Ex.P4 Aadhar card of PW1 the date of birth is given as 08.11.1971. Considering the same the age of the petitioner as on the date of accident is fixed as 53 years.

(iv) According to the petitioner she is a Proprietor of Catering Service and earning Rs.80,000/- per month, at the time of accident. But to substantiate the same no oral or documentary evidence produced to prove avocation and income.

(v) Hence following the Judgment reported in 2018(2) TNMAC 168 (National Insurance Co., Ltd., and Ors. Vs. Thangadurai), considering her age, ability and economic condition in the year of 2024. Hence the notional income of the petitioner is fixed as Rs.17,000/- per month.

(vi) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P2, Wound certificate the petitioner was taken to Government Stanley Hospital, Chennai, immediately after accident and she was treated as outpatient. She was diagnosed with Amputation of Ring Finger Tip injury. Ex.P7 is the outpatient treatment records the petitioner taken treatment till 15.05.2024.

(vii) Considering the nature of injury, petitioner referred to Regional Medical board as per the directions of the Honourable High Court in the reported decision **Branch Manager, TATA AIG General Insurance Co., Ltd., Coimbatore -Vs- Prabhu & Others 2016 (1) TNMAC 609(DB)** for assessment of disability. The Medical Board opined that the petitioner has suffered 12% total disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

The Honourable High Court of Madras has held in a reported decision in ***R.Pushpa Vs. Talari Parvathiah and others reported in 2019 (1) TN MAC 46 (Division Bench)*** that

In Para 5 ....." Once the Government Hospital assesses the disability and issues a certificate, unless contra evidence is produced to show that the disability assessed by the said Hospital is not correct, the Tribunal cannot reject the same..."

Hence, this Tribunal accepts the disability certificate and fixed that the petitioner affected with 12% of permanent disability.

(viii) Based on the above discussed materials and facts and circumstances of the case, the compensation under both Pecuniary & Non – Pecuniary Heads are awarded as below:

Income of the Petitioner:

As already discussed above the notional income of the petitioner is fixed as Rs. 17,000/- per month. As per the Judgment of Hon'ble Apex court passed in ***SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others*** the future prospects to be added. As per the direction of the above decision, 10% future prospects would be added and it will come to a sum of Rs.1,700/- (17,000+1,700=18,700). Thus, the annual income of the deceased fixed as **Rs.2,24,400/- (18,700 x 12)**.

Loss of permanent disability:-

On perusal of Disability certificate and photographs that the Petitioner has suffered physical disability of 12% for Right Ring Finger Tip Amputation. Hence it definitely result in functional disability which leads to loss in earning capacity. So, 12% is taken as functional disability. The age of the petitioner is 53 as per Ex.P4 Aadhaar card. Hence 2,24,400 x 11 x 12/100 = Rs.2,96,208/-. Hence this tribunal decides to award **Rs.2,96,208/-** under the heads of loss of permanent disability.

Medical expenses:

The petitioner has taken treatment at Government Hospital. No records produced. Though she was treated at Government Hospital she might have spent some amount for medicines. Hence considering the same **Rs.5,000/-** is awarded for medical expenses.

Transport Charges:

The petitioner taken treatment at Stanley Government Hospital, Chennai as outpatient till 15.05.2025. Hence she would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at **Rs.5,000/-**.

Extra-nourishment & Damages to clothing and articles:

Considering the nature of accident and the injuries suffered by the petitioner and the period of treatment it will be just to grant a sum of **Rs.20,000/-** towards extra nourishment and **Rs.1,000/-** towards damages to clothing and articles.

Compensation for Pain and Sufferings:

The petitioner has suffered Amputation of Right Ring Finger Tip and she was treated as outpatient at Stanley Government Hospital, Chennai. Hence considering the nature of injury, period of treatment & disablement, trauma & pain undergone by the petitioner it is just and proper to award **Rs.40,000/-** towards pain and sufferings.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Amputation of Right Ring Finger Tip by her. Hence considering this facts, it would be just and proper to grant a sum of **Rs.60,000/-** towards loss of amenities.

In view of the foregoing discussion this Tribunal fixed the just compensation as follows:

CALCULATION:

1. Loss of permanent disability	:	Rs. 2,96,208/-
2. Medical Expenses	:	Rs. 5,000/-
3. Transportation	:	Rs. 5,000/-
4. Extra Nourishment	:	Rs. 20,000/-
5. Damages to clothing and articles	:	Rs. 1,000/-
6. Pain and Sufferings	:	Rs. 40,000/-
7. Loss of amenities	:	Rs. 60,000/-
Total Compensation is fixed at	**:**	**Rs. 4,27,208/-**
Rounded off to	:	Rs. 4,27,300/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.4,27,300/-** i.e., **four lakhs twenty seven thousand three hundred** and Point No.4 is answered accordingly.

10. Point No.5:

In view of the above finds, the petitioner is entitled for compensation as above together with interest at 7.5% p.a from the date of petition with cost and none other relief the petitioner is entitled to and point No.5 is answered accordingly.

11. In the result this petition is partly allowed and,

(i) An award of **Rs.4,27,300/- (Rupees four lakhs twenty seven thousand three hundred only)** is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition i.e., 20.12.2024 to till the date of payment payable by the 2nd respondent with costs.

(ii) There will be no interest for the default period if any.

(iii) In accordance with the guidelines laid down by the Hon'ble Supreme Court of India **in *Parminder Singh Vs. Honey Goyal & others, reported in 2025 (1)***

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TN MAC 533 (SC), and directions of Hon'ble High Court, Madras in ***Oriental Insurance Co. Ltd. v. D. Salsa in CMA No. 2064 of 2026 judgment dated 08.07.2026,*** the 2nd respondent is hereby directed to deposit the award amount as stated above by Direct Bank Transfer (NEFT/RTGS) directly into the bank account of the petitioner within two months. **Petitioner bank Account No.6445781212, Indian Bank, MKB Nagar Branch, IFSC code -IDIB000M206.**

(iv) The petitioner has paid a sum of **Rs.373/-** towards Court fee. As per this award, the Court fee is **Rs.3,645.50/-**. The Advocate fee is fixed at **Rs.11,546/-**. The deficit court fee of **Rs.3,272.50/-** shall be paid within 15 days.

(v) The costs including **Advocate fees for a sum of Rs.15,236.50/-** to be paid by 2nd respondent within 15 days distinct and separately to Tribunal Account in the name of Registrar (MACT), Court of Small Causes, Chennai **Account No. 7103261207, IFSC No. IDIB000M157 Indian Bank, Madras High Court Branch, Chennai.**

(vi) After depositing the amount mentioned in column No.III and V, the 2nd respondent shall intimate the same to this Tribunal along with UTR Number and MCOP Number via **Email ID chnccc.scc4-tn@indiancourts.nic.in** within 48 hours of such deposit followed by physical proof of deposit on proper acknowledgment.

(vii) The costs including Advocate fees shall be paid to Counsel for petitioner on filing separate payment out application. The deficit court fees deposited to be credited to the State Government.

(viii) Only in the event of the electronic transfer is returned, reversed, or remains unsuccessful on account of the bank account is being inoperative, closed, incorrect, or for any other reason attributable to the Petitioner, the respondent shall intimate to this Tribunal along with proof, if any, and to the concerned petitioner. The petitioner shall furnish correct and operative bank account particulars before this Tribunal within two weeks from the date of such intimation, and the respondent shall re-transfer the amount to the correct bank account within the time fixed by this

Tribunal. Any delay attributable to such incorrect or inoperative account particulars shall not render the respondent liable for additional interest for the period of such delay.

(ix) In the event of non-compliance by the 2nd respondent, the petitioner shall pay the deficit court fees and execute the award.

<u>Other necessary particulars:</u>

Date of Presentation of petition	20.12.2024
Date of taken up on file	20.01.2025
Compensation claimed in the M.C.O.P.	Rs.25,00,000/-
Compensation awarded in this petition	Rs.4,27,300/-
Court fee paid along with the petition	Rs.373/-
Court fee payable on the award amount	Rs.3,645.50/-
Additional court fee shall be paid	Rs.3,272.50/-
Additional court fee paid, MPSR.No………………..dated	

<u>Cost List for the petitioner</u>

STATEMENT OF COSTS							
For the petitioners						For the Respondents	
		Rs.		P.		Rs.	P.
Stamp on petition	-	3,645	.	50			
Stamp on Vakalat	-	5	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees		11,546	.	00			
Costs allowed	-	15,236	.	50			

The direction regarding copy of the Judgment and decreetal order prepared under Sub rule 6 of Rule 20 of TNMAC Rules, 1989 and Hon'ble Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 are obediently

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followed and further it is informed that, as per the direction of the Honourable High Court, as far as this claim Petition is concerned, Decree is not drafted separately and in the award, instead of drafting the decree, necessary details have been incorporated in this claim Petition's order.

This order has been dictated by me to the typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Monday, the 10th day of August 2026.

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Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai

<u>Petitioner's sides Witness:</u>

P.W.1: Mrs.Shanthi

<u>Petitioner's side Exhibits:</u>

Ex.P-1 : FIR Xerox

Ex.P-2 : Wound Certificate

Ex.P-3 : Photos of the petitioner

Ex.P-4 : Aadhar Card xerox

Ex.P-5 : Bank Pass Book Xerox

Ex.P-6 : AR copy

Ex.P-7 : Treatment Records

Ex.P-8 : MVI Report of Tata Ace

Ex.P-9 : Driving Licence of the 1st respondent vehicle driver

Ex.P-10 : Rough Sketch

Ex.P-11 : Insurance Copy

<u>Respondents Side Witness :</u>

R.W.1: Mr.Karan

<u>Respondents side Exhibits:</u>

Ex.R-1 : Identity Card

Ex.R-2 : Policy copy

<u>Court documents:</u>

Ex.C1 : Disability Certificate issued by Medical Board.

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Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai