

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

Thursday the 9th day of July 2026

M.C.O.P. 4128 of 2021

CNR No.TNCH09-008042-2021

J.Dinesh Prince Britto,
S/o.Jayakumar Hohn Britto,
No.302, Madha Studio,
Paper Mills Road,
Perambur,
Chennai-600 011.

....Petitioner

-Vs-

1. R.Dhanasekaran.
Plot Mo.64, 1-A, Uma Nagar,
Indra Nagar, 5th Street, Vinayagapuram,
Kolathur, Chennai-600 099.

2. United India Insurance Com. Ltd.,
Third Party Hub, "Silinghi Building",
No.134, Greams Road,
Chennai-600 006.

....Respondents

This petition is came up before me for final hearing on 17.06.2026 in the presence of M/s.T.Arumugam, Counsel appearing for the Petitioner, 1st respondent remained exparte, M/s.R.Rajesh, P.Sankaranarayanan, Counsels 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:-

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.48,00,000/- 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 07.08.2021 at about 23.00 hrs, while the petitioner was riding his Motor cycle bearing Reg.No.TN 05-BQ-8433 along with pillion rider in Redhills Road, at that time one car bearing Reg.No.TN 05-BL-9293 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner 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 V-5, Thirumangalam Police Station, Traffic Investigation, Chennai and the case was registered in Crime No.148/TM-3/2021 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 26 years and he is a Team Leader at Tech Mahindra Limited and earning Rs.35,000/- per month at the time of accident. Due to the injuries sustained by the petitioner, he 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., Car bearing Reg.No. TN 05-BL-9293 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.48,00,000/- 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 and his vehicle was insured with this respondent at the time of accident.

(iii) The respondent submits that at the time of accident the petitioner was under the influence of alcohol and rode the Motorcycle in a rash and negligent manner and hit against the 1st respondent's car bearing Reg.No. TN 05-BL-9293 and thus invites the accident. The driver of the 1st respondent's vehicle not responsible for the accident. Therefore, the 2nd respondent insurance company 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 accident has occurred due to rash and negligent driving by the driver of the vehicle viz., car bearing Reg.No. TN 05-BL-9293 which is owned by 1st respondent and insured with 2nd respondent?
- (2) Whether the Petitioner is entitled for any compensation? If yes, what is the quantum of compensation and from which respondent?
- (3) To what relief the petitioner is entitled to?

5. ON THE POINTS:

(i) On the side of the petitioner, PW1 Dinesh Price Britto examined on proof affidavit and Ex.P1 to P13 & Ex.C1 were marked.

(ii) 1st respondent remained exparte. There is no oral or documentary evidence adduced on the side of contesting 2nd respondent.

(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. Point No.1:

(i) The 2nd respondent denies the manner of accident and the negligence upon the driver of respondent's car and the petitioner also contributed towards the accident 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 05-BL-9293. The petitioner examined himself as PW1 on proof affidavit, he reiterated the petition averments and attributing the total negligence upon the driver of the 1st respondent's vehicle that on 07.08.2021 at about 23.00 hrs, when the petitioner was riding his Motor cycle bearing Reg.No.TN 05-BQ-8433 along with pillion rider in Redhills Road, at that time one car bearing Reg.No.TN 05-BL-9293 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner 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 his case PW1 relies upon Ex.P1 FIR, Ex.P2 AR Copy, Ex.P3 Rough Sketch, Ex.P4 & Ex.P5 Discharge summaries.

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

(iv) The 2nd respondent/Insurance Company filed counter denies all the petition averments as false. The 2nd respondent further contended that the accident occurred only due to the rash and negligent riding by the petitioner / rider of Motorcycle bearing Reg.No.TN 05-BQ-8433 who was under the influence of alcohol and hence contributed towards the accident. The 1st respondent vehicle driver not responsible for the accident. So the 2nd respondent is not liable to pay compensation to the petitioner.

(v) 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.P2 AR Copy, Ex.P3 Rough Sketch, Ex.P4 & Ex.P5 Discharge summaries clearly establishes

that criminal Prosecution is lodged against the driver of the 1st respondent vehicle for the road traffic accident caused by him. The 2nd respondent submits that the petitioner was under the influence of alcohol and the same is mentioned in the AR copy and it clear that the petitioner is the tort feaser. At this juncture, it is pertinent to note that mere mentioning of breath smell of alcohol in AR copy is not sufficient to prove that, the petitioner was under the influence of alcohol at the time of accident. There is no evidence to show that the alcohol consumption has influenced the driving capacity of the petitioner. So in the absence of any medical records, a mere breath of alcohol is not sufficient to prove that the alcohol consumption has influenced the driving capacity of the petitioner. The above issue has been dealt by Hon'ble High Court in Ramesh .vs. Selvakumar 2024 SCC Online Madras 809 decided on 16.04.2024. So in view of the above Judgment the contention of the 2nd respondent is not sustainable. Therefore from the oral evidence of PW1 documentary evidence Ex.P1, P2, P3, P5 & P6 the petitioner proves the negligence upon the driver of the offending vehicle namely Car bearing Reg.No.TN 05-BL-9293. Hence Point No.1 answered affirmatively.

7. Point No.2 :-

(i) In view of the findings in Point No.1 the petitioner is entitled for just & reasonable compensation for the injuries suffered by him in the accident. There is no dispute that the offending vehicle Car bearing Reg.No. TN 05-BL-9293 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 07.08.2021. As per the medical records in Ex.P5 Discharge summary, the age is given as 26 years as on the date of accident (i.e., 07.08.2021). Ex.P9 Aadhar card of PW1 the date of birth is given as 01.10.1994. Considering the same the age of the petitioner as on the date of accident is fixed as 26 years.

(iv) According to the petitioner he is a Team Leader at Tech Mahindra and earning Rs.35,000/- per month, at the time of accident. To substantiate the same, petitioner produced Ex.P6 Identity card copy of petitioner, Ex.P7 Salary slip for the month of June, July and August 2021. On perusal of Salary Slip, it is noted that the petitioner has drawn Rs.33,903/- as gross salary. Hence the income of the petitioner has fixed as Rs.33,903/-.

(v) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P2 AR copy, the petitioner was immediately taken to Government Hospital, immediately after the accident, after first aid the petitioner got admitted at Dr.Mehta's Hospital and taken treatment for 15 days as inpatient from 11.08.2021 to 24.08.2021. He was diagnosed with Polytrauma Penetrating Injury, Crush injury on the Right Foot, Fracture of 1st and 5th Metatarsal. He undergone surgery on 12.08.2021, Tracheostomy done, on 13.08.2021 Wound Debridement & K-wire 1st and 5th Metatarsal Fracture. On 21.08.2021 SSG done. After treatment and recovery, petitioner got discharged on 24.08.2021. Ex.P5 Discharge Summary, the petitioner got admitted at above said hospital and taken inpatient treatment for about 1 day from 27.08.2021 to 28.08.2021 He undergone procedure of Decannulation of Tracheostomy & got discharged.

(vi) 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 10% Post Traumatic Sequelae disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(vii) On perusal of Ex.C1, disability certificate 5% disability is awarded towards Plastic surgery and 5% is awarded towards scar and deformity. Since the petitioner continued the same job after the accident. It is clear that there is no loss in earning capacity, due to the injuries suffered by him in the RTA. Considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical, percentage method is adopted.

(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:

Loss of Income during Medical Treatment:

The petitioner has taken treatment as inpatient from 11.08.2021 to 24.08.2021 and 27.08.2021 to 28.08.2021 and i.e., for totally about 16 days for Polytrauma Penetrating Injury, Crush injury on the Right Foot, Fracture of 1st and 5th Metatarsal at Dr.Mehta's Hospital, Chennai. He undergone 3 surgeries. Hence considering the available medical records and nature of injury sustained by petitioner, it might not taken less than 3 months for treatment and recovery. As we have already discussed his income is taken as Rs.33,903/- per month. Hence the loss of income during the period of medical treatment and recovery is arrived at **Rs.1,01,709/-** (Rs. 33,903 x 3 months).

Loss due to Partial Permanent Disability:

In view of the recent judgment of our *Hon'ble High Court of Madras in, C.M.A.No.1026/2024 dated 10.07.2024*

K.Mariappan vs. Muthukumaran.V and another, in which Hon'ble High Court held “ for the accident in the year **2022 Rs.8000/-** per percentage to be awarded”.

In the above OP, the accident is in the year **2021**. Considering the year of accident, this tribunal took disability per percentage as **Rs.8,000/-**.

Hence keeping in mind on the above said decision of our Honourable High court, since the accident was occurred in the year of 2021, this Tribunal comes to the conclusion that the Petitioner has suffered **partial permanent disability** of 10% and the Petitioner is entitled for just compensation for the injuries sustained by him as Rs.8,000/- per percentage is allowed. Hence the Petitioner is entitled for **Rs.80,000/-** (Rs.8,000 x 10%) only as just compensation for the injuries sustained by him.

Medical expenses:

The petitioner has taken treatment at Private Hospital and he produced Ex.P10 series of medical bills for Rs.4,47,245/-. Since there is no serious objection raised on the side of the respondent and all bills are original bills, hence considering the same **Rs.4,47,245/-** is awarded towards medical expenses.

Transport Charges:

The petitioner taken treatment at Dr.Mehta's Hospital, Chennai as Inpatient for about 16 days. Hence he would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at **Rs.10,000/-**.

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 Polytrauma Penetrating Injury, Crush injury on the Right Foot, Fracture of 1st and 5th Metatarsal and he was treated as inpatient for 16 days at Dr.Mehta's 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.1,00,000/-** towards pain and sufferings.

Attender Charges:

The petitioner admitted at Dr.Mehta's Hospital, Chennai as an in-patient for about 16 days and he undergone 3 surgeries. The mobility of the petitioner is restrained by the injury and he depends on an attender to do his day to day avocations. Hence considering the nature of injuries and period of recovery a sum of **Rs.10,000/-** is awarded towards attender charges.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Polytrauma Penetrating Injury, Crush injury on the Right Foot, Fracture of 1st and 5th Metatarsal suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.80,000/-** towards loss of amenities.

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

CALCULATION:

1. Loss of income	:	Rs. 1,01,709/-
2. Disability	:	Rs. 80,000/-
3. Medical Expenses	:	Rs. 4,47,245/-
4. Transportation	:	Rs. 10,000/-
5. Extra Nourishment	:	Rs. 20,000/-
6. Damages to clothing and articles	:	Rs. 1,000/-
7. Pain and Sufferings	:	Rs. 1,00,000/-
8. Attender Charges	:	Rs. 10,000/-
9. Loss of amenities	:	Rs. 80,000/-
Total Compensation is fixed at	:	<u>Rs. 8,49,954/-</u>
Rounded off to	:	Rs. 8,50,000/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.8,50,000/-** i.e., **eight lakhs fifty**

thousand and Point No.2 is answered accordingly.

8. Point No.3:

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.3 is answered accordingly.

9. Result:

In the result, this petition is partly allowed and a sum of **Rs.8,50,000/- (Rupees eight lakhs fifty thousand only)** is awarded as just compensation to the Petitioner with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e.,20.09.2021 till the realization, payable by the 2nd Respondent. No interest for the default period as per orders if any. The 2nd respondent is directed to deposit the said amount to the credit of the bank account of this claim tribunal directly by NEFT OR RTGS mode within a period of two months from this order, and intimate the said deposit details to this tribunal with a copy of the said Bank advise. Thereafter, the said amount shall be made directly to the credit of the Petitioner bank account.

This Tribunal Account particulars:

Registrar (MACT), Court of Small Causes, Chennai

Account No. 7103261207

IFSC No. IDIB000M157

Indian Bank, Madras High Court Branch, Chennai.

E-mail ID. chnccc.sccrc-tn@indiancourts.nic.in

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The Petitioner name is – Dinesh Price Britto

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Nolambur Branch.	Acc : 7210515182 IFSC : IDIB000N152	9837 5209 0733	CMMPD5352C

The petitioner has paid a sum of **Rs.372.50/-** towards Court fee. As per this

award, the Court fee is **Rs.7,872.50/-**. The Advocate fee is fixed at **Rs.15,500/-**. The deficit court fee of **Rs.7,500/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	20.09.2021
Date of taken up on file	20.09.2021
Compensation claimed in the M.C.O.P.	Rs.15,00,000/-
Compensation awarded in this petition	Rs.8,50,000/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.7,872.50/-
Additional court fee shall be paid	Rs.7,500/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.23,417.50/-** towards the costs of this petition.

Cost List for the petitioner

<u>STATEMENT OF COSTS</u>						
<u>For the petitioners</u>					<u>For the Respondents</u>	
		<u>Rs.</u>	<u>P.</u>		<u>Rs.</u>	<u>P.</u>
Stamp on petition	-	7,872	. 50			
Stamp on Vakalat	-	5	. 00			
Stamp for process	-	40	. 00		-- not filed --	
Advocate fees		15,500	. 00			
Costs allowed	-	23,417	. 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 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 Thursday, the 9th day of July 2026.

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

Petitioner's sides Witness:

P.W.1: Mr.Dinesh Price Britto

Petitioner's side Exhibits:

Ex.P-1 : FIR Xerox

Ex.P-2 : Accident Register Xerox

Ex.P-3 : Sample Sketch

Ex.P-4 : Discharge summary-I

Ex.P-5 : Discharge summary-II

Ex.P-6 : Employee ID Card Xerox

Ex.P-7 : Pay Slip

Ex.P-8 : Bank Pass Book Xerox

Ex.P-9 : Aadhar Card xerox

Ex.P-10 : Pharmacy Bills Rs.4,47,245/-

Ex.P-11 : X-Ray

Ex.P-12 : Petitioner Driving License

Ex.P-13 : Pan Card xerox

Respondents Side Witness & Exhibits: NIL

Court documents:

Ex.C1 : Disability Certificate issued by Medical Board.

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