

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, GUDIYATHAM,
VELLORE DISTRICT.**

**(IN THE COURT OF THE SUBORDINATE JUDGE, GUDIYATHAM,
VELLORE DISTRICT)**

Present:- Thiru.K.Prabu, M.A.,M.L.,
Subordinate Judge,
Gudiyatham.

Thursday, the 9th day of July 2026

M.C.O.P. No.62/2020
CNR.No.TNVL0F-000239-2020

1. K.Kumaran (Died)
2.K.Rajakumari
3. Minor.K.Anitha
4. Minor.K.Vasaanthakumar, Minors 3 and 4 are represented by their mother and natural guardian 2nd petitioner K.Rajamumari
(Petitioners 2 to 4 are impleaded as per order in IA.No.4/2022 dated 14.10.2022 and claim petition was Amended as per order in I.A.No.4/2023, dated 15.06.2023)
..Petitioners

Vs

1.S.Shanmugasundaram
2. The New India Assurance Company.Ltd.,
(T.P.Claims (HUB), Rep.by its Divisional Manager, Vellore
...Respondents

This petition came up before me for final hearing on 07.07.2026 in the presence of Thiru.S.Devaraj, Counsel for the Petitioners, Postal notice was served to 1st Respondent and 1st Respondent was called absent and set exparte, Thiru.K.M.Boopathi, Counsel for 2nd Respondent, upon hearing both side arguments and having stood over for consideration, this court delivers the following:-

ORDER

The 1st petitioner has filed this petition as against the respondents under Section 166 of Motor Vehicles Act, 1988 claiming a sum of Rs.15,00,000/- towards compensation together with interest for the injuries sustained by him due to the motor vehicle accident that took place on 18.01.2020. During pendency of the claim petition, the 1st petitioner was died on 29.07.2020 and the petitioners 2 to 4 being legal representatives of 1st petitioners, they are impleaded to proceed with the case.

2. The Brief averments of the amended petition are as follows:-

On 18.01.2020 at about 2.00 p,m when the 1st petitioner K.Kumaran was riding bicycle on Gudiyattam to Pallikonda road, opposite to Pachaiyamman temple, a Lorry bearing Reg.No.TN-34-W-6791 driven by its driver in a rash and negligent manner and dashed on the backside of 1st petitioner's bicycles as a result of which the 1st petitioner had fell down from the cycle and the said Lorry wheel ran over the 1st petitioner's right hand and his right hand was fully crushed and he has also got grievous injuries all over his body and immediately the 1st petitioner was taken to Government Hospital, Gudiyattam and he was referred to Government Hospital, Vellore and thereafter he has taken treatment at Government Hospital Chennai as inpatient, undergone surgery and thereafter he has taken treatment at private hospitals. At the time of accident, the 1st petitioner was working in Aluminium factory and earning a sum of Rs.25,000/- per month and due to accident he could not able to continue his work and he was

permanently disabled for his life. The petitioners 2 to 4 have spent more money for medical expenses of 1st petitioner by borrowed hand loans from various persons. The 1st petitioner was seriously bedridden due to the said accident and he could not move to any multi speciality hospital due to Covid 19 and lock down and d he could not save his life and due to the accidental injuries occurred on 18.01.2020 the 1st petitioner was died on 29.07.2020 during pendency of the claim petition. The 1st respondent is owner of the Lorry bearing Reg.No.TN-34-W-6791 and 2nd respondent is its insurer, hence, both are jointly and severally liable to pay the compensation for a sum of Rs.15,00,000/- for the grievous injuries sustained by The petitioners 2 to 4 are being legal heirs of 1st petitioner, they are impleaded to proceed with the case as they are legally entitled to get the compensation.

3. The Brief averments of the counter filed by the 2nd respondent are as follows:-

The 2nd respondent has field counter and stated that the accident had occurred due to negligence of 1st petitioner as he was suddenly crossed the road . There is no negligence on the part of the Lorry bearing Reg.No.TN-34-W-6791. The 2nd respondent has further stated that during the pendency of the above case, the 1st petitioner was died on 29.07.2020 in his residence due to illness and the corpse of the 1st petitioner was buried without conducting any postmortem and not reported to the police station, hence, the 1st petitioner was died due to illness and he was not died due to accidental injuries. Therefore, the petitioners cannot claim any compensation as well as medical bills as against the 2nd respondent. The occupation and income of the 1st petitioner was denied by the 2nd respondent and

the 2nd respondent has stated that he was working as coolie and earning Rs.25,000/- per month. The claim of the petitioners is excessive. The 2nd respondent is not liable to pay compensation to the petitioners. Hence, for the reasons stated supra, the 2nd respondent has prayed to dismiss the petition.

4. Points for consideration :-

1. Whether the accident took place only due to the rash and negligent driving of the driver of Lorry bearing Reg.No.TN-34-W-6791 as stated by the 1st petitioner ?
2. Whether the respondents are liable to compensate the petitioners 2 to 4 ?
3. If yes, Whether the death is caused due to the accidental injuries suffered by the 1st Petitioner and what is the quantum of compensation the petitioners 2 to 4 are entitled for ?

5. On the side of petitioners the 2nd petitioner was examined as PW1 and Ex.P1 to P10 were marked and one eyewitness namely Mr.Raja was examined as as PW2 and Ex.P11 was marked. No oral and documentary evidence produced on the side of 2nd respondent. 1st respondent was remained exparte in the above claim proceedings.

6. Point Nos. 1 and 2 :-

The case of the petitioners is that the 1st Petitioner had sustained grievous injuries in a road accident which took place on 18.01.2020 at about 2.00 p,m when the 1st petitioner K.Kumaran was riding bicycle on Gudiyattam to Pallikonda road, opposite to Pachaiyamman temple, due to rash and negligent driving of driver of a Lorry bearing Reg.No.TN-34-W-6791. The 1st respondent is owner of the said Bus and 2nd respondent is its insurer, hence, the respondents are

jointly and severally liable to pay compensation to the 1st petitioner. Subsequent to the death of 1st petitioner on 29.07.2020, the petitioners 2 to 4 being his legal heirs have proceeded with the case as they are legally entitled to get compensation to be awarded to 1st petitioner. The petitioners No.2 to 4 have stated that the 1st petitioner was died due to accidental injuries, hence, the petition has to be considered as claim on death.

7. The 2nd respondent has contended that the accident has occurred due to negligence of 1st petitioner who has suddenly crossed the road. The 2nd respondent has further contended that the 1st petitioner was not died due to accidental injuries, but it is a natural death and the 2nd respondent has denied the occupation and income of the deceased 1st petitioner. Hence, the petitioners cannot claim compensation against 2nd respondent.

8. Heard both sides. Records perused. To substantiate the case of the petitioners, the 2nd petitioner was examined as PW1 and Ex.P1 to P10 were marked and one eyewitness namely Mr.Raja was examined as as PW2 and Ex.P11 was marked. On perusal of these records, it is found that Ex.P1 is copy of FIR, Ex.P2 is copy of insurance policy of lorry, Ex.P3 is discharge summary of 1st petitioner issued by Government Hospital, Chennai, Ex.P4 is X-ray of 1st petitioner, Ex.P5 is Scan of 1st petitioner, Ex.P6 is copy of death certificate of 1st petitioner, Ex.P7 is online copy of legal heir certificate of 1st petitioner, Ex.P8 is ambulance bill, Ex.P9 and Ex.P10 series are copies of Aadhar cards of petitioners 2 to 4 and bank pass book of 2nd petitioner, Ex.P11 is copy of Aadhar card of PW2. On perusal of these

records, it is seen that a criminal case has been registered against the driver of Lorry bearing Reg.No.TN-34-W-6791 namely Karuppaiya as per Ex.P1 under Sec. 279 and 338 IPC. The eye witness of the accident PW2 has confirmed in his evidence that the accident occurred only due to the rash and negligent driving of the driver of the Lorry bearing Reg.No.TN-34-W-6791. Through oral and documentary evidence of PW1 and PW2 and by filing Ex.P-1 the petitioners have discharged their initial burden that the accident occurred only due to the rash and negligent driving of the driver of the 1st respondent's Lorry bearing Reg.No.TN-34-W-6791.

9. To rebut the case of the petitioners, the 2nd respondent has not produced any oral or documentary evidence. The main contention of the 2nd respondent is that the accident was occurred due to negligent act of the deceased, but, on perusal of Ex.P1 the FIR it is found that the accident was occurred due to rash and negligent driving of the driver of Lorry bearing Reg.No.TN-34-W-6791. The 2nd respondent has not produced any evidence to prove that the accident was occurred when the deceased was suddenly crossed the road. In such a circumstances, the contention of the 2nd respondent that the accident was occurred due to negligent act of the 1st petitioner is unsustainable and the same is not proved by 2nd respondent by proper material evidence. On the other hand, the Petitioners have proved through oral and documentary evidence of PW1 and PW2 conjoining with Ex.P1 that the accident occurred only due to the rash and negligent of the driver of the Lorry bearing Reg.No.TN-34-W-6791.

10. It is revealed from Ex.P2 copy of the Insurance policy that the Lorry bearing Reg.No.TN-34-W-6791 was insured with the 2nd respondent's company and the policy was in force at the time of accident. In such circumstance, the 2nd respondent has not established the fact that there is a breach of terms and conditions of insurance Policy. The 1st petitioner is the 3rd party to the 2nd respondent company and as such there was no privity of contract between them. For the foregoing reasons, this court holds that the accident took place only due to the rash and negligent riding of the driver of the Lorry bearing Reg.No.TN-34-W-6791 and that the 2nd respondent has to pay the compensation to the petitioners 2 to 4 and thus Point Nos.1 and 2 are answered accordingly.

11. Point No. 3 :- Whether the death is caused due to the accidental injuries suffered by the 1st Petitioner and what is the quantum of compensation the petitioners 2 to 4 are entitled for ?

While deciding whether the death of the 1st petitioner caused due to the injuries sustained in the accident, this court has perused the Ex.P3 Discharge summary of 1st petitioner issued by Government Hospital, Vellore and found that the 1st petitioner had sustained Crush injury right upper limb, Grade III B compound radial head fracture dislocation of right elbow, right radial and right ulnar nerve injury and he had taken treatment at Government Rajiv Gandhi Hospital, Chennai from 19.01.2020, undergone surgery on 19.01.2020, 22.01.2020, 27.01.2020, 03.02.2020 and discharged on 15.02.2020. Thereafter, the 1st Petitioner has filed this petition on 18.03.2020 and during the pendency of this petition he died on 29.07.2020. After death of the petitioner, no postmortem

was conducted to find-out cause of his death. There is no evidence to show that continuous treatment was given to the petitioner for the injuries sustained by him and the same is ended on the death of the 1st petitioner. There is no evidence has been produced to show that the death of the deceased 1st petitioner is due to the injuries sustained in the accident. Moreover, the criminal proceedings not yet altered from 279 & 338 IPC to 279 & 304A IPC. Therefore, this court holds that the present case has to treated as the case of injury and not on the death.

12. As far as the heads of compensation to be awarded to the legal heirs of injured is concerned, this Tribunal has relied upon the Judgment of Honourable High Court, Madras in the case of **Mohammed Haneef (since Died) Jeyanthi Vs 1. Thirumal and 2. United India Insurance Company Limited, Chennai in CMA.No.2972 of 2022 dated 23.01.2025**, wherein the Honourable High Court of Madras was pleased to observe that, “ *Though the injured was not died due to the personal injuries sustained by him in the road accident, the legal representatives of the injured are entitled to get compensation under the various heads since the legal heirs are entitled to succeed the estate of the injured in this case*” and the Hon’ble High Court of Madras was pleased to award the compensation to the legal representatives of deceased injured 1st petitioner under the heads of **Loss of Income during the period of treatment, medical expenses, attender charges, nutrition charges, loss of transportation.** Therefore, this court is inclined to adopted the procedure as enlightened by the Hon’ble High Court of Madras in the above mentioned authority.

13. In the above back drop, on deciding the quantum of compensation amount in the above cited heads, on perusal of Ex. P3 it is found that the 1st Petitioner has taken treatment at Government Hospital, Chennai from 19.01.2020 to 15.02.2020. The petitioners have not filed any medical records or medical bills to show whether the petitioner has taken treatment at any private hospitals.

14. As petition averments, at the time of accident, the 1st petitioner was working in Aluminum factory and eared a sum of Rs.25,000/- per month, but the petitioners have not filed any proof of income of the 1st petitioner. Hence, the 1st petitioner was earning a sum of Rs.25,000/- by working at Aluminum factory is unacceptable. The accident was took place on 18.01.2020. Considering the scenario at the time of accident, age and avocation of deceased 1st petitioner, this Tribunal is inclined to fix the income of the deceased 1st petitioner as **Rs.14,000/-** per month.

For the reasons assigned supra, the petitioners are entitled to get compensation under the following heads:

LOSS OF INCOME DURING TREATMENT PERIOD:

The 1st petitioner had sustained 1st petitioner had sustained Crush injury right upper limb, Grade III B compound radial head fracture dislocation of right elbow, right radial and right ulnar nerve injury and he had taken treatment at Government Hospital, Chennai from 19.01.2020, undergone surgery on 19.01.2020, 22.01.2020, 27.01.2020, 03.02.2020 and discharged on 15.02.2020. Due to the injuries and fracture sustained in the accident he would have been

prevented from attending his work to a maximum of 6 months. Hence a sum of **Rs.84,000/- (Rs.14,000/- x 6 = Rs.84,000/-)** is awarded under this head.

TRANSPORTATION TO HOSPITAL :-

The 1st petitioner had sustained 1st petitioner had sustained Crush injury right upper limb, Grade III B compound radial head fracture dislocation of right elbow, right radial and right ulnar nerve injury and he had taken treatment at Government Hospital, Chennai from 19.01.2020, undergone surgery on 19.01.2020, 22.01.2020, 27.01.2020, 03.02.2020 and discharged on 15.02.2020. The petitioners have filed ambulance bill for a sum of Rs.6,000/- at the time when he was admitted in Government General Hospital, Chennai. Taking into account the distance from the place of accident to the Hospital at Gudiyattam, Vellore, Chennai and also the petitioner's residence and also the nature of injuries this court is inclined to award a sum of **Rs.7,500/-** under this head.

NUTRITION CHARGES :-

Considering the nature of injuries sustained by the 1st petitioner and his hospitalization from 19.01.2020 to 15.02.2020, the 1st petitioner would have been given nutritious food and hence it is appropriate to award a sum of **Rs.30,000/-** towards nutrition charges.

ATTENDER CHARGES:-

Since The 1st petitioner had sustained 1st petitioner had sustained Crush injury right upper limb, Grade III B compound radial head fracture dislocation of right elbow, right radial and right ulnar nerve injury and he had taken treatment at

Government Hospital, Vellore from 19.01.2020, undergone surgery on 19.01.2020, 22.01.2020, 27.01.2020, 03.02.2020 and discharged on 15.02.2020. and definitely he would have needed the help of an attender and without the assistance of attender it was not possible to him to even move. Therefore, this court is inclined to award a sum of **Rs.15,000/-** under this head.

The petitioners are entitled to the following compensation under various heads as follows :-

Loss of income during treatment period	Rs. 84,000/-
Transportation to Hospital	Rs. 7,500/-
Nutrition charges	Rs. 30,000/-
Attender Charges	Rs. 15,000/-
Total	Rs.1,36,500/-

Therefore, in toto the petitioners 2 to 4 are entitled to get a sum of **Rs.1,36,500/-** towards compensation and the Point No.3 is answered accordingly.

In the result, this petition is partly allowed with costs and the petitioners 2 to 4 are entitled to get a sum of **Rs.1,36,500/-** as compensation with interest at the rate of 7.5% p.a. from the date of filing of this petition till the date of deposit. The 2nd respondent is directed to deposit the award amount with interest and costs in the Bank Account of Gudiyattam, Motor Accident Claim's Tribunal A/c No.42807361979 through RTGS or NEFT mode as held by Hon'ble High Court,

Madras in The Oriental Insurance Company Limited Kannur /Vs/ Rajesh and 2 Others, (2016(1) TN MAC 433) within two months from the date of this award and also shall give intimation to this tribunal by way of sending pay advice slip. The 2nd petitioner is entitle to receive a sum of Rs.1,00,500/- and the minor Petitioners 3 and 4 are entitled to receive a sum of Rs.18,000/- each (totaling Rs.36,000/-) as their shares in the award amount. The 2nd petitioner is entitled to receive the award amount with interest and costs from this court in full quit. The amount awarded to the minor petitioners 3 and 4 should be deposited in any one of the nationalized banks till they attain the age of majority. The petitioners are directed to pay the balance court fee within a month from this date.

Dictated to Steno-typist directly, computerized by her, corrected and pronounced by me in the open court, on this the 9th day of July 2026.

**Subordinate Judge,
Gudiyattam.**

LIST OF WITNESSES ON PETITIONERS SIDE:-

PW1	K.Rajakumari (2 nd Petitioner)
PW2	M.Raja

LIST OF EXHIBITS ON THE PETITIONERS SIDE:-

Ex.P1	19.01.2020	Copy of FIR
Ex.P2		Copy of insurance policy of Lorry
Ex.P3	20.02.2018	Copy of Discharge summary of 1 st petitioner issued by Government Hospital, Chennai
Ex.P4		X-Ray of 1 st petitioner
Ex.P5		Scan of 1 st petitioner
Ex.P6	19.08.2020	Copy of death certificate of 1 st petitioner

Ex.P7	06.11.2020	Online copy of legal heir certificate of 1 st petitioner
Ex.P8		Ambulance bill of 1 st petitioner
Ex.P9	series	Copy of Aadhar cards of petitioners 2 to 4
Ex.P10		Copy of bank pass book of 2 nd petitioner
Ex.P11		Copy of Aadhar card of PW2 Raja

LIST OF WITNESSES AND EXHIBITS ON THE 2nd RESPONDENT

SIDE :- NIL

**Subordinate Judge,
Gudiyattam.**