

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, COIMBATORE

IN THE COURT OF SPECIAL SUBORDINATE COURT, COIMBATORE

Present : Thiru. S.Palani, B.Sc.,M.L.,
Special Sub-Judge,
Coimbatore.

On this Thursday, the 16th day of July 2026

M.C.O.P. No.1189 of 2022

C.N.R. No.TNCBOF-001684-2022

S. Saravanan, Aged 22 years,
S/o. Sivasamy,
No.2/399, Manikandapuram,
Vadaputhur, Elur,
Coimbatore – 641 032.

...Petitioner

/Vs./

1. Thiyagarajan,
S/o. K. Thambanna,
No.43, Bye pass Road,
Karur – 630 001.
2. Selvakumarasamy Transports,
No.89/1, Ponnu Nilayam,
Alangiyam Road, Dharapuram,
Tiruppur – 638 656.
3. United India Insurance Company Limited,
No.178, 1st Floor, Dr. Nanjappa Road,
Coimbatore – 18.

...Respondents

This claim petition was taken on file on 25.07.2022 and came for final hearing

on 09.07.2026 in the presence of Thiru.S. Sakthivel, learned counsel for the petitioner and the 1st and 2nd respondents having remained *exparte* and in the presence of Thiru. C.V. Balachandran, learned counsel for 3rd Respondent and upon hearing both sides and on perusal of the oral and documentary evidence of both sides, this Tribunal pronounces the following.

ORDER (AWARD)

PLEADINGS :

The averments made in the claim petition are briefly stated as follows:-

1. On 12.03.2022 at 10.10 p.m., while the Petitioner was riding a motor cycle bearing Reg.NoTN41 AX 9810, at Kanniyur – Madathukulam road, near Cholama devi medu, from North to South direction, at that time, the 1st respondent drove a bus bearing Regn.No.TN22 BR 4951, on opposite side, in a rash and negligent manner and dashed against the said petitioner's vehicle, and the petitioner had sustained grievous injuries. Immediately, the petitioner was rushed to and was treated at Government Hospital, Pollachi. A case in Cr. No.67/2022, u/ss. 279, 337 of IPC was registered on the file of the Madathukulam police station, Tiruppur, against the 1st Respondent and the same has been pending for investigation. The petitioner was employed in building construction at the time of the accident, and earning was a sum of Rs.850/- per day. The 1st Respondent is the driver of the offending vehicle/bus, and the 2nd Respondent is the owner of the offending vehicle, and the 3rd Respondent is the Insurance Company with whom the said offending bus bearing Reg. No.TN22 BR

4951 is insured with. Hence, it is prayed to pass an award that all the Respondents are jointly and severally liable to pay the claimed compensation of Rs.10,00,000/- with cost and interest thereon.

The averments made in the counter of 3rd Respondent is briefly stated as follows:

2. This respondent denied all the averments made in the petition except those that are specifically admitted herein. The onus of proof absolutely rests with petitioner himself to prove that the 1st respondent was exclusively responsible for the cause of accident and that he was in possession of valid and effective driving licence to drive the heavy vehicles with badge endorsement both by letting in oral evidence and also by producing documentary evidence. Without prejudice to the contentions raised, the petitioner has filed the claim application with twisted and distorted version of facts so as to enrich his wardrobe if possible. The petitioner cannot be permitted to get a windfall or a source of profit in the unfortunate motor vehicle accident. It has come to notice that the petitioner who was rider of motor cycle Bajaj Platina bearing Reg.No.TN41 AX 9810 had no valid driving licence at the time of accident. Check report was also issued. For having flouted the provisions of Motor Vehicles Act, the petitioner is deprived of claiming compensation of any extent against this respondent for own default. The compensation claimed is too heavy, excessive and exorbitant. The petition is devoid of merits and the 3rd respondent, therefore, prayed that this petition may be dismissed with exemplary costs.

3. The driver/1st respondent and the owner/the 2nd respondent of the alleged offending bus bearing Reg.No.TN22 BR 4951 have remained *exparte* in the proceedings. The insurer of said vehicle/ 3rd Respondent has, by invoking section 170 of the M.V.Act, has contested the claim petition on various grounds .

4. The petitioner has examined as PW1, and the documents, namely Exs.P1 to P7 have been marked. The 3rd respondent has examined a witness as RW1, and the documents, namely Exs.R1 and R2 have been marked.

POINTS FOR DETERMINATION :

5. Having regard to the pleadings and materials, these following points would arise before this Tribunal and these points are required to be solved in this claim in the light of evidence adduced on either side.

1. Whether the accident was the result of negligence on the part of the 1st respondent, who drove the bus bearing Reg.No.TN22 BR 4951 ?

2. Whether the alleged offending vehicle bearing Reg.No.TN22 BR 4951 had been insured with the 3rd respondent during the accident, and is there any breach of insurance policy's violation?

3. What is the quantum of the compensation and against whom the award has to be enforced ?

CONTENTIONS:

6. The learned counsel for the petitioner would submit that the accident which

had occurred on 12.03.2022 was due to rash and negligent driving of the driver 1st Respondent, who drove the offending bus bearing Reg.No.TN22 BR 4951, and the negligence of the 1st Respondent has been proved at evidence adduced by the petitioner. The learned counsel for the petitioner would also submit that the petitioner had sustained grievous injury in the said accident as per medical records. Therefore, the learned counsel for petitioner would sum up his argument that the petitioner is entitled to seek compensation, as his livelihood has been affected in the accident and he would pray for passing an award by granting just compensation to the petitioner.

7. Per contra, the learned counsel 3rd Respondent would argue that the manner of accident clearly reveals that the accident had taken place when two vehicles coming from opposite directions and therefore, the petitioner is guilty of contributory negligence. It is also contended by the 3rd respondent that the petitioner had no valid driving licence to ride the motor cycle at the time of accident. The learned counsel for the 3rd respondent would submit that the petitioner has contributed to the accident by his own negligence and appropriate percentage of contributory negligence is sought to be taken/applied. The learned counsel for the 3rd respondent would further submit that the petitioner had not sustained any permanent disability, nor the loss of income due to the injuries and this claim is liable to be dismissed.

REASONS FOR DECISION

POINT No.1 :

8. This Tribunal has cogitated over the rival submissions and has keenly perused the relevant records. In deciding a claim under the Motor Vehicle Act, the proceeding being conducted before the Tribunal is a summary in nature. The Tribunal must decide the case on the basis of the preponderance of probability and the higher degree of proof i.e., proof beyond the reasonable doubt (for deciding a criminal case) is not required for fixing the liability in a claim petition. Keeping the above salutary principle on the mind, this Tribunal proceeds to decide this case in the light of evidence being adduced by both sides.

9. The testimony of the eye-witness namely, PW1- petitioner reveals that on 12.03.2022 at 10.10 p.m., while the Petitioner was riding a motor cycle bearing Reg.NoTN41 AX 9810, at Kanniyur – Madathukulam road, near Cholama devi medu, from North to South direction, at that time, the 1st respondent drove a bus bearing Regn.No.TN22 BR 4951, on opposite side, in a rash and negligent manner and dashed against the said petitioner's vehicle, and the petitioner had sustained grievous injuries. The above evidence of the PW1 is corroborated by the Ex.P1/FIR, registration of criminal case in Cr. No.67/2022, u/ss. 279, 337 of IPC, which was registered by the Madathukulam Police Station, Tiruppur, against the 1st respondent who drove the bus bearing Reg. No.TN22 BR 4951. The FIR/Ex.P1, final report/Ex.P2 *prima facie attribute* negligence on the part of the 1st respondent.

10. Although the petitioner/PW1 had been cross-examined by the learned counsel for 3rd respondent, the evidence of the PW1, who is eye-witness, remains consistent and credible. The evidence of the PW1 regarding the manner of happening of accident is supported and strengthened by the police records, namely FIR/Ex.P1, final report/Ex.P2. No evidence has been produced to challenge the version of accident as recorded in the FIR-Ex.P1. At this juncture, it is worthwhile to refer to the ruling of the Hon'ble Supreme Court in **Sunitha and others Vs. Rajasthan State Transport Corporation and another, 2019 AIR SCC 994**. Drawing guidance from the said decision, it can be deduced that if the FIR and charge sheet are neither challenged before the Court of law, nor shown to be in deficient, and are corroborated by the other evidence, such criminal case records can be relied upon to form an opinion that the accident occurred was due to the negligence of accused-driver-1st respondent, irrespective of the out-come of the criminal proceedings. The following proposition has been laid down as under:

"25. The Tribunal's reliance upon FIR 247/2011 (Exh.1) and charge sheet (Exh.2) also cannot be faulted as these documents indicate the complicity of respondent No.2. The FIR and charge sheet, coupled with the other evidence on record, inarguably establishes the occurrence of the fatal accident and also point towards the negligence of the respondent No. 2 in causing the said accident. Even if the final outcome of the criminal proceedings against respondent No. 2 is unknown, the same would make no difference atleast for the purposes of deciding the claim petition under the Act."

No eye-witnesses has been examined on the side of the 3rd respondent to disprove the fact which is established in the evidence adduced by the petitioner that the accident was the result of negligent riding of the 1st respondent-driver. No rebuttal evidence

against the evidence of PW1 is forthcoming on the side of the 3rd respondent. Relying upon the uncontroverted evidence of PW1, coupled with documentary evidence FIR/Ex.P1, this Tribunal safely arrives at the irresistible conclusion that the accident was the result of negligent riding of the 1st respondent drive the bus bearing Reg.No.TN22 BR 4951 at the time of the accident. In view of above discussions, this Tribunal holds that the bus bearing Reg.No.TN22 BR 4951 was ridden in a rash and negligent manner, and the 1st respondent is found guilty of negligence.

11. The 2nd respondent is the owner of the said offending bus bearing Reg.No.TN22 BR 4951 as per Ex.P5/copy of Motor Vehicle Inspection Report. The 2nd respondent is vicariously liable for the tortious act committed by the 1st respondent because the 2nd respondent/owner has not taken a plea that his bus was used against his will, and he had no effective control over the 1st respondent/driver at the time of the accident. The 2nd respondent is, therefore, constructively and vicariously liable for the tortious act committed by the 1st respondent in the eye of law.

POINT No.2 :

12(i). The issuance of insurance policy in respect of offending bus by the 3rd respondent has not been denied. Regarding the issue of alleged policy violation, if any, it is the duty of the insurer to prove the violation of the terms insurance policy to

seek for an exclusion of its liability. The 1st respondent was duly licensed at the time of the accident as per the entries in the motor vehicle inspection report/Ex.P5. The offending vehicle bearing Reg.No.TN22 BR 4951 had been duly insured with the 3rd respondent, which covered the date of accident, as per entries available in Ex.P5. The petitioner is the “third-party” of the said insurance policy of the offending bus.

12(ii). Relying upon the entries recorded in the Motor Vehicle Inspection Report (Ex. R2), the 3rd respondent raised a doubt that the offending vehicle bearing Registration No.TN22 BR 4951 did not possess a valid permit at the time of the accident. On a perusal of Ex. R2, it is seen that the permit particulars have not been recorded therein, but fitness particulars have been recorded. It is the bounden duty of the 3rd respondent-insurance company to establish any alleged policy violation. However, in the present case, the 3rd respondent insurance company has not adduced any documentary evidence to prove that the offending vehicle did not have a valid permit at the relevant point of time. No supporting records have been produced to substantiate such a plea. RW1 has deposed that the permit of the offending vehicle had expired as on the date of the accident. However, the said oral testimony is not supported by any documentary evidence, nor is it corroborated by any record pertaining to the permit particulars of the vehicle. In the absence of such supporting material, the oral evidence of RW1 cannot be relied upon. Therefore, the contention of the 3rd respondent that the offending vehicle lacked a valid permit at the time of the

accident is devoid of merit and is accordingly rejected.

13. In view of the fact that insurance policy was legally subsisting and was in force at the time of the accident, and by virtue of the law of indemnity, and by application of section 150 of the Motor Vehicles Act, the insurer is liable to make the compensation to the third party, third party-petitioner who is injured by the accident caused by the insured vehicle. Therefore, 3rd respondent being the insurer is liable to pay the compensation to the petitioner, and the entire liability is fastened on the 3rd respondent.

14. A specific defense plea has been taken by the 3rd respondent / insurer that the petitioner was not duly licenced at the time of the accident. The learned counsel for the 3rd respondent has sought to deduct some percentage in the claim amount for violating the provisions of the MV Act and Road Traffic Rules. Section 3 of the MV Act provides that no person shall ride a motor vehicle, unless he holds the effective driving license. During the cross-examination of the PW1, the petitioner has categorically admitted that he was not holding any driving licence at the time of the accident. Therefore, this Tribunal holds that the petitioner had no driving licence at the time of the accident. This Tribunal is of the opinion that there must be some deduction in the award amount, as the petitioner has violated and has disregarded the provisions of the M.V.Act. It is noteworthy that the petitioner ought to have ridden

the motorcycle by holding the effective licence. Therefore, 10% is ordered to be deducted for violation of the M.V.Act by the petitioner and the petitioner is entitled for only 90% of the award amount.

POINT No.3 :

15. The petitioner /PW1 has stated on oath that having sustained injuries in the said accident, he was treated at Pollachi Government Hospital, Coimbatore. Regarding the injuries sustained by the petitioner, the medical records produced by him show that he sustained the following injuries in the accident.

“Right knee, distal femur fracture, patella proximal tibia & fibula fracture, Soft tissue edema, hematoma, severe knee pain.”

The discharge summary/Ex.P6 establishes that the injuries sustained by the petitioner are grievous injuries. The petitioner has not established that the injuries sustained by him has incapacitated him. This Tribunal is of the opinion that aforesaid injuries sustained by the petitioner has not caused any functional disability to him and for this reason, multiplier cannot be applied for calculation of loss of future earning in the considered opinion of this Tribunal. The petitioner did not make any application/memo for his referral to the medical board for assessment of his injury. Therefore, this tribunal proceeds to pass an award amount based on medical records.

16. As regards the avocation and income of the petitioner, he has deposed he was a

labourer of a building construction, and was earning a sum of Rs.850/- per day at the time of the accident. It is not safe to rely upon the oral evidence of the petitioner/PW1 to prove his income. No documentary evidence has been led to prove the income of the petitioner. Since the petitioner has failed to prove his occupation and income by placing the plausible evidence, a duty is cast upon this Tribunal to fix it notionally. The accident had occurred in the year 2022, and the petitioner was aged 22 years at the time of the accident. Considering these factors, Rs.12,000/- is fixed notionally as monthly income of the petitioner. The petitioner had taken treatment for his injuries until 22.03.2022 and the said injuries sustained by him would have deprived him from his work for at least the period of six months.

Finally, this Tribunal calculates the award amount under the following heads:

Sl.No.	Head	Amount granted by the Tribunal (Rs.)
1	For sustaining greivous injuries (Femur fracture, tibia & fibula fractures)	1,00,000/-
2	Loss of income (6 x 12,000/-)	72,000/-
3	Loss of amenities	25,000/-
4	For pain and suffering	25,000/-
5	Attender expenses	20,000/-
6	Transport expenses	20,000/-
7	Nutrition expenses	20,000/-
	100% award amount	2,82,000/-
	10% deduction towards non-possession of driving licence by the petitioner	28,200/-

	90% award amount allowed for the petitioner (Net compensation)	2,53,800/-
--	---	-------------------

RESULT:

17. (i) In the result, in view of the above discussions and for the reasons stated and as has been concluded earlier, this claim petition is partly allowed by directing the 3rd respondent to pay the compensation a sum of **Rs.2,53,800/-** including interest and cost to the petitioner.

(ii) The award amount shall be paid to the petitioner with interest at rate of 7.5% p.a. from the date of filing of the petition till the date of deposit/recovery excluding the period of dismissal for default, if any, and including cost of the petitioner.

(iii) The respondents are directed to bear their own cost under the facts and circumstances of the case. The cost of the petitioner is ordered to be borne by the 3rd respondent.

(iv) As per Judgment of the Hon'ble Supreme Court of India in ***Parminder Singh Vs. Honey Goyal and others, 2025 INSC 361, 2025(1) TNMAC 533 (SC)***, a direction is issued to the 3rd respondent to transfer the award amount directly into the bank account of the petitioner with an intimation to the Tribunal. The petitioner has not produced his bank account particulars. The particulars of the petitioner's bank account are ordered to be immediately supplied by the learned counsel for the

petitioner to the learned counsel for the 3rd respondent under an intimation to this Tribunal. The award amount is directed to be transferred to the petitioner within one month from the date of passing the award.

(v) The petitioner is directed to deposit the court-fees of this petition within two weeks from the date of this order, if not already deposited, and the petitioner shall not be permitted to withdraw the claim amount until court-fee is paid.

(vi) The Advocate fees is fixed as **Rs.9,576/-**.

Dictated to the Stenographer directly and typed by her directly, corrected and pronounced by me in the open Court/Tribunal, this the 16th day of July 2026.

Special Subordinate Judge,
Special Sub Court to deal with
MCOP Cases, Coimbatore.

ANNEXURE : I

Petitioner's side witness :

P.W.1	Saravanan – the petitioner
-------	----------------------------

Petitioner's side Exhibits :

Ex.P1	FIR in Cr.No.67/2022 certified copy
Ex.P2	Final Report certified copy
Ex.P3	Observation Mahazar certified copy
Ex.P4	The Judgment in STC.No.68/2025, 12.06.2025, District Munsif cum Judicial Magistrate, Tiruppur certified copy
Ex.P5	Motor Vehicle inspection report of the offending vehicle certified copy

Ex.P6	Discharge Summary issued by Pollachi Government Hospital
Ex.P7	Copy of petitioner's Aadhaar Card

3rd Respondent's side witness :

R.W.1	Hari G Sevak, Assistant, Regional Transport Office, Udumalpet
-------	---

3rd Respondent's side Exhibits :

Ex.R1	Authorization letter
Ex.R2	Motor Vehicle inspection report of the offending vehicle true copy

3rd Party Exhibits : Nil**Court's/Tribunal's Exhibit : Nil****ANNEXURE : II**

Date of filing petition	25.07.2022
Date of Order/award	16.07.2026
Compensation amount	Rs.2,53,800/-
Interest rate on compensation	7.5%
Time allowed for paying deficit court fee	Two weeks from the date of order
Whether the petition was dismissed for default period, if any.	No

ANNEXURE : III**Cost memo - List**

List of cost memo	Amount (Rs.)
1. Stamp on petition	20.00
2. Court fee to be paid	1,891.00
3. Stamp amount of Vakalath nama	10.00
4. Stamp on process	90.00
5. Typing preparation charges	100.00

6. Advocate fee	9,576.00
Total cost	11,687.00

Special Subordinate Judge,
Special Sub Court to deal with
MCOP Cases, Coimbatore.