

SPECIAL DISTRICT COURT NO II TO DEAL WITH MCOP CASES,
COIMBATORE.PRESENT: THIRU. R.T.S. KANNAN, B.A.,B.L.,
SPECIAL DISTRICT JUDGE,
Wednesday, the 22nd Day of July 2026**Motor Accidents Claim Original Petition.891/2026****CNR No.TNCB27-000895-2026**

(a)	Name and address of the Claimant (s)	1.Kalyani (Died) 2. Sivakumar, S/o.Late.Viyapuri, Hindu aged about 39 years, residing at D. No.2B RVL Nagar 2 nd street, Upilipalayam (Post), Singanallur, Coimbatore – 641015.
(b)	Name and address of the Respondent (s)	1. Ramesh, S/o.Palanisamy, Hindu aged about 25 years, residing at 101, K.P.Arumugam street, Uppilipalayam, Coimbatore – 641015. 2. Nanjundan, S/o.Bojan, Hindu aged about 35 years residing at 94/2, Thiruvalluvar Nagar, Ondipudhur, Coimbatore – 641 016. 3. United India Insurance Company Ltd., having its place of office at Thudiyalur.
(c)	Name and address of the Insurance companies	United India Insurance Company Ltd., having its place of office at Thudiyalur.
(d)	Name and address of the Transport Corporation or such other Respondents who are held liable to pay	-
(e)	Date of filing of the claim petition	23.02.2017
(f)	Date of award	22.07.2026
(g)	Amount of award	Rs.5,73,241/-
(h)	Interest rate applicable	7.5% per annum
(i)	Date (s) from which interest	23.02.2017

	is payable	
(j)	Costs, if any	Stamp on petition - Rs. 20.00 Stamp on Vakalath - Rs. 10.00 Court fee - Rs. 5,105.00 Advocate fee - Rs.14,232.00 ===== Total = <u>Rs.19,367.00</u>
(k)	In cases where the compensation, interests and costs are directed to be paid proportionately, the award should also specify who shall pay which portion of award, interest and costs.	The 3 rd Respondent is directed to deposit the award amount of Rs.5,73,241/- with interest at the rate of 7.5% p.a from the date of presentation of the petition till the date of deposit, with costs of Rs.19,367/-.
l)	In cases where there are several Claimants, the shares and amounts payable to each of them shall be specified.	The 3 rd respondent is directed to deposit the award amount in the name of 2 nd Claimant Rs.5,73,241/- and cost of Rs.19,367/-.
m)	The mode and manner of deposit of compensation	The 3 rd Respondent is directed to deposit the award amount with interest at the rate of 7.5% p.a from the date of presentation of the petition till the date of deposit, with costs to the bank accounts of the 2 nd claimant within 30 days from the date of production of his bank account details and also from the date of deficit court fee is paid payable by him in this case and the same shall be informed to this court in writing.
(n)	The mode and manner of disbursement including the quantum payable to the claimants	As per column (l) and (m)
(o)	Period of default to which the petitioner are not entitled for interest, if any.	09.12.2021-09.06.2026

(p)	Balance of Court fee	The 2 nd claimant is directed to pay the court fee of Rs.5,105/- and given the bank details of the 2 nd claimant within 30 days from the date of this order, if not, from the expiry of 30 days from today to till the date of payment of court fee the 2 nd claimant is not entitled for interest in the award amount.
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1. Kalyani
2. Sivakumar

...Claimants

-Vs-

1. Ramesh
2. Nanjundan
3. United India Insurance Co. Ltd.,

...Respondents

(Amended as per order in I. A. No.1/2019 dated 05.09.2019)

This petition was transferred from the file of the V Additional District Court, Coimbatore and its original number was MCOP No.324/2017. Thereafter it was renumbered as MCOP No.891/2026. This petition came up on 21.07.2026 for final hearing before me in the presence of Thiru. G. Prem Raj learned counsel appearing for the Claimants, Thiru. P. Ashok learned counsel appearing for the 3rd respondent, 1st respondent was set exparte, 2nd respondent was dismissed in this petition and upon hearing the arguments on both sides and perused the memo of citations from the side of the 3rd respondent and stood over till this day for consideration, this Court delivers the following :

ORDER

This petition is filed under section 166(1) (a) in M.V.Act 1988 for claiming compensation of Rs.10,00,000/- for the death of 2nd Claimant's father in road accident occurred on 29.02.2016.

1) The Claim petition in brief states as follows:

It is a case of Fatal. Name of the Deceased is Viyapuri. The deceased

was a rider of a two wheeler. Age of the deceased was 67 years and he was working as a Manager in K. R. S. Builders and earning a sum of Rs.20,000/- p.m from the said job and in addition to that he was also earning around Rs.10,000/- to Rs.15,000/- per month as a commission from the real estate brokerage. The 1st Claimant is the wife(now died), 2nd Claimant is the son of the deceased.

On the fateful day, i. e., on 29.02.2016 at about 10.30 AM the deceased was riding a two wheeler namely Splendor Hero Honda bike bearing Reg. No. TN 09 V 2226 on the Trichy High Road from east to west direction. The 2nd claimant and his friend Mr. Antony have followed the deceased in their bike for their business purpose. When they reach near Combodiya Mill Compound gate (Ondipudur bridge) a TATA Ace BS II Light good vehicle bearing registration No. TN 38 AJ 8602 driven by the 1st Respondent from west to east (opposite direction) in a rash and negligent manner dashed the deceased vehicle and the deceased was thrown off from his vehicle and due to which the deceased sustained multiple grievous injuries in his head and all over body. Immediately the 2nd claimant and his friend took the deceased to CMCH for first aid and thereafter he was admitted to Sri Ramakrishna Hospital, Coimbatore for further treatment and he had undergone major surgeries, however the deceased died on 02.03.2016. More than Rs.2,00,000/- was spent for medical expenses.

The TIW (E) Police registered a case against the 1st Respondent under Sections 279 and 338 of IPC in Crime No.137/2016 on 29.02.2016 and later the charge was altered as 304(A) of IPC. The Respondents are jointly and severely liable to pay the compensation.

2) The counter of the 3rd respondent briefly stated as follows:

The 3rd Respondent denied the manner of the accident as described by the Claimants. The age, income and occupation of the deceased are denied.

There is a violation of policy conditions. The Claimants shall prove the vehicular documents of the offending vehicle. The Policy is subject to terms and conditions, exceptions and limitations thereof and confirmation of compliance of Section 64 VB of the Insurance Act, 1938. This Respondent seeks all the protection under the relevant provisions of Sections 147 and 149 of the MV Act.

The deceased alone was rash and negligent manner in driving his vehicle. Therefore, the deceased was the tortfeasor. Since, neither the offending vehicle nor the 1st Respondent was the cause for the accident, the Respondents are not liable to compensate the Claimants. In any case the compensation is too high and fanciful.

3) Points for consideration:

i) Whether the accident occurred due to rash and negligent driving of the 1st Respondent who drove the vehicle belonging to the 2nd respondent?

ii) Whether the Claimants are entitled to the compensation? If so who is liable to pay compensation ?

iii) What would be the quantum of compensation ?

4) Examination of Witnesses and Exhibits:-

WITNESSES AND EXHIBITS ON THE SIDE OF CLAIMANTS			
S.No.	Details of Witness	Witness No.	Exhibits Marked
1	2 nd Claimant	PW-1	Ex.P1 to Ex.P13
2	Marimuthu	PW-2	Ex.P14 & Ex.P15
WITNESSES AND EXHIBITS ON THE SIDE OF RESPONDENTS			
S.No.	Details of Witness	Witness No.	Exhibits Marked
1.	By consent	Nil	Ex.R1

The 1st and 2nd Respondent remained ex-parte and have not supported

the 3rd respondent. The 3rd Respondent filed the Petition U/s.170 MV Act, 1989 and obtained leave under section 170 of MV Act to take all grounds that are available to 2nd respondent (owner of the offending vehicle) in the main MCOP and contested this case.

5) Heard the both sides and perused all the records including the material evidences.

A) Point No.1

The claim petition is filed under section 166 of the Motor Vehicles Act. Therefore, the Claimants must first establish whether the accident was caused by the drivers of the offending vehicle herein. It is settled law that, in claim cases, arising out of motor accident, the court has to apply the principles of preponderance of probability and cannot apply the test of proof beyond reasonable doubt. As such strict proof of evidence is not required. The evidence available in the present case is evaluated based on the principles of preponderance of probability.

According to the Claimants, the accident has occurred as stated supra and as such the 1st Respondent was the reason for the accident and in which the deceased died.

In this case, while reading the FIR (Ex.P1), Final Report (Ex.P2) and the Rough Sketch (Ex.P10) the road accident was occurred and the deceased died in the said accident. The accident was occurred on 29.02.2016. The FIR was filed on 29.02.2016. To prove that the 1st respondent was rash and negligent in driving the offending vehicle he examined himself as Pw1 and marked the FIR and Charge sheet including Rough sketch. He himself was an eyewitness he had spoken about the manner of accident. On the other hand no contra evidence is produced from the side of the respondents. Hence, this court comes to the conclusion that the 1st Respondent alone drove the offending vehicle belonging to the 2nd Respondent in a rash and negligent

manner and he was responsible for the accident.

B) Point No.2

The accident caused due to a rash and negligent act of the 1st respondent. The ownership of the vehicle is not disputed and proved as per MVI Report of the offending vehicle (Ex.P5) and Insurance Policy (Ex.R1) and as on the date of the accident the said vehicle was covered by 3rd Party Insurance and same is not disputed and further the Policy Copy is marked as Ex.R1. Though there was an error in describing the registration number of the offending vehicle in Ex.P1 (FIR) and in Charge sheet (Ex.P2) as TN 38 AJ 8602 the same was subsequently corrected in MVI report (Ex.P5) as TN 38 AS 8602. The insurance policy also issued to the vehicle bearing registration No. TN 38 AS 8602 as found in MVI report and the registration number of the offending vehicle is TN 38 AS 8602. There is no dispute in it. Therefore this error cannot be considered as a serious one to dispute the involvement of the vehicle in the accident. In this case, the accident is found to be taken place as per discussion in Point No.1. Since, the 3rd Respondent had issued Insurance Policy and the same was alive at the time of accident and no violation of policy conditions were pleaded and proved, they are liable to pay the compensation to the claimants. Therefore, this court fixes the liability to pay the compensation that is arrived hereunder by the 3rd Respondent to the claimants.

C) Point No. 3

Now, what is the quantum of compensation that can be granted to the Claimants to be decided by this Court.

In this case, the case of the Claimants is that while the accident was occurred and on the date of the demise of the deceased his age was 67 years. The age of the deceased found proved from the Postmortem certificate of the Deceased (Ex.P7) of the deceased. However, the 2nd claimant (Pw1) himself

admitted that the age of his father at the time of accident is 69.

Further, the 1st Claimant (Now deceased) lost her husband and the 2nd Claimant lost his father. To prove that the Claimants are the legal heirs of the deceased who died in the accident Ex.P4 namely the Legal heir certificate is filed. The learned counsel for the claimants argued that as on the date of accident and on the date of filing of this petition the 1st claimant was alive and she died only during the pendency of this petition. Further she is being a wife of the deceased she was a dependent. But for the procedural delay in disposing of this case she was not given the compensation before she died. Therefore the learned counsel prays to consider her for arriving the compensation. Likewise the learned counsel for claimants argued that the 2nd claimant is the only son and hence he is also entitled to compensation.

On the other hand, the learned counsel for the 3rd respondent argued that, the deceased 1st claimant shall not be considered for compensation as she is dead and the 3rd respondent is no longer required to give any compensation meant for her to the 2nd claimant. As far as the 2nd claimant is concerned, the learned counsel for the 3rd respondent argued that admittedly during the cross examination of Pw1 the 2nd claimant herein was earning a sum of Rs.35,000/- per month by doing trading business. Therefore the learned counsel strongly objected to consider him as dependent of the deceased.

Considering the rival submissions on both sides, as far as the argument of the learned counsel for claimants that the 1st claimant was alive on the date of filing of this petition and only during the pendency of the petition she died and therefore she must be considered for compensation, is concerned this court is inclined to favoring the said argument. Because if she is not considered on the pretext that she is no more today, the same would set a wrong precedent that if the petition is kept pending till the dependents/claimants died the respondents can easily get exonerated without paying any

money to such dependents. Hence, the 1st claimant (Deceased) is also considered for compensation and the same is allowed to be received by the 2nd claimant.

As far as the 2nd claimant is concerned, admittedly he is earning Rs.35,000/- per month by doing trading business. Therefore as per judgment of Hon'ble Supreme Court of India relied by the learned counsel for 3rd respondent in the case of Sushila Vs. Sudhakar reported in 2026 (1) TNMAC 584 (SC), the 2nd claimant is not considered as dependent.

Now, the claimants state that, the deceased was working as a Manager in K.R.S. Builders and earning a sum of Rs.20,000/- p.m from the said job and in addition to that he was also earning around Rs.10,000/- to Rs.15,000/- per month as a commission from the real estate brokerage. Though Pw2 who claims to be an owner of the K.R.S builders the employer of the deceased deposed as though the deceased was paid a sum of Rs.20,000/- per month but the same was not substantiated by filing necessary documents such as Attendance register, Appointment order and Pay slip etc.,. The learned counsel for the 3rd respondent relied the Judgment of our ***Hon'ble High Court in the cases of Managing Director TNSTC Vs.Gokila reported in 2022 (2) TNMAC 785 (DB)*** and ***National Insurance Co., Ltd., Vs. Mallika & others reported in 2025 (1) TN MAC 80***. As per the judgments if there is no substantial evidence to prove the income of the deceased the notional income is to be taken. In this case though the Pw2 marked Salary certificate (Ex.P14) but failed to file supporting documents like Attendance register, Appointment order and Pay slip etc., hence the same is not considered by this court for the income of the deceased. As such the claimants failed to prove that the deceased was working as a Manager in K. R. S. Builders and earning a sum of Rs.20,000/- p.m from the said job and further, the claimants also failed to prove that he was also earning around Rs.10,000/- to Rs.15,000/- per month as a commission from

the real estate brokerage. However, since the deceased was hale and healthy according to the economic condition prevailing in the year 2016 and considering the cost of living in Coimbatore his notional income is taken as **Rs.10,000/-** per month. The Judgments of Hon'ble High Court of Madras relied by 3rd respondent decided in ***Hon'ble High court of Madras in the case of HDFC ERGO General Insurance Co.Ltd Vs. Mahalakshmi and other reported in 2019(2) TN MAC 414*** and ***M. Selvi & others Vs. D. Selvam reported in 2023 (2) TN MAC 490*** are not applicable to the facts and circumstances of this case. The learned counsel for 3rd respondent vehemently argued that since there was only one dependent namely the 1st claimant the deduction towards personal expenses of the deceased to be taken as 50% from his salary and relied the judgment of ***Hon'ble High court in the case of R.Mehrunnissabi Vs. S. Murugavel reported in 2026 (1) TNMAC 39***. In this case also the 1st claimant was the wife and for the reasons stated supra she alone is considered as dependent hence the deduction is taken as 50% from the income of the deceased.

6) Taking the guidelines of the Hon'ble Supreme Court in the case of ***Sarala Varma and others Vs. Delhi Transport Corporation and another 2009 ACJ 1298***, the following addition, deduction and multiplier would be applied.

Since the 1st Claimant (now deceased) was depending upon the deceased, ½ income is deducted and after deduction monthly income of the deceased

= Rs.5,000/-

Since the deceased was 69 years so the future prospect is

= Nil

Yearly income (Rs. 5,000 x 12)

= Rs.60,000/-

Since the age of the deceased was 69 years the multiplier to be applied is taken as 5. Hence the total loss of dependency 60,000 X 5

= Rs.3,00,000/-

7) In addition to the loss of dependency after considering the entitlement under the conventional heads, the compensation is fixed as follows :

1. Loss of dependency	Rs. 3,00,000/-
2. Loss of Consortium (for 2 Claimants)	Rs. 1,06,480/-
3. Loss of funeral expenses	Rs. 19,965/-
4. Loss of estate	Rs. 19,965/-
5. Medical bills (As per Ex.P12)	Rs. 1,26,831/-
Total	Rs. 5,73,241/-

On the basis of the above discussion and calculation, it is decided to award a total sum of **Rs.5,73,241/-** as appropriate and just compensation for the death of deceased with 7.5% interest per annum from the date of the petition until the amount is deposited. It is needless to emphasize that if any default period is there i. e., the petition was dismissed for non-prosecution, for the said period the award amount does not bear interest. As far as the rate of interest is concerned the learned counsel for the 3rd respondent submitted that, since the claimants have dragged this petition for about 10 years the interest rate for the award amount shall be not more than 6%. Considering his submission while perusing the case records already this court has imposed an order that the claimants shall waive the interest for the period this petition was dismissed for default. Hence, the prayer of the learned counsel for the 3rd respondent is not considered in favour of the 3rd respondent.

8) In the result, this petition is partly allowed with costs, on the following terms:-

(i) The Judgment of the Hon'ble Supreme Court in ***Parminster Singh Vs. Honey Goyal and others (S.L.P. No.© No. 4484 of 2020)*** dated 18.03.2025 and in compliance to that an ROC. No. 55584/2025/S. Ct. Dated

02.07.2025 was also issued by our Hon'ble High Court that, the tribunals are directed to pass an award by ordering the respondent/insurance company to transfer the award amount into the Bank account of the claimant(s) with intimation to the tribunals. Accordingly, in this case the 3rd respondent is directed to transfer the award amount to the claimant(s) Bank accounts. **Since, the bank details of the claimants are not produced in this case their Advocate is requested to produce the bank account details directly to the respondent.** On such receipt, the 3rd respondent shall proceed for payment within 30 days thereafter.

(ii) The 3rd Respondent is directed to deposit the award amount of Rs.5,73,241/- with interest at the rate of 7.5% p.a from the date of presentation of the petition till the date of deposit, with costs to the 2nd claimant's bank accounts within 30 days from the date of deficit court fee is paid payable by them in this case and the same shall be informed to this court in writing.

(Note : The 3rd respondent shall deposit the award amount only after confirming that deficit court fee is paid to this case by the 2nd claimant)

(iii) The 3rd respondent is directed to deposit the award amount in the name of 2nd Claimant **Rs.5,73,241/-** and cost of Rs.19,367/-.

(iv) The 2nd claimant is directed to pay the court fee of Rs.5,105/- and given the bank details of the 2nd claimant within 30 days from the date of this order, if not, from the expiry of 30 days from today to till the date of payment of court fee the 2nd claimant is not entitled for interest in the award amount.

(v) Further, as stated above the 3rd respondent shall pay the award amount directly to the Claimant(s) Bank Account. Further, if the claimant(s) is/are directly receiving the award amount from the Insurance Company/ Respondent, there is a possibility of evading deficit court fees, which are payable by the 2nd claimant in this case. Therefore, the 2nd claimant is directed to remit the deficit court fees within 30 days from the date of this order in the

following E-Court fees link “ **pay.ecourts.gov.in.**”

(vi) After payment of court fee by the Claimant (s); the claimant(s) are directed to produce two copies of Court fee paid receipt to this tribunal. After verification and getting seal from this court, one such copy of court fee paid receipt shall be handed over to the Respondent Advocate. **Further, after obtaining receipt of court fee paid from the claimants alone, the 3rd respondent shall transfer the award amount to the 2nd Claimant. If any award amount transferred by the 3rd respondent to the 2nd claimant without receiving court fees paid receipt, it is the responsibility upon the 3rd respondent to remit the court fees to this tribunal later.** Therefore, the parties are directed to adhere the above conditions strictly without any deviation. The 3rd respondent is directed to furnish intimation of compliance to this tribunal after transferring the award amount to the 2nd Claimant. Once the 2nd claimant received the compensation into their bank account, he shall file full satisfaction memo in this case.

(vii) Following the Judgment of the Hon'ble High Court of Madras in *M/s.Cholamandalam MS General Insurance Co Ltd., Vs. Ayyanar & others reported in 2020 (4) CTC 272*, no decree is prepared. All the parties are entitled to free copies of the award as per Section 168 (2) of the MV Act and Rules 20 (6) of the Rules.

Dictated directly to the Steno-Typist, typed by her, corrected by me in computer itself and pronounced by me in the open court on the 22nd day of July 2026.

Special District Judge,
Special District Court No.II to deal
with MCOP cases, Coimbatore.

Claimants side witnesses :

PW1 Sivakumar (2nd Claimant)

PW2 Marimuthu

Claimants side documents :

Ex.P1 First information report

Ex.P2 Charge sheet

Ex.P3 Death Certificate of Viyapuri

Ex.P4 Legal heir certificate of Viyapuri

Ex.P5 MVI report (TN 38 AS 8602)

Ex.P6 MVI report (TN 09 V 2226)

Ex.P7 Postmortem certificate

Ex.P8 Accident Register

Ex.P9 Death intimation given by Sri Ramakrishna Hospital

Ex.P10 Rough sketch

Ex.P11 Observation mahazar

Ex.P12 Medical bill for a sum of Rs.1,26,831/-

Ex.P13 Aadhar copy of 2nd claimant

Ex.P14 Salary certificate of the deceased

Ex.P15 Aadhar copy of Marimuthu

Respondents side witnesses : Nil

Respondents side documents

Ex.R1 Insurance Policy (By consent)

Special District Judge,
Special District Court No.II to deal
with MCOP cases, Coimbatore.

FAIR ORDER

MCOP : 891/2026

DATE :22.07.2026

SDJ II, CBE.