

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
IN THE SPECIAL DISTRICT COURT TO DEAL WITH MOTOR
ACCIDENT CASES,**

Tmt. S. ROHINI, B.L.,
SPECIAL DISTRICT JUDGE (MACT)
MADURAI.

Monday, the 18th day of November 2024

MCOP No.1141/2023

CNR.No.TNMD0D-000834-2023

1. Tmt. Silambaye, W/o. Subramani, Hindu, aged 55 years and residing at 4/321, Pethanasamy Street, Ayyappanayakkanpatti, KuruviduraiPost, Vadipatti Taluk, Madurai District-625 207.
2. S.Balamurugan, S/o. Subramani, Hindu, aged about 34 years 4/321, Pethanasamy Street, Ayyappanayakkanpatti, Kuruvidurai Post, Vadipatti Taluk, Madurai District-625 207.
3. S. Dineshbabu, S/o. Subramani, Hindu, aged 30 years and residing at 4/321, Pethanasamy Street, Ayyappanayakkanpatti, Kuruvidurai Post, Vadipatti Taluk, Madurai District-625 207 --- Petitioners

/Versus/

1. M.Satheeshkumar, W/o. Murugan, residing at 4, Puthuvayal street, Burma colony, Thathaneri, Madurai-625 016.
2. The Manager, IFFCO TOKIO General Insurance Co., Ltd., 82, Preetham Plaza Chandrakandhi Nagar, Ponmeni, Bye Pass Road, Madurai-625 016. Respondents

This petition came up for final hearing before me on 13.11.2024 in the presence of Tr.C. Raja Advocate for the petitioner, and Tr. D.Prabhakaran Advocate for the 2nd respondent and 1st respondent was called absent set exparte and upon hearing the arguments of both side and upon perusal of the case records, having stood over for consideration till this day, this court doth deliver the following.

ORDER

This petition has been filed by the petitioner under section 164 and 166 of the Motor Vehicles Act 2019 (Amendment Act 32/2019) and Rule 3(1) of the Motor Accidents Claims Tribunal Rules claiming compensation of Rs.50,55,000/- and restricted to Rs.50,00,000 /- from the respondents, for the death of one A. Subramani in a motor accident, which took place on

02.04.2023.

2. The averments contained in the petition copy are briefly as follows:

The accident had happened on 2.4.2023 at about 9.00 a.m. Sholavandan to Kuruvithurai Road, Mannadimangalam Wine Shop near. On 2.4.2023 the deceased wear helmet went to Sholavandan to Purchase Grocery to his home in his two wheeler bearing registration No.TN-58-S-4132 in Sholavandan to Kuruvithurai Road from east to west on the extreme left side of the road near Mannadimangalam Wine shop at about 9 hours in a very careful manner. At that time the 1st respondent's driver drove the Car bearing registration No.TN-58-W-8947 came in the opposite direction in a rash and negligent manner with high speed without adhering to the rules and regulations of the road, even not sounding the horn dashed against the petitioner's two wheeler. Due to the sudden hit the deceased sustained multiple grievous injuries all over the body. Immediately he was taken to Govt. Hospital, Sholavandan. But all efforts are in vain he was died on the same day (2.4.2023) in the Hospital. The accident was happened due to the rash and negligent driving of the 1st respondent's driver. The 1st respondent is the owner of the vehicle. The 2nd respondent is the insurance company to the 1st respondent's vehicle. Hence, both respondents are jointly and severally liable to pay the compensation to the petitioners.

Hence the petitioner claims a sum of Rs.50,00,000/- towards the compensation which is just and reasonable.

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

Except those allegations which are specifically and expressly admitted herein all other allegations contained in the original petition are denied as false, frivolous and fabricated and the petitioner put to strict proof of each and every allegation by means of direct as well as documentary evidence. At the outset and before embarking upon all allegations contained in the claim petition in detail, this respondent denies those allegations as to the nature and

mode of the impugned accident. Nature and extent of the alleged injuries, disability are all imaginary and the particulars of compensation as unreasonable. The 3rd respondent submits that the petitioner has put strict proof of that the vehicle belongs to the 1st respondent bearing Regn. No.TN58W8947. It is submitted that the accident actually happened due to the negligence of the deceased while he drove his two wheeler bearing Regn.No.TN58S4132 in rash and negligent manner in Sholavandan to Kuruvithurai Main Road with high speed he suddenly came on the right side of the road in the turning and the deceased himself invited the accident. The version of the petitioner as to the nature and mode of the impugned accident are incorrect. In fact there was no negligence on the part of the 1st respondent's driver bearing Registration No. TN58W8947, he drove the car in moderate speed and following the rules and regulations of the road traffic on contra the deceased who rode his two wheeler TN58S4132 in rash and negligent manner in the turning of the road Sholavandan to Kuruvithurai Main Road and suddenly came on the right side of the road so the accident happened only due to negligence of the deceased alone. hence neither the 1st respondent nor the 2nd respondent is liable to compensate the petitioners, as the accident happens due to the negligence of the deceased. Hence this respondent is not liable to pay any compensation to the petitioner.

4. On petitioner side 1st petitioner examined as PW1. On 13.11.2024 the petitioners and 1st and 2nd Respondents were appeared before this tribunal and they stated that the petitioner and the 2nd respondent in this case had arrived at a compromise and filed the settlement memo to settle the matters on their own volition and no coercion or force. The terms of settlement as follows:-

Terms of Settlement

1. The petitioners and the 2nd respondent have agreed to settle the claim at Rs.8,00,000/- (Rupees Eight lakhs only) in full quit without interest and costs.

2. The 2nd Respondent has agreed to deposit the amount into court within 3 months from the date of receipt of the copy of the order, failing which interest at 7.5% is also payable in addition to the agreed amount.

3. On perusal of records, the The 1st petitioner is entitled to get Rs.6,00,000/- and 2nd and 3rd petitioners are entitled to get Rs.1,00,000/-each . The 1 to 3 petitioners are entitled to withdraw the entire award amount respectively.

On careful perusal of above said settlement memo and the representations made by the both parties, above said petition to be disposed of as settled on the terms setout above.

In the result, the petition is partly allowed and a total compensation of **Rs.8,00,000/-** (Rupees Eight lakhs only) is awarded in favour of the petitioners against the 2nd respondent. The award amount shall be deposited through **(in Indian Bank, A/c Name: MACT Special District Judge, Madurai A/c No.VMSDJKMCOP11412023, IFSC Code: IDIB000K215.). within 2 months from the date of this order.** The 1st petitioner is entitled to get Rs.6,00,000/- and 2nd and 3rd petitioners are entitled to get Rs.1,00,000/- each . The petitioners are entitled to withdraw the entire award amount respectively. Disbursement of the amounts to the petitioner as stated above shall be made by direct transfer to the credit of their respective bank account by NEFT or RTGS.

As per judgment held by Hon'ble Madras High Court in Tr.Cmp.264 to 281 of 2020 M/s. Chola mandalam Ms. General Insurance Company Ltd., V/s. Ayyanar and others, dated 11.5.2020. There is no separate Decree passed.

Dictated to the Steno-Typist, and directly typed by her in the computer and, corrected and pronounced by me in the open court, on this the 18th day of November 2024.

(Sd. **Tmt. S. ROHINI**)

Special District Judge (MACT),
Madurai.

Enclosures:

List of witnesses on the side of the petitioner:

P.W1 –Silampayee

List of exhibits on the side of the petitioner :Nil

List of witness on the side of the respondents :Nil

List of exhibits on the side of the Respondents :Nil

(Sd.Tmt. S. ROHINI)
Special District Judge (MACT),
Madurai

Special District Court (MACT),
Madurai.
Draft/Fair Order in
M.C.O.P.No.1141/2023
Dated:18.11.2024