

**IN THE COURT OF OF MOTOR ACCIDENTS CLAM TRIBUNAL/
ADDITIONAL DISTRICT JUDGE, THENI**

**PRESENT : Tmt. G. SREE DEVI, B.A., L.L.M
Motor Accident Claims Tribunal/
Additional District Judge, Theni.**

Friday, the 12th Day of June 2026

MCOP No.227 of 2019

(CNR No.TNTH010041622019)

- (a) Name and address of the Petitioner (s) :
1. Santha, W/o. Sundarraj, Hindu, aged about 49 years and residing at D.No.18, Chandra colony, 1st street, Thiruneelakandapuram, Tirupur Taluk & District.
 2. Nagapandi, S/o. Sundarraj, Hindu, aged about 22 years and residing at D.No.18, Chandra colony, 1st street, Thiruneelakandapuram, Tirupur Taluk & District.
 3. Pandipriya D/o Sundarraj, Hindu, aged about 19 years and residing at D.No.18, Chandra colony, 1st street, Thiruneelakandapuram, Tirupur Taluk & District.
- (b) Name and address of the respondents :
1. Ranjith, S/o. Nagaraj, Hindu, aged about 30 years and residing at Ward 2, North street, T.Alagarnayakkanpatti village, T.Meenatchipuram Panchayat, Thevaram post, Uthamapalayam Taluk, Theni District.
 2. Murugan, S/o. Ramasamy, Hindu, residing at old door no.67, new door no.114/W1, Mela street, T.Alagarnayakkanpatti village, T.Meenatchipuram Panchayat, Thevaram post, Uthamapalayam Taluk, Theni District.
 3. The Oriental Insurance Company Ltd., Theni Branch having its office at 1024J, Sri Vijay complex, Cumbum road, Theni, Theni District through its Branch Manager.
- (c) Name and address of the Insurance company :
- The Oriental Insurance Company Ltd., Theni Branch having its office at 1024J, Sri Vijay complex, Cumbum road, Theni, Theni District through its Branch Manager.
- (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 : 30.09.2019

(f) Date of award : 12.06.2026

(g) Amount of award : Rs.10,75,850/-

(h) Interest rate applicable : 7.5% per annum

(i) Date (s) from which interest is payable : 30.09.2019

(j) Costs, if any	:	Stamp on petition	-	Rs.	20.00
		Stamp on Vakalath	-	Rs.	10.00
		Court fee	-	Rs.	10,130.50
		Advocate fee	-	Rs.	17,758.00
		Total	-	Rs.	27,918.50

(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 3rd Respondent is directed to deposit the award amount of Rs.10,75,850/- with interest at the rate of 7.5% p.a from the date of presentation of the petition till the date of realization, with costs, within 30 days from the date of order. The 3rd Respondent insurance company is directed to pay the compensation amount to the Petitioners and then the same has to be recovered from the 2nd Respondent who is the owner of the offending two wheeler bearing registration no.TN60S 3252.

l) In cases where there are several Petitioners, the shares and amounts payable to each of them shall be specified. : The Petitioners shall be entitled to take the said award amount with proportionate interest accrued thereon.

m) The mode and manner of deposit of compensation : The 3rd Respondent is directed to deposit the award amount of Rs.10,75,850/- within one month from the date of order into the 1st Petitioner Santha's Savings Bank Account No.110254659950 of Canara Bank, Thevaram, 2nd Petitioner Nagapandi's Savings Bank Account No.20355260546 of State Bank of India, Checkanurani Branch and 3rd Petitioner Pandipriya's Savings Bank Account No.39393330930 of State Bank of India, Periyakulam Branch and to file a Proof of Deposit of Award amount along with Case Number and date of

Transfer before this Court within 3 days from such transfer.

- (n) The mode and manner of disbursement : Each Petitioners are entitled to withdraw their share as above in the award amount with interest accrued thereon immediately on its deposit.
- (o) Period of default to which the petitioner : Nil
are not entitled for interest, if any.
- (p) Balance of Court fee : The Petitioners are directed to pay the court fee of Rs.9,757.50 within 30 days from the date of this order. The Petitioners shall not be entitled to withdraw the sum deposited as per the award until the balance of court fee is deposited.

This petition was came up on 18.04.2026 for final hearing before me in the presence of Thiru.P.Jeyaraj, Advocate for Petitioners and Thiru.S.Venkateshwaran, Advocate for 3rd Respondent and 1st and 2nd Respondents remained exparte and upon hearing both sides and on perusal of the case records which stood over before me for consideration till this day this Tribunal delivers the following :-

ORDER

This petition is filed under section 140, 141, 166 in M.V.Act 1988 for claiming compensation of Rs.25,00,000/- along with 9% interest from the date of petition to till the date of realization of the amount with costs.

2) The Claim petition in brief states as follows:

On 04.07.2015 at 12.30 Hrs, the deceased Sundarraaj was travelling as a pillion rider in TN60S 3252 TVS star city bike to his native village Alagarnayakkanpatti from Thevaram. The 1st Respondent had drove the said vehicle. On the way of Thideerpuram vialkku, the deceased informed to 1st Respondent that he was feeling giddy but the 1st Respondent had not stopped the bike. In this juncture, the 1st Respondent had left the bike on earth with uncontrolled. Due to this impact, the deceased had fell down on earth and sustained with head injury and he had taken to Government hospital, Theni and he shifted to Madurai Appollo hospital. The duty

doctor says blood glad in brain of deceased and he return back to home and he died. At the time of accident, the deceased was only 45 years old. He was hale and healthy and free from any ailment. The deceased had a well nourished body. The 1st petitioner is the wife, 2nd Petitioner is the son, 3rd Petitioner is the daughter of the deceased and all the petitioners are depending upon the income of the deceased. At the time of accident, the deceased was a Ironing and Packing section Contractor in export company and he was earning Rs.20,000/- per month. If the accident would not happened, the deceased would have lived up to 90 years old. In this aspect as per new amended Act, the petitioners estimates the monetary loss at Rs.25,00,000/-. A case has been registered in Crime No.193/15 u/s. 304(A) IPC r/w 185 M.V.Act by the Thevaram police station against the 1st Respondent. Hence, the petitioners filed this claim petition before this tribunal. The petitioners have not filed any application for granting of compensation before granting of compensation before any other tribunal in respect of the accident. The petitioners were very affectionate towards the deceased. So the deceased was very much affectionate with the petitioners. Whereas, the petitioners have restricted the claim to Rs.25,00,000/-. The accident took place only due to rash and negligent driving of the 1st Respondent. The 2nd respondent is owner of the two wheeler bearing no. TN60S 3252 vehicle during the time of accident, he was insured his car with the 3rd respondent Insurance company, since they are jointly and severally liable to pay the compensation by composite negligence. Therefore, the Petitioners have come forward with this petition seeking compensation of Rs.25,00,000/- and prays to allow the same.

3) Contents of the counter and additional counter filed by the 3rd Respondent :

(3.1) The petition is not maintainable either in law or on facts. The petitioners are not entitled to any relief as prayed in the petition. At the outset this respondent submits that the petitioners should strictly prove that the 2nd respondent's vehicle is involved in the accident and it was insured with this respondent under a valid policy of insurance and the said policy was in force at the time of the accident. It should also

be proved that the 1st respondent was authorized to drive the particular type of vehicle at the time of the accident. Unless and until all the particulars are proved by the petitioners and all the documents relating to the vehicle involved in the accident are found in order and correct, this respondent is not liable to answer for the claim. The petitioners should strictly prove that the petitioners are the legal heirs of the deceased Sundarraaj and that all the legal heirs of the deceased have joined in this petition by documentary evidence.

(3.2) The 1st Respondent had no license to drive the motor cycle bearing no.TN60S 3252 at the time of the accident. After consuming alcohol the 1st Respondent had driven the motor cycle at the time of the accident. The 2nd Respondent knowingly allowed his vehicle to be driven by the 1st Respondent who had no license and who is in the influence of alcohol at the time of the accident which are purely violation of the terms and conditions of the insurance policy.

(3.3) This respondent submits that the accident did not happen due to the fault of the 1st respondent. The deceased had travelled as a pillion rider in the motor cycle without wearing helmet, without proper care and caution and in negligent manner and fell down on the road at the time of the accident. The deceased had invited the accident. The 1st respondent had driven the motor cycle in a normal speed by observing the traffic rules of the road at the time of the accident. The accident had occurred due to the sole negligence on the part of the deceased. On this aspect, this respondent is not liable to pay any amount as compensation to the petitioners.

(3.4) The age, occupation and income of the deceased which are mentioned in the petition are denied by this respondent. The petitioners should strictly prove that the deceased was a Ironing and Packing section Contractor in export company and he was earning Rs.20,000/- per month at the time of the accident through valid documentary evidence. The petitioners are not depending upon the income of the deceased at the time of the accident. The petitioners should strictly prove that the deceased and the petitioners had resided under the same roof at the time of the

accident. There is no monetary loss to the petitioners due to the death of the deceased person.

(3.5) The calculations mentioned in the petition are not correct. Any how this respondent is not liable to pay any amount as compensation to the petitioners. The petitioners are not entitled to get compensation under various heads as claimed in the petition. It is humbly submitted that the petitioners are put to strict proof of that the 2nd respondent's vehicle had valid R.C., and Fitness Certificate at the time of the accident. The amount claimed Rs.25,00,000/- as compensation and rate of interest are highly excessive and exorbitant. Anyhow this respondent is not liable to pay any amount of compensation to the petitioners as claimed.

4) Points for consideration :

- i) Whether the accident occurred due to rash and negligent driving of the 1st Respondent?
- ii) Whether the Petitioners are entitled to the compensation? If so who is liable to pay compensation ?
- iii) What would be the quantum of compensation ?

5) On the side of the Petitioners, the 2nd Petitioner Nagapandi was examined as PW1 and Ex.P1 to Ex.P10 were marked through him. One Sathasivam was examined as PW2 and Ex.P11 and Ex.P12 were marked through him. One Ravichandiran was examined as PW3 and Ex.P13 was marked through him. One Sakthivel was examined as PW4 and Ex.P14 was marked through him. On the side of the respondents, One Manickaraj, Assistant, Uthamapalayam RTO was examined as RW1 and Ex.R1 & Ex.R2 were marked through him. One Ravichandran, Administrative Officer, 3rd Respondent insurance company was examined as RW2 and Ex.R3 to Ex.R5 were marked through him.

6) Point No.1 :

(6.1) Heard both side and records have been perused. The claim petition is filed under section 166 of the Motor Vehicles Act. Therefore, the Petitioners must first establish whether the accident was caused by the driver of the two wheeler, the 1st respondent. It is settled by the Hon'ble Supreme Court of India in the case of Sajeena Ikhbal & Ors. Versus Mini Babu George & Ors reported in 2024 Live law (SC) 810 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. Further, the Hon'ble Division Bench of High Court of Madras in the case of United India Insurance Co. Ltd Vs. Krishnaveni and others reported in 2016(1) TN MAC 563 (DB) held that it is well settled law that proceedings before the Tribunal are summary in nature, and it is suffice to consider whether there is any preponderance of probability, as to the manner of accident, as detailed in the Claim petition. Strict proof of evidence is not required. In the absence of any rebuttal evidence, the finding of the Tribunal regarding negligence cannot be termed as perverse or it is not a case of no evidence. The evidence available in the present case is evaluated based on the principles of preponderance of probability.

(6.2) According to the Petitioners, the accident occurred due to the rash and negligent riding of the 1st respondent, he was driven the two wheeler bearing no. TN60S 3252 and dashed against the deceased. Whereas, the counsel for the 3rd Respondent does not dispute the vehicles involved in the accident.

(6.3) On the other hand, the contention of the Petitioners has denied by the 3rd Respondent thereby contented that the Charge Sheet had been filed against the 1st respondent who is the driver of the two wheeler of the 2nd respondent under sections 185 of M.V.Act and 304(A) of IPC which shows that under the influence of alcohol, the 1st respondent had driven the two wheeler bearing Registration No.TN60S 3252 at the time of the accident. On this aspect, this respondent is not liable to pay any amount as compensation to the petitioners. If the petitioners are entitled to get

compensation, the 1st and 2nd respondents are liable to satisfy the same. However, no other documents namely the Accident Register of 1st Respondent produced on the Respondent side to prove that the 1st Respondent was riding the vehicle under the influence of alcohol. The Respondent has not proved that the 1st Respondent under the influence of alcohol ride the two wheeler negligently and caused the accident.

(6.4) On considering both side submissions and documents placed before this tribunal in this point let to be decided that whether on 04.07.2015, a road accident happened due to the rash and negligence driving of 1st Respondent or the deceased Sundarraaj.

(6.5) In the above said circumstances, it is just and necessary to find out whether whose negligence accident was happened? From the Ex.P1 FIR and Ex.P6 Final report it could be prima facie seen that the accident was due to the rash and negligence of the 1st respondent. The 1st respondent is the competent person to speak about the accident. Whereas, the 1st respondent has not been examined.

(6.6) To prove the claim, 1st petitioner was examined as PW4 and he deposed that at the time of accident, on the way of Thideerpuram vialkku, the deceased informed to 1st Respondent that he was feeling giddy but the 1st Respondent had not stopped the bike. In this juncture, the 1st Respondent had left the bike on earth with uncontrolled. Due to this impact, the deceased had fell down on earth and sustained with head injury and he died.

(6.7) Therefore, the evidence of PW4 is trustworthy and believable one. In other words, his evidence is quite natural. No other contra evidence is produced on respondent side against PW4's evidence. It is significant to note that as per Ex.P1 FIR and Ex.P6 Final report against the 1st Respondent is prosecuted for the offences u/s. 304(A) IPC r/w 185 M.V.Act. Thus, from the evidence of PW1 & PW4 and Ex.P1 FIR, Ex.P6 Final report are made it clear that the accident was happened due to rash

and negligent driving of the 1st Respondent of the two wheeler bearing no.TN60S 3252.

(6.8) It has to be seen that the police after completing investigation has laid Ex.P1 FIR and Ex.P6 Final report against the 1st respondent only. Therefore, as observed above *“It is well settled that the proceedings before the claims tribunal are summary in nature and it is suffice to consider, whether there is any preponderance of probability, as to the manner of accident, as detailed in the claim petition. Strict proof of evidence is not required to decide the same.”* and hence evidence of PW1, PW4 & Ex.P1 FIR, Ex.P6 Final report are proved that accident occurred due to the rash and negligent riding of the 1st respondent.

(6.9) Therefore, from the above narrated facts, reasons stated above and from Ex.P1 FIR and Ex.P6 Final report it could be seen that the accident occurred due to the rash and negligent driving of the 1st respondent. Accordingly, the point no.1 is answered.

7) Point No.2 :

(7.1) In this point let to be decided who is liable to pay compensation to the Petitioners. According to the Petitioners, the accident occurred due to the rash and negligent driving of the 1st Respondent, it is not dispute that the vehicle involved in the accident belonging to 2nd Respondent and Ex.P10/Ex.R3 TN60S 3252 vehicle's insurance policy shows that at the time of accident on 04.07.2015 the 2nd Respondent insured his vehicle with the 3rd Respondent insurance company and the same was in force and hence the Petitioners are being a third party as per policy conditions, they are entitled to get claim from 3rd Respondent.

(7.2) It has to be seen that, admittedly on 04.07.2015 at the time of accident the 1st Respondent was driven a motor cycle bearing no. TN60S 3252 and he is not having valid license at the time of accident this fact also proved by the 2nd respondent

by the examining the RW1 who is the Assistant in Uthamapalayam, Regional Transport Office.

(7.3) Therefore, as observed above this court is of the view that the 1st Respondent had driven the vehicle without valid license. At this juncture, this court holds that the Petitioner who is a third party shall not suffer due to the violative act of the 1st Respondent. So, applying decisions of our Hon'ble Supreme Court reported in National Insurance company limited swaran singh in AIR 2004 (SC) Page No.1531 and Honourable High Court reported in *2016 (1) TNMAC 391 Royal Sundaram Alliance Insurance Co., Ltd., Vs. Anand and another*, it is held that the 3rd Respondent is liable to pay the compensation amount to the Petitioner as the insurer of the offending vehicle and recover the same from the 2nd Respondent who is the owner of the said offending vehicle

(7.4) Therefore, as observed above, the 3rd Respondent insurance company is directed to pay the compensation amount to the Petitioner and then the same has to be recovered from the 2nd Respondent who is the owner of the offending motor cycle bearing registration no.TN60S 3252. Accordingly, the point no.2 is answered.

8) Point No. 3 :

(8.1) It is not in dispute that the 1st petitioner is the wife, 2nd petitioner is the son, 3rd Petitioner is the daughter of the deceased. Ex.P8, legal heir certificate of the deceased, would shows that the petitioners are the legal heirs of the deceased.

(8.2) In the claim petition as well as in the proof affidavit, it is specifically stated that at the time of accident, the deceased was 45 years old. To prove the age of the deceased, no age proof produced whereas, the Ex.P2 post mortem certificate and the Legal heir certificate Ex.P8 discloses that at the time of accident his age was 45 years and hence this court holds that the deceased was 45 years old at the time of accident.

(8.3) The PW1 in his proof affidavit specifically stated that at the time of accident, the deceased was a Ironing and Packing section Contractor in export company and he was earning Rs.20,000/- per month. PW2 who is the proprietor of Dasami Garments, Tripur to establish that the deceased was working in his garment company and he deposed that during 2015 the deceased was getting Rs.50,000/- as salary per month. However, in the cross examination he has stated that he has not produced the salary certificate and any other document as proof for the salary of deceased. Further, PW2 deposed that the deceased was a Contractor however no contract agreement produced on the Petitioners side, neither the Petitioners produced the school certificate or any other certificate to prove his qualification. The Petitioners are the legal heirs as well as the dependents of the deceased and as such they are entitled to the compensation as claimed in the petition. Thus there is no doubt that the deceased was hale and healthy to earn himself and for his family by doing any avocation. The Hon'ble Supreme Court fixed the notional income for the person who has no proof for his income as Rs.50,000/- as a Contractor of Dasami Garments, Thirupur produced by the Petitioners. Hence, the deceased is considered as a Coolie in textile industry as Rs.6,500/- in the year 2008 in the case of Syed Sadiq vs. United India Insurance Company Limited 2014(1) TNMAC 459. Thereafter our Hon'ble High Court, Madras in the case of 2019(1) TNMAC 54 (Mad) (Andal and others Vs. Avinav Kannan and another) held that the notional income at the rate of Rs.6,500/- fixed in the year 2008 by the Hon'ble Supreme Court shall be increased according to the present scenario and suggested to follow the Cost of Inflation Index issued by the Central Board of Direct Tax to fix the notional income of the deceased person. As such this court is mandated to follow the such inflation index method. In this case, deceased was working as a street vendor. The accident was happened in the year of 2015. Therefore, the cost of inflation index for the year 2015-2016 is 254. Hence, as per the inflation index method, the income of the deceased is calculated as follows :

Notional income fixed during the
year 2007 – 2008 by Hon'ble
Supreme Court

Cost of inflation index
for the year 2020 - 2021

$$\frac{\text{Rs.6,500} \times 254}{129} = \text{Rs. 12,798.44/-}$$

(8.4) Therefore, the monthly income of the deceased is fixed at Rs. 12,798.44/- (Rounded of Rs.12,800/-). Hence, the claim of the Petitioners is that the income of the deceased should be Rs.15,000/- per annum is near to this calculation. But this inflation index method was held to be rational and directed by our Hon'ble High Court to be followed.

(8.5) 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, deletion and multiplier would be applied.

Since the deceased was 45 years 25% future
prospect added Rs.12,800 + 25% = Rs.16,000/-

For yearly income Rs.16,000 x 12 x 14
Since the age of the deceased was 45 years the
multiplier to be applied is taken as 14. = Rs.26,88,000/-

The Petitioners depending upon the deceased,
hence the 1/3 income shall be deducted = Rs.8,96,000/-

(8.6) Addition to the conventional heads, the compensation would be fixed as follows :

1. Loss of dependency	Rs. 8,96,000/-
2. Loss of Consortium (for 3 Petitioners)	Rs. 1,45,200/-
3. Loss of funeral expenses	Rs. 18,150/-
4. Loss of estate	Rs. 16,500/-
TOTAL	Rs. 10,75,850/-

(8.7) On the basis of the above discussion and calculation, it is decided to award a total sum of Rs.10,75,850/- as just and appropriate compensation for the death of deceased with 7.5% interest per annum for the remaining period, excluding

any default period from the date of the petition until the amount is deposited. Thus, the point No.3 is answered accordingly.

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

(i) The 3rd Respondent is directed to deposit the award amount of Rs.10,75,850/- with interest within one month from the date of order into the 1st Petitioner Santha's Savings Bank Account No.110254659950 of Canara Bank, Thevaram, 2nd Petitioner Nagapandi's Savings Bank Account No.20355260546 of State Bank of India, Checkanurani Branch and 3rd Petitioner Pandipriya's Savings Bank Account No.39393330930 of State Bank of India, Periyakulam Branch and to file a Proof of Deposit of Award amount along with Case Number and date of Transfer before this Court within 3 days from such transfer.

(ii) The 3rd Respondent insurance company is directed to pay the compensation amount to the Petitioners and then the same has to be recovered from the 2nd Respondent who is the owner of the offending two wheeler bearing registration no.TN60S 3252.

(iii) Out of the above compensation amount, 1st Petitioner is entitled to get a sum of Rs.5,37,925 and the 2, 3 Petitioners are entitled to get a sum of Rs.2,68,962.50 each.

(iv) After deposit of award amount the 1 to 4 Petitioners are entitled to withdraw their respective award amount after the appeal period.

(v) The Petitioners are directed to pay the court fee of Rs. 9,757.50 within 30 days from the date of this order. The Petitioners shall not be entitled to withdraw the sum deposited as per the award until the balance of court fee is deposited.

(vi) 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.

Dictated directly to the Steno-Typist, typed by her, corrected and pronounced by me in the open court on the 07th day of April 2026.

Motor Accident Claims Tribunal/
Additional District Judge, Theni.

Petitioners side witnesses :

PW1	...	Nagapandi (2 nd Petitioner)
PW2	...	Sathasivam
PW3	...	Ravichandiran
PW4	...	Sakthivel

Petitioners side Exhibits :

Ex.P1	...	First Information Report - Certified copy
Ex.P2	...	Deceased Accident register - Xerox
Ex.P3	...	Post Mortem certificate - Xerox
Ex.P4	...	TN60S 3252 M.V.I.Report – Xerox
Ex.P5	...	Sketch and observation Mahazar in Cr.No.193/15 – Xerox
Ex.P6	...	Final Report - Xerox
Ex.P7	...	Deceased death certificate
Ex.P8	...	Deceased Legal heir certificate
Ex.P9	...	TN60S 3252 Registration certificate – Xerox
Ex.P10	...	TN60S 3252 Insurance policy – Xerox
Ex.P11	...	Dasami Garments registration certificate
Ex.P12	...	PW2's Adhar card
Ex.P13	...	PW3's Adhar card

Respondents side witness :-

RW1	...	Manickaraj
RW2	...	Jeyganesh

Respondents side Exhibits :-

Ex.R1	...	Letter dated 09.12.2014
Ex.R2	...	1 st Respondent's driving details report
Ex.R3	...	TN60S 3252 Insurance policy
Ex.R4	...	Legal notice dated 06.01.2025
Ex.R5	...	Acknowledgment card