

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT DINDIGUL

Present: Thiru.S.SOMASUNDARAM, M.A., L.L.M.,
Special Subordinate Judge,
(To deal with MCOP Cases),
Dindigul.

Monday, the 18th day of August, 2025

M.C.O.P.No.527 of 2023
(CNR.No.TNDG01004575-2023)

Mr.S.Venkatesan, S/o.Sellaperumal, aged about 35 years, residing at No.25, Pullukidi, Kottakudi (Post), Thiruvadanai(Taluk). Ramanathapuram District.

... Petitioner

-Vs.-

1. Mrs.Gokulkumar S/o.Thangamani, residing at No.1/85, Kaveri Nagar, Second Street, Nagal Nagar, Adianuthu Village, Dindigul District.
2. The Branch Manager, Cholamandalam MS General Insurance Company Limited, No.3&4 First Floor, New Millenium complex, Dindigul High Road, Kalavasal, Madurai.

... Respondents

Date of filing of the claim petition	::	27.07.2023
Date of Award	::	18.08.2025
Amount of Award	::	Rs.5,50,127/-
Interest rate applicable	::	7.5% p.a.,
Date(s) from which interest is payable	::	From 27.07.2023
Costs, if any	::	Rs.29,104.50p (as described in the order)
Dismissed for default period	::	--
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 2 nd respondent is liable to pay compensation with interest and costs excluding the default period if any.
The mode and manner of deposit of compensation	::	By NEFT or RTGS Mode and shall also sent a copy of the payment advice to this Tribunal within two months.

The mode and manner of disbursement	::	After depositing the compensation by the 2 nd respondent into the Court, it will be disbursed to the petitioner by NEFT or RTGS Mode in to his Bank Account.
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This petition has been received by transfer from the Principal District Court, Dindigul in M.C.O.P.No.527/2023 and having come up on **08.08.2025** for final hearing in the presence of Thiru.K.Shunmugasundaram, Advocate for petitioner and Thiru.M.Balacharan, Advocate for the 1st petitioner and Thiru.A.M.Abdulkarim for 2nd respondent and after hearing both sides arguments and after perusing available material records and having stood over till this day for consideration this Court delivers the following:

ORDER

This petition has been filed under sections 140, and 166(1)(a) of the motor vehicle 8Act 1988 r/w rule 3(1) if the motor accidents compensation claim tribunal rules by the petitioner for claiming compensation of Rs.10,00,000/- (Rupees Ten Lakhs Only) from the respondents with interest and costs.

2. Brief Averments of the petition :-

(i) On 25.06.2023at about 05.45 p.m., while the petitioner was riding with his friends in Dindigul-Batlagundu by pass road junction neat Chendur Murugan Spinner Mill, Kuttiapatti to have tea at the bakery on his two wheeler bearing Regn No.TN 36 AZ 5375 in front of the above road from south to north direction, the 1st respondent's driver Renault Duster car bearing Regn.No.TN-57-AJ-5670 came in a rash and negligent manner and hit the petitioner.

(ii) Due to the accident, the petitioner suffered with grievous injury and swelling tenderness, deformity and abnormal mobility and over right hip fracture, after the occurrence, he was taken to the JCB Hospital Dindigul, there he took treatment as inpatient from 25.06.2023 to 30.06.2023.

(iii) A Criminal case was registered as against the 1st respondent's driver by Dindigul South Police in Cr.No.358/2023 U/s.279 and 337 IPC.

(iv) The petitioner was aged about 35 years and he worked on Factory Manager, Chendur Murugan Spinners, Dindigul and earning a sum of Rs.40,000/- per month at the time of accident. Due to the accidental injuries, he could not perform his regular works as before. Hence, this claim petition has been filed by the petitioner as against the respondents herein for claiming compensation of Rs.10,00,000/- along with interest and costs.

3. Brief Averments of counter statement filed by the 1st respondent :-

The claim petition filed by the petitioner is false and not maintainable in law or on facts. The 1st respondent denies the petition mentioned averments, except which are specifically admitted herein. The above accident happened only negligent of the petitioner to the 1st respondent driver. This respondent stated that the his vehicle's insurance policy valid and cover by the 2nd respondent Insurance company. Therefore, the 2nd petitioner is liable to pay the said compensation amount. Hence, this petition is liable to be dismissed with respect to the 1st respondent herein.

4. Brief Averments of counter statement filed by the 2nd respondent :-

The claim petition filed by the petitioner is false and not maintainable in law or on facts. The 2nd respondent denies the petition mentioned averments, except which are specifically admitted herein. The 2nd respondent stated that the petitioner was riding the motorcycle without driving licence and an uncontrollable terrific speed lost his control suddenly crossed the road from south to north and fell down. The 1st respondent's driver is not responsible for accident. Already this case filed by the Judicial Magistrate No.I court in Cr.No.358/2023 in FR.No.482/2023 dated 28.06.2023 as mistake of fact. The owner and Insurance Company of two-wheeler are not added as respondents. Hence, the petition is bad for non-joiner of necessary parties. This fact was cleverly suppressed by the petitioner with a view to unlawful gains from the insurance company. Hence, the petition filed by the Petitioner is to be dismissed in respect with 2nd respondent herein.

5. On the above pleadings the points that for determination are:

- (1) Whether the accident is caused due to rash and negligent driving of the 1st respondent's driver ?
- (2) Whether the respondents liable to pay compensation to the petitioner ?
- (3) Whether the petitioner is entitled to get compensation as claimed in the petition?

6. The petitioner was examined as P.W.1, through whom Ex.P1 to Ex.P8 and Ex.C1 documents were marked. Mr.Arunprasath, General Manager of the 2nd

respondent's insurance company who was examined as R.W.1, through whom, ExR1 and ExR2 were marked. Mr.Manikandan Special Sub-Inspector of police was examined as R.W.2 through whom Ex.X.1 marked.

7. The Learned counsel appearing for the petitioner argued that the FIR filed against the 1st respondent driver. Accident was happened the rash and negligent of the 1st respondent's driver. The petitioner sustained grievous injuries, due to the accidental injuries, he suffered with 28% disability. Hence, prays to allow this petition as prayed for with costs. In support of his contention, he submitted the citations of 2021-2-TNMAC-8-(D.B)

8. The Learned counsel appearing for the 2nd respondent argued that the accident happened only due to the rash and negligent driving of the petitioner and there is no negligence on the part of the 1st respondent's driver. FIR closed as mistaken of fact. No income proof filed by the petitioner to prove his income. Hence, prays to dismiss this petition.

9. 170 petition was filed by the 2nd respondent under Motor Vehicles Act and allowed.

10. Point No.1:-

(i) Petition, counter statement, documents and evidences are perused. P.W.1 deposed that on 25.06.2023 at about 05.45 p.m., while the petitioner was riding with his friends in Dindigul-Batlagundu by pass road junction near Chendur Murugan Spinner Mill, Kuttiapatti to have tea at the bakery on his two wheeler

in front of the above Mill from south to north direction, the 1st respondent's rider Renault Duster car came in a rash and negligent manner and hit the petitioner. His evidence is believable and credible. No contra versions elucidated in cross examination. Ex.P1- FIR corroborated the evidence of P.W.1 2nd respondent side not examined any eyewitness. But R.W.2 - Sub-Inspector of police was examined by 2nd respondent side through him. Closure report was marked as ExX1. But in his cross examination he admitted that, “RCS புகார்தாரருக்கு சார்வு செய்யப்படவில்லை என்றால் சரிதான்”.

In this situation the citation filed by the petitioner side perused. On perusal of Judgment the Honourable High Court of Madras “**R.Subbiah and Sathi Kumar Sukumara Kurup, J.J**” 2021 (2) TN MAC 8(DB).

The Hon'ble High Court observes that, mere closure of the FIR is not ground.“ **Mere closure of Criminal complaint as mistake of fact not a ground to conclude that deceased was at fault**”

The above citation is applicable to the facts in this case. Therefore considering the above discussions the accident was happened due to the rash and negligence of the 1st respondent driver. Hence, this point is answered accordingly.

11. Point No.2:

(i) This Court finds that the accident happened due to the rash and negligent driving of the 1st respondent's driver. The 1st respondent is the owner of the Lorry bearing Regn.No.TN- 57-AJ-5670 and the 2nd respondent is the insurer

of the vehicle. The 1st respondent is vicariously liable to pay compensation to the petitioner for the negligent act of his driver.

(iii) The 2nd respondent's side not proved that the 1st respondent's driver does not have a driving licence nor for the violation of policy condition. Hence, the 2nd respondent being the insurance company is liable to indemnify the 1st respondent and liable to pay compensation to the petitioner. Hence, this point is answered accordingly.

12. Point No.3:

(i) Loss due to Disability:

The petitioner sustained grievous injuries as per Ex.P3 (Wound Certificate). Medical Board certified that the petitioner suffered with 28% disability as per Ex.C1. The petitioner was aged about 35 years at the time of accident as per Ex.P3.

On considering the age and disability, for calculate compensation, this Court following the Judgment ***CMA No.13 of 2025***, this Tribunal fixed Rs.10,000/- for one percentage disability and for 28% it works out to **Rs.2,80,000/-** (Rs.10,000/- X 28%)

(ii) Pain and Sufferings:-

As per Ex.P3 – discharge summary, the petitioner sustained
 - ***“Subtrochanteric fracture right hip (Reverse oblique Type III)*** he was under treatment as inpatient for about ***seven days***, and had a surgery, it is just and proper to award **Rs.40,000/-** towards pain and sufferings.

(iii) Loss of Amenities:

As per C1 – Disability Certificate the petitioner suffered with “*Old uniting fracture, segmental fracture on right femur, Old uniting fracture on acetabulum, old humerus fracture and old rib fracture and implantation was inserted and also suffered with stiffness*”, which will affect his future life. The petitioner definitely would not act as before the accident due to the injuries suffered by him. Hence, considering these facts, it would be just and proper to grant a sum of **Rs.30,000/-** towards loss of amenities.

(iv) Extra nourishment :

Considering the nature of accident and the injuries suffered by the petitioner and the period of treatment, it will be just to grant a sum of **Rs.10,000/-** towards extra nourishment.

(v) Attender Charges:

The petitioner suffered with fracture on *leg, rib and acetabulum* and he took treatment as inpatient for about *seven days*. The petitioner’s mobility is restrained by the injury and he depended on an attender to do his day to day affairs. Hence, considering the nature of injuries and period of recovery a sum of **Rs.9,000/-** is awarded towards attender charges.

(vi) Transportation Charges:

Considering the medical treatment taken by the petitioner there might have also transport expenses from hospital to petitioner's home. Hence, considering the same a sum of **Rs.9,000/-** is allowed as his transport charges.

(vii) Damages to clothing and Articles:

Considering the nature of accident and the injuries suffered by the petitioner, it will be just to grant a sum of **Rs.4,000/-** towards damages to clothing and articles.

Viii) Medical Expenses :

Petitioner side marked Hospital bills as Ex.P4 for an amount of Rs.1,14,127/-. The above bills are carefully perused. On perusal of the above bills are acceptable. Hence, the petitioner is entitled the Medical expenses is **Rs.1,14,127/-**

ix) Loss of income during Medical Treatment :

Petitioner sustained fracture on his right hip and taken treatment as inpatient and out patient, due to his injuries, he was unable to do his regular work for 3 months. His income is stated a sum of Rs.40,000/- in petition, but no proof filed. Hence, notional income to be calculated as per the cost inflation index methodology followed by

In the Judgment, reported in **2014 (1) TN MAC 459 {Syed Sadiq vs. United India Insurance Co. Ltd.,}**, the Hon'ble Supreme Court had taken consideration of the monthly income of a vegetable vendor during the year 2008 as Rs.6,500/-. Our Hon'ble High Court of Madras in **“2019 (1) TNMAC 54, Andal and others Vs. Avinav Kannan and another”** was also relied the above Apex Court Judgment. So, notional income of the petitioner for the year of 2021-

2022, would

Inflation Index

Sl.No.	Financial Year	Cost of Inflation Index
1.	2019-20	289
2.	2020-21	301
3.	2021-22	317
4.	2022-23	331
5.	2023-24	348

Notional Income fixed for the vegetable vendor i.e., ₹ 6,500 during the year 2007-2008 X Cost of Inflation Index for the year

Cost of Inflation Index for the year 2007-2008

$$= \frac{6500 \times 331}{129} = \underline{\underline{16,678.294}}$$

Considering the nature of work and the age of the petitioner, this court fix notional income of the petitioner is as Rs.18,000/-. Therefore, his loss of income is assessed (Rs.18,000/- x 3 months) = Rs.54,000/-.

In view of the foregoing discussions, the Tribunal fixed the Just compensation as follows:

Sl.No.	Particulars	Rs.
1.	Loss due to Disability (Rs.10,000/- x 28)	2,80,000.00
2.	Pain and sufferings	40,000.00
3.	Loss of Amenities	30,000.00
4.	Extra Nourishment	10,000.00
5.	Attender charges	9,000.00
6.	Transportation Charges	9,000.00
7.	Damages to clothing and Articles	4,000.00

8.	Medical Bills	1,14,127.00
9.	Loss of consortium (18,000 x 3)	54,000.00
	Gross Total	5,50,127.00

In the light of the above discussions and assessment, the petitioner is entitled to a just compensation of **Rs.5,50,127/- (i.e.) (Rupees Five lakhs Fifty Thousand One Hundred and Twenty-seven Only)**. Hence, this point is answered accordingly.

13. RESULT:

In the result, this petition is partly allowed with cost as follows:-

- (i) The 2nd respondent is directed to pay a sum of **Rs.5,50,127- (Rupees Five Lakhs Fifty Thousand one hundred and Twenty seven Only)** to the petitioner with costs and liable to pay interest at the rate of 7.5% per annum from the date of presentation of petition **(i.e.) 27.07.2023** to till the date of realization, excluding the default period if any.
- (ii) The 2nd respondent is directed to deposit the above amount into Indian Bank, Dindigul, under the head of **The Special Subordinate Judge, Dindigul in Account No.V00022MCOP5272023, MICR Code: 625019021, IFSC Code: IDIB000D018** within two months from the date of this order to the credit of Bank account of this Court.
- (iii) The 2nd respondent is directed to send one copy of bank advice to this Tribunal and one copy to the petitioner or his Advocate.

(iv) It is also ordered that the amount of compensation paid by the 2nd respondent will be paid to the petitioner's Account No.1003101040391 of Canara Bank, Thondi Branch, IFSC: CNRB0003088 through E-Transfer.

(v) Advocate Fee Rs.24,001-

(vi) Total Court Fee for the compensation amount is Rs.4,873.50p. The petitioner already paid Rs.375p as Court Fees and the petitioner is directed to deposit the Deficit Court Fee of Rs.4,498.50/- within one month.

Particulars of costs

Sl. No.	Particulars	Petitioner's side
1.	Stamp on petition	4,873.50
2.	Stamp on vakalat	10.00
3.	Batta Memo	10.00
4.	Postal register notice	60.00
5.	Pleading charge	150.00
6.	Pleader fee	24,001.00
	Total	29,104.50

Dictated by me to Steno-typist, typed by her, corrected and pronounced by me in the Open Court this the 18th day of August, 2025.

Special Sub Judge,
(To deal with MCOP Cases),
Dindigul.

List of Petitioner's side witness:-

P.W.1 - Mr.Venkatesan

List of Petitioner's side Exhibits:-

Ex.P1	27.06.2023	First Information Report (True copy)
Ex.P2	25.06.2023 30.06.2023	Discharge summary of the JCB Hospital in Dindigul (Original)
Ex.P3	19.07.2023	Wound Certificate of the petitioner (Original)

Ex.P4	-	Medical Bills (Original)
Ex.P5	05.10.2024	Salary certificate of the petitioner given by the Senthur Murugan Spinners. (Certified copy)
Ex.P6	--	Aadhaar card of the petitioner (Copy-Compared with original)
Ex.P7	--	Bank Pass Book of the petitioner(Copy-Compared with original)
Ex.P8	05.07.2024 06.07.2024	Discharge summary (Original)

List of 2nd Respondent's side witnesses:-

R.W.1 - Mr.Arunprasath

R.W.2 - Mr.Manikandan

List of 2nd Respondent's Exhibits:-

Ex.X1	-	Documents of Cr.No.358/2023 (True copy)
Ex.R.1	--	Insurance certificate of the 1 st respondent vehicle No.TN 57 AJ 5670
ExR.2	28.06.2023	Negative Final Report.

List of Court Document:

Ex.C1	27.04.2024	Disability Certificate of petitioner, issued by Medical Board, Government Medical College Hospital, Dindigul District (Original)
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Account particular of the petitioner is given as detailed hereunder

Name of the applicant	Name of the Bank and Branch	Bank IFSC Code	Account No. of the applicant
Mr.Venkateshan	Canara Bank Thondi	CNRB0003088	1003101040391

Special Sub Judge,
(To deal with MCOP Cases),
Dindigul.

Note:

Following the Judgment of the Hon'ble High Court of Madras in M/s.Cholamandalam MS General Insurance Company Limited Vs. Ayyanar and Others – Reported in 2020 (4) CTC 272, no separate decree is prepared.