

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.

Tuesday, the 21st day of January, 2025

M.C.O.P.Nos.58 of 2023, 699 of 2022 and 700 of 2022
(CNR.Nos.TNDG050008922023, TNDG050008822022 and
TNDG050008842022)

M.C.O.P.No. 58 of 2023 :

1. Mr.A.Sethu, S/o.Arumugam, aged about 48 years.
2. Ms.Sivasakthi, D/o.A.Sethu, aged about 20 years.
3. Minor.S.Veeruchinnammal @ Saranya, aged about 16 years.

(3rd minor petitioner is represented through her Father/natural guardian Mr.A.Sethu)

(Petitioners are residing at No.7/40A, 7 Nehru Nagar, Kamatchipuram, Nilakottai Taluk, Dindigul District.)

... Petitioners

-Vs.-

1. M/s.Alwar Travels, having its office at No.4/16, Bypass Junction, Vannarapettai, Tirunelveli District – 627 007.
2. The Branch Manager, United India Insurance Company Limited, having its office at 54-A, Mythili Nivas, No.1, Dindigul to Palani road, New Agraharam, Govindapuram, Dindigul – 624 001.
3. Mr.D.Petchi, S/o.Duraipandi, residing at 27/1 – Senaiyer Street, Thatchanallur, Tirunelveli District.

... Respondents

Date of filing of the claim petition	::	31.10.2022
Date of Award	::	21.01.2025

Amount of Award	::	Rs.25,65,000/-
Interest rate applicable	::	7.5% p.a.,
Date(s) from which interest is payable	::	From 31.10.2022
Costs, if any	::	Rs.76,466/- (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 excluding the default period if any.
In cases where there are several claimants, the shares and amounts payable to each of them shall be specified.	::	The 1 st petitioner is entitled to get Rs.8,65,000/- and the the 2 nd and 3 rd petitioners are entitled to get Rs.8,50,000/- Each.
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 petitioners by NEFT or RTGS Mode in to their respective Bank Accounts.

M.C.O.P.No.699 of 2022

1. Mr.A.Sethu, S/o.Arumugam, aged about 48 years, residing at No.7/40A, 7 Nehru Nagar, Kamatchipuram, Nilakottai Taluk, Dindigul District.

... Petitioner

-Vs.-

1. M/s.Alwar Travels, having its office at No.4/16, Bypass Junction, Vannarapettai, Tirunelveli District – 627 007.

2. The Branch Manager, United India Insurance Company Limited, having its office at 54-A, Mythili Nivas, No.1, Dindigul to Palani road, New Agraharam, Govindapuram, Dindigul – 624 001.
3. Mr.D.Petchi, S/o.Duraipandi, residing at 27/1 – Senaiyer Street, Thatchanallur, Tirunelveli District.

... Respondents

Date of filing of the claim petition	::	31.10.2022
Date of Award	::	21.01.2025
Amount of Award	::	Rs.5,44,288/-
Interest rate applicable	::	7.5% p.a.,
Date(s) from which interest is payable	::	From 31.10.2022
Costs, if any	::	Rs.28,052/- (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.

M.C.O.P.No.700 of 2022

Ms.Sivasakthi, D/o.A.Sethu, aged about 20 years, residing at No.7/40A, 7 Nehru Nagar, Kamatchipuram, Nilakottai Taluk, Dindigul District.

... Petitioner

-Vs.-

1. M/s.Alwar Travels, having its office at No.4/16, Bypass Junction, Vannarapettai, Tirunelveli District – 627 007.
2. The Branch Manager, United India Insurance Company Limited, having its office at 54-A, Mythili Nivas, No.1, Dindigul to Palani road, New Agraharam, Govindapuram, Dindigul – 624 001.
3. Mr.D.Petchi, S/o.Duraipandi, residing at 27/1 – Senaiyer Street, Thatchanallur, Tirunelveli District.

... Respondents

Date of filing of the claim petition	::	31.10.2022
Date of Award	::	21.01.2025
Amount of Award	::	Rs.42,750/-
Interest rate applicable	::	7.5% p.a.,
Date(s) from which interest is payable	::	From 31.10.2022
Costs, if any	::	Rs.5,103.50p (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 her Bank Account.

These three petitions were received by transfer from the Principal District Court, Dindigul in M.C.O.P.Nos.58/2023, 699/2022 and 700/2022 and having come up on **04.01.2025** for final hearing in the presence of Thiru.C.Pandidurai, Advocate for petitioners Thiru.S.B.Kamalanathan, Advocate for 1st respondent and Thiru.D.Frederic Lesley Irudayaraj, Advocate for 2nd respondent, subsequently 1st respondent being called absent and set exparte on 24.04.2024 and 3rd respondent being called absent and set exparte on 07.03.2023 and joint trial memo was filed on 07.06.2024 and recorded. Evidence was recorded jointly 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:

COMMON ORDER

1. M.C.O.P.No.58 of 2023 :

This petition has been filed under sections 140, 141, 142, 161, 163, 163 (1) (C) and 166 (1)(C) of Amended Motor Vehicles Act 54/1994 r/w. Section 3(1) of MACT Rules by the petitioners for claiming compensation of Rs.50,00,000/- (Rupees Fifty Lakhs Only) from the respondents with interest and cost.

2. Brief Averments of the petition :-

(i) On 10.07.2022 at about 06.45 p.m., while the deceased Mrs.Susila was travelled along with her husband Mr.Sethu as a pillion rider in a two wheeler, in Madurai to Dindigul NH Main road, near Madurai District Vadipatti EB Office Junction four ways road, the 1st respondent's Mahindra Marazzo vehicle bearing

Regn.No.TN-72-BM-8416 came in a rash and negligent manner and hit the deceased's vehicle.

(ii) Due to the accident, the deceased sustained multiple grievous injuries throughout the body. Immediately, the deceased was admitted in Vadipatti Government Hospital for first aid and then she was referred to Madurai Government Rajaji Hospital for intensive care and she died on 12.07.2022 due to the accidental injuries.

(iii) A Criminal case was registered as against the 3rd respondent by Vadipatti Police in Cr.No.207/2022 U/s.279, 337 @ 304 (A) IPC.

(iv) The deceased was aged about 41 years and she was worked as a Chef as well as doing Milk vending business and she was a Tailor and earning a sum of Rs.45,000/- per month at the time of accident. The petitioners are the legal representatives of the deceased. Hence this claim petition has been filed by the petitioners as against the respondents herein for claiming compensation of Rs.50,00,000/- along with interest and costs.

3. M.C.O.P.No. 699 of 2022 :

This petition has been filed under sections 140 and 166 of Amended Motor Vehicles Act 1988 r/w.Section 3(1) of MACT Rules by the petitioner Mr.Sethu for claiming compensation of Rs.10,00,000/- (Rupees Ten Lakhs Only) from the respondents with interest and costs.

4. Brief Averments of the petition :-

(i) As per averments in MCOP No.58/2023 petition, the accident happened. Due to the accident, the petitioner sustained multiple grievous injuries throughout the body. Immediately, the petitioner was admitted in Vadipatti Government Hospital for first aid and then he was referred to Madurai Government Rajaji Hospital for intensive care.

(ii) The petitioner was aged about 48 years and he was running a Hotel and earning a sum of Rs.45,000/- 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.

5. M.C.O.P.No. 700 of 2022 :

This petition has been filed under sections 140, 166 of Amended Motor Vehicles Act 1988 r/w.Section 3(1) of MACT Rules by the petitioner Ms.Sivasakthi for claiming compensation of Rs.10,00,000/- (Rupees Ten Lakhs Only) from the respondents with interest and costs.

6. Brief Averments of the petition :-

(i) 10.07.2022 at about 06.45 p.m., while the petitioner was crossing the Madurai to Dindigul NH Main road, near Madurai District Vadipatti EB Office Junction four ways road, the 1st respondent's Mahindra Marazzo bearing

Regn.No.TN-72-BM-8416 came in a rash and negligent manner and hit the petitioner. Due to the accident, the petitioner sustained multiple grievous injuries throughout the body. Immediately, the petitioner was admitted in Vadipatti Government Hospital for first aid and then she was referred to Madurai Government Rajaji Hospital for intensive care.

(ii) The petitioner was aged about 20 years and she was a student and earning a sum of Rs.15,000/- per month at the time of accident. Due to the accidental injuries, she could not perform her 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.

7. Brief Averments of the Counter Statement filed by the 2nd respondent (MCOP Nos.58/2023, 699/2022 and 700/2022):-

The claim petition filed by the petitioners is false and untenable in law or on facts. False allegations are stated in the petition with a view to get compensation from the 2nd respondent. The 2nd respondent denies the petition mentioned averments, except which are specifically admitted herein. The nature, manner and circumstances of the accident have not been correctly stated in the petition. Likewise, the details of the accident stated in the petition in a concocted manner only to fix up the liability upon the 2nd respondent. On 10.07.2022, the 3rd respondent drove the 1st respondent's car in Dindigul to Madurai NH7 road, in a

careful manner after abiding traffic rules and regulations, near Vadipatty E.B. Office Junction, a TVS XL 100 came in a rash and negligent manner with four riders and the rider crossed the road without minding the road traffic rules and voluntarily invited the accident. The 3rd respondent is no way responsible for the accident. Hence the 2nd respondent is not liable to pay compensation to the petitioners. The petitioners and the deceased Mrs.Susila were travelled in the two wheeler without wearing helmet. Moreover, seating capacity of the two wheeler is two, but four riders were travelled in the two wheeler at the time of accident, which is against Motor Vehicles Act. The petitioners ought to have implead the owner and insurer of the two wheeler, which they travelled at the time of accident. Hence, this petition is bad for non-joinder of necessary parties. Compensation claimed by the petitioners is exorbitant. Hence this petition is liable to be dismissed with respect to the 2nd respondent herein.

8. On the above pleadings the points that arise for determination are:

- (1) Whether the accident is caused due to rash and negligent driving of the 3rd respondent ?
- (2) Whether the respondents liable to pay compensation to the petitioners ?
- (3) Whether the petitioners are entitled to compensation as claimed in the petition?

9. The 1st petitioner in MCOP No.58/2023 and petitioner in MCOP No.699/2022 Mr.Sethu was examined as P.W.1, through whom Ex.P1 to Ex.P18

and Ex.C1 documents were marked. Mr.Simon, Medical Record Officer of Madurai Devadoss Hospital was examined as P.W.2, through whom Ex.X1 to Ex.X3 documents were marked. The petitioner in MCOP No.700/2022 Ms.Sivasakthi was examined as P.W.3, through whom Ex.P19 to Ex.P21 documents were marked. On the 2nd respondent's side, Mr.Samuvel, Assistant of Madurai District Vadipatti RTO Office was examined as R.W.1, through whom Ex.X4 to Ex.X6 documents were marked. Mr.Petchi/3rd respondent was examined as R.W.2, through whom, no document was marked.

10. The Learned counsel appearing for the petitioners argued that the 3rd respondent caused the accident. Moreover, the deceased Mrs.Susila sustained grievous injuries and died and the petitioner in MCOP No.699/2022 Mr.Sethu and the petitioner in MCOP No.700/2022 sustained grievous injuries and Mrs.Sethu suffered with disability to an extent of 25%. Hence, this petition may be allowed as prayed for.

11. The Learned counsel appearing for the 1st respondent argued that four persons travelled in the two wheeler and due to overload, the two wheeler rider lost his balance and hit the 1st respondent's vehicle and the two wheeler rider rode it without having a valid driving licence, so contributory negligence may fixed on the petitioners' side.

12. The Learned counsel appearing for the 2nd respondent argued that the two wheeler rider rode it without having a valid driving licence at the time of accident. Moreover, seating capacity of the two wheeler is two, but four persons were travelled in the two wheeler at the time of accident, which is against Motor Vehicles Act. The two wheeler rider rode the vehicle without having a valid driving licence at the time of accident. Hence, there is a violation of policy condition. Hence, this petition liable to be dismissed with respect to the 2nd respondent herein.

13. 170 petition was filed by the 2nd respondent under Motor Vehicles Act and allowed.

14. Point No.1: (MCOP Nos.58/2023, 699/2022 and 700/2022)

(i) Petition, counter statements, documents and evidences are perused. P.W.1 deposed that on 10.07.2022 at about 06.45 p.m., while the petitioner in MCOP No.699/2022 Mr.Sethu was riding his two wheeler along with the deceased Mrs.Susila as a pillion rider, in Madurai to Dindigul NH Main road, near Madurai District Vadipatti EB Office Junction four ways road, the 1st respondent's Mahindra Marazzo bearing Regn.No.TN-72-BM-8416 came in a rash and negligent manner and hit the deceased's vehicle.

(ii) FIR and charge sheet was registered as against the 3rd respondent. The 3rd respondent not prefer any complaint as against the FIR and charge sheet, which

were registered as against him. Therefore, this Tribunal finds that the 3rd respondent is the primary reason for the accident.

(iii) Hence, from the above discussion and evidences, the accident happened due to the rash and negligent driving of the 3rd respondent is being proved. Hence this point is answered accordingly.

15. Due to the accident, the deceased Mr.Susila sustained grievous injuries and died on 12.07.2022 is being proved from Ex.P8 – Death Certificate and Ex.P7 - Postmortem Certificate, shows that the deceased died of cranio cerebral injuries and its complications there off.

16. Point No.2:

(i) This Court finds that the accident happened due to the rash and negligent driving of the 3rd respondent. The 1st respondent is the owner of the Mahindra Marazzo vehicle bearing Regn.No.TN-72-BM-8416 and the 2nd respondent is the insurer of the above said vehicle. The 1st respondent is vicariously liable to pay compensation to the petitioners for his driver's negligent act.

(ii) R.W.1 deposed that the two wheeler rider Mr.Sethu, who is petitioner in MCOP No.699/2022 not produced his driving licence, insurance policy a the time of Motor Vehicle Inspection. P.W.3 deposed that while she was crossing the road, the 1st respondent's driver hit her. But FIR contents clearly reveals that the P.W.3 Ms.Sivasakthi and Minor.Veerachinnammal @ Saranya were travelled in the two

wheeler at the time of accident. The accident happened on 06.45 p.m., there is no possibility of walking alone at 06.45 p.m., on the main road.

(iii) Hence it is a clear case of contributory negligence upon the petitioners' side and this Tribunal fixes contributory negligence upon the petitioner' in MCOP No.699/2022 side to an extent of 7% and the deceased Mrs.Susila and the petitioner in MCOP No.700/2022 Ms.Sivasakthi side to extent of 5%.

(iv) The 1st respondent's vehicle was duly insured with the 2nd respondent's insurance company and the policy was active at the time of accident. The deceased and the petitioners were third parties to the 2nd respondent's insurance company. Hence the 2nd respondent being the insurance company is liable to indemnify the 1st respondent. Hence for the negligent act of 1st respondent's driver, the 2nd respondent is liable to pay compensation to the petitioners. Hence this point is answered accordingly.

17. Point No.3: MCOP No.58/2023

(a) Age and multiplier of the deceased:-

The petitioners submitted that the deceased Mrs.Susila was aged 41 years at the time of accident. On perusal of Ex.P7 – Postmortem Certificate, age of the deceased is 41 years. Thereby, this Tribunal assessed the age of the deceased as 41 years at the time of accident. Considering the age the multiplier is '14' as per the guideline of our **Hon'ble Supreme Court in Smt.Sarla Verma and others Vs. Delhi Transport Corporation (2009 (2) TNMAC 1 (SC).**

(b) **Income of the deceased:-**

In view of the income of the deceased, the petitioners have not filed any proof to prove her income. 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. If so, the notional income of the deceased for the year of 2022-2023, 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

$$= \frac{6500 \times 331}{129} = \underline{\underline{16,678/-}}$$

The accident happened on 10.07.2022. The deceased is a member of Tamilnadu Employees Welfare Association. Hence, considering the age and nature of work of the deceased, her notional income is fixed as Rs.18,000/-.

As per the verdict given by our **Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others 2017 (2) TNMAC 609(SC)** future prospects 25% is added i.e., Rs.4,500/- (18,000/- x 25/100). Therefore, her monthly income is Rs.22,500/- (Rs.18,000/- + Rs.4,500/-). Her annual income assessed as Rs.2,70,000/- (Rs.22,500/- x 12). There are three dependants on the date of accident, 1/3 is deducted towards personal expenses of the deceased. i.e., Rs.90,000/-. Thereby, her annual income is assessed as Rs.1,80,000/-.

(c) **Loss of dependency:-**

The formula for loss of dependency = Multiplicand x Multiplier that is annual contribution to the family (Multiplicand) when multiplied by such multiplier gives loss of dependency to the family. Accordingly, Rs.1,80,000/- x 14 = Rs.25,20,000/-.

Judgment of Hon'ble High Court of Madras in **Renuga and others Vs. Sri Venkatachalapathy Explosives and others 2024 (1) TN MAC 768**, under the head of consortium, Rs.44,000/- awarded to the each petitioners.

Judgment of the Hon'ble Supreme Court in **Magma General Insurance Company vs. Nanuram @ Chuhruram 2018 (2) TNMAC 482**. Hon'ble Supreme Court stated that "Motor Vehicles Act is a beneficial legislation". In case, where a parent has lost their minor child or unmarried son, daughter, the parents are entitled to be awarded loss of consortium under the head of Filial consortium.

Hon'ble Supreme Court Judgment in **Harpreet Kaur vs Mohinder Yadav on 15 December, 2022** stated that "A Constitution Bench of this Court in **Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680** dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family.

With respect to a spouse, it would include sexual relations with the deceased spouse : [Rajesh v. Rajbir Singh, (2013) 9 SCC 54]. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation". [Black's

Law Dictionary (5th Edn., 1979). Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training”.

“ Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world- over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child”

As per the Judgment of **Pranay Sethi Case Hon’ble Supreme Court** fixed other heads amounts. In that Judgment the Hon’ble Supreme Court stated that the amounts have to be enhanced in every three years at the rate of 10%. The Judgment passed by the Hon’ble Supreme Court in the year 2017. Date of accident is 10.07.2022.

Therefore, Loss of estate is fixed as Rs.15,000/- + 10% = Rs.16,500/-. Loss of consortium Rs.40,000 + 10% = Rs.44,000/- (For each petitioners). Funeral expenses is fixed as Rs.15,000/- + 10% = Rs.16,500/-. Transport expenses is fixed as Rs.15,000/-. Thereby, this Tribunal assessed the quantum of award on the following heads as follows:

Particulars	Rs.
Loss of dependency	25,20,000/-
Loss of Estate	16,500/-
Loss of consortium (Rs.44,000/- x 3)	1,32,000/-
Funeral expense	16,500/-
Transport expenses	15,000/-
Total	27,00,000/-
5% Contributory Negligence	1,35,000/-
Total	25,65,000/-

In the light of the above discussions and assessment, the petitioners are entitled to a just compensation of **Rs.25,65,000/- (i.e.) (Twenty Five Lakhs and Sixty Five Thousand Only)**. Hence this point is answered accordingly.

18. MCOP No.699/2022

Loss due to Disability:

The petitioner sustained grievous injuries and he took treatment before Madurai Government Rajaji Hospital from 10.07.2022 to 22.07.2022 (**13 days**) and Madurai Devadoss Hospital from 26.07.2022 to 09.08.2022 (**15 days**) is being proved from Ex.P15 and Ex.P16. Medical Board certified that the

petitioner suffered with 25% disability as per Ex.C1. The petitioner was aged about 48 years at the time of accident as per Ex.P11. On considering the age and disability, for calculate compensation, this Court following the Judgment **Civil Appeal No.3096/2023 dated 23.07.2024**, in this case Rs.8,000/- was fixed for the 2020 accident case.

Hence, this Tribunal fixed Rs.8,000/- for one percentage disability and for 25% it works out to Rs.2,00,000/- (Rs.8,000/- X 25%)

(ii) Pain and Sufferings:-

As per Ex.P15 – discharge summary, the petitioner sustained ***“Compound Grade III A fracture medial Malleolus left leg, closed fracture shaft of fibula left, head injury (Anterior interhemispheric SAH”*** and he was under treatment as inpatient for about **28 days**, it is just and proper to award **Rs.40,000/-** towards pain and sufferings.

(iii) Loss of Amenities:

As per C1 – Disability Certificate ***“Old Bimalleolar fracture on right leg”*** and also suffered with ***“ankle stiffness”***, which will affect his future life. The petitioner definitely would not act as before the accident due to the injuries suffered by her. 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 his **right leg** and he took treatment as inpatient for about **28 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.14,000/-** 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.10,000/-** 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 towards damages to clothing and articles.

(viii) Loss of Income during the Medical Treatment:

In view of the income of the petitioner, the petitioner filed Ex.P12 – Registration Certificate of petitioner's Tiffin Centre to prove his income. But, the petitioner not filed any income proof to prove his income. 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 2022-2023, 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

$$= \frac{6500 \times 331}{129} = \underline{\underline{\text{Rs.16,678/-}}}$$

Considering the age and nature of work, his notional income is fixed as Rs.18,000/-. Due to the injuries, the petitioner was unable doing his regular works minimum for four months. Hence the loss of income is assessed (Rs.18,000/- x 4 months) = **Rs.72,000/-**.

(ix) Medical Expenses:

The petitioner filed Ex.P17 - Medical Bills for a sum of **Rs.20,888/-**.

P.W.2 – Mr.Simon, Medical Record Officer of Madurai Devadoss Hospital filed

Ex.X3 - Medical bills of petitioner for a sum of Rs.1,70,000/- for the treatment period from 26.07.2022 to 10.08.2022. The above bills are carefully perused. The bills are acceptable. Hence, a sum of **Rs.1,90,888/-** (Rs.20,888/- + Rs.1,70,000/-) is allowed as his medical expenses.

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

Sl.No.	Particulars	Rs.
1.	Loss due to Disability	2,00,000.00
2.	Pain and sufferings	40,000.00
3.	Loss of Amenities	30,000.00
4.	Extra Nourishment	10,000.00
5.	Attender charges	14,000.00
6.	Transportation Charges	10,000.00
7.	Damages to clothing and Articles	4,000.00
8.	Loss of Income (Rs.18,000/- X 4 months)	72,000.00
	Gross Total	3,80,000.00
	7% contributory deduction	26,600.00
	After deduction Total	3,53,400.00
	Medical Expenses	1,90,888.00
	Gross Total	5,44,288.00

In the light of the above discussions and assessment, the petitioner is entitled to a just compensation of **Rs.5,44,288/- (Rupees Five Lakhs Forty Four Thousand Two Hundred and Eighty Eight Only)**. This point No.3 is answered accordingly.

19. MCOP No.700/2022 :

The petitioner did not file her Wound Certificate or Accident Register or Disability Certificate to assess the nature of injuries. Hence, this Court finds that the petitioner's injuries are simple in nature. Hence, the petitioner is entitled to get Rs.45,000/- for her mental agony and pain and sufferings.

Particulars	Rs.
Mental agony and pain and sufferings	45,000.00
Total	45,000.00
5% Contributory Negligence	2,250.00
Gross Total	42,750.00

In the light of the above discussions and assessment, the petitioner is entitled to a just compensation of **Rs.42,750/- (Rupees Forty Two Thousand Seven Hundred and Fifty Only)**. This point No.3 is answered accordingly.

20. RESULT:**MCOP No.58/2023 :**

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

(i) Total Compensation is **Rs.27,00,000/-**. 5% Contributory negligence i.e., **Rs.1,35,000/-**. Remaining amount is **Rs.25,65,000/-**. The 2nd respondent is directed to pay a sum of **Rs.25,65,000/- (i.e.) (Twenty Five Lakhs and Sixty Five Thousand Only)** to the petitioners with costs and liable to pay interest at the rate of 7.5% per annum from the date of presentation of petition **(i.e.) 31.10.2022** to till the date of realization, excluding the default period if any. (As per the

Judgment of Hon'ble Supreme Court of India in Civil Appeal No.6451/2021 dated 25.10.2021).

(ii) The 2nd respondent is directed to deposit the above amount into the bank account of this Tribunal maintained at Indian Bank, Dindigul, under the head of **The Special Subordinate Judge, Dindigul in Account No.V00022MCOP582023, MICR Code: 625019021, IFSC Code: IDIB000D018** within two months from the date of this order to the credit of Bank account of this Court. Out of the total award amount the 1st petitioner is entitled to get **Rs.8,65,000/-** and the the 2nd and 3rd petitioners are entitled to get **Rs.8,50,000/- Each.**

(iii) It is also ordered that after the amount of compensation paid by the 2nd respondent, share amount of the 1st petitioner will be paid to the 1st petitioner's Account No.246401000007309 of Indian Overseas Bank, Nilakottai branch, IFSC: IOBA0002464 and share amount of the 2nd petitioner will be paid to the 2nd petitioner's Account No.246401000014974 of Indian Overseas Bank, Nilakottai branch, IFSC: IOBA0002464 through E-Transfer.

(iv) The entire amount of the 3rd minor petitioner with the interest and costs shall be invested till 3rd minor petitioner attains the age of majority in any one of the Nationalised Bank. The guardian on behalf of the 3rd minor petitioner is permitted

to receive the accrued interest at the end of every 3 months directly from the Bank after getting prior permission from this Tribunal.

(v) It is also ordered that after attaining the age of majority, the maturity amount will be deposited into the bank account submitted by the 3rd petitioner through E-Transfer.

(vi) The 2nd respondent is directed to send one copy of bank advice to this Tribunal and one copy to the petitioners or their Advocate.

(vii) Advocate Fee Rs.51,150/-.

(viii) Total Court Fee for the compensation amount is Rs.25,022.50p. Petitioners already paid Rs.372.50p as Court Fees and the petitioners are directed to deposit the Deficit Court Fee of Rs.24,650/- within one month.

21. MCOP No.699/2022 :

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

(i) Compensation amount **Rs.3,80,000/-**. **7% contributory deducted i.e., Rs.26,600/-**. **Remaining amount Rs.3,53,400/-**. **Medical expenses Rs.1,90,888/-**.

Total compensation is **Rs.5,44,288/-**. The 2nd respondent is directed to pay a sum of **Rs.5,44,288/- (Rupees Five Lakhs Forty Four Thousand Two Hundred and Eighty Eight 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.) 31.10.2022** to till the date of realization, excluding the default period if any. (As per the

Judgment of Hon'ble Supreme Court of India in Civil Appeal No.6451/2021 dated 25.10.2021).

(ii) The 2nd respondent is directed to deposit the above amount into the bank account of this Tribunal maintained at Indian Bank, Dindigul, under the head of **The Special Subordinate Judge, Dindigul in Account No.V00022MCOP6992022, 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 compensation paid by the 2nd respondent will be paid to the petitioner's Indian Overseas Bank, Nilakottai branch Account No.246401000007309 IFSC: IOBA0002464 through E-Transfer.

(v) Advocate Fee Rs.22,943-.

(vi) Total Court Fee for the compensation amount is Rs.4,815.50p. Petitioner already paid Rs.372.50p as Court Fees and the petitioner is directed to deposit the Deficit Court Fee of Rs.4,443/- within one month.

22. MCOP No.700/2022 :

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

(i) Total Compensation is **Rs.45,000/-**. 5% Contributory Negligence i.e., Rs.2,250/-. Remaining amount is **Rs.42,750/-**. The 2nd respondent is directed to

pay a sum of **Rs.42,750/- (Rupees Forty Two Thousand Seven Hundred and Fifty 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.) 31.10.2022** to till the date of realization, excluding the default period if any. (As per the **Judgment of Hon'ble Supreme Court of India in Civil Appeal No.6451/2021 dated 25.10.2021**).

(ii) The 2nd respondent is directed to deposit the above amount into the bank account of this Tribunal maintained at Indian Bank, Dindigul, under the head of **The Special Subordinate Judge, Dindigul in Account No.V00022MCOP7002022, 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 compensation paid by the 2nd respondent will be paid to the petitioner's Account No.246401000014974 of Indian Overseas Bank, Nilakottai, IFSC: IOBA0002464 through E-Transfer.

(v) Advocate Fee Rs.4,710/-.

(vi) Total Court Fee for the compensation amount is Rs.100/-. Petitioner already paid Rs.372.50p as Court Fees and the petitioner is entitled to withdraw the excess Court Fee.

Particulars of costs

Sl. No.	Particulars	Petitioners' side in MCOP No.58/2023	Petitioner's side in MCOP No.699/2022	Petitioner's side in MCOP No.700/2022
1.	Stamp on petition	25,022.50	4,815.50	100.00
2.	Stamp on vakalat	10.00	10.00	10.00
3.	Batta Memo	13.50	13.50	13.50
4.	Postal register notice	120.00	120.00	120.00
5.	Pleading charge	150.00	150.00	150.00
6.	Pleader fee	51,150.00	22,943.00	4,710.00
	Total	76,466.00	28,052.00	5,103.50

Dictated by me to steno-typist, typed by her, corrected and pronounced by me in the open Court this the 21st day of January, 2025.

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

List of Petitioners' side witness:-

P.W.1 - Mr.Sethu

P.W.2 - Mr.Simon

P.W.3 - Ms.Sivasakthi

List of Petitioners' side Exhibits:-

Ex.P1	10.07.2022	First Information Report (Certified copy)
Ex.P2	23.11.2022	Final report in Cr.No.207/2022 of Vadipatti Police Station (Certified copy)
Ex.P3	--	Rough Sketch in Cr.No.207/2022 of Vadipatti Police Station (Certified copy)
Ex.P4	--	Driving licence of 3 rd respondent (Copy)
Ex.P5	--	Registration Certificate of 1 st respondent's vehicle bearing Regn.No.TN-72-BM-8416 (Copy)

Ex.P6	30.07.2021 to 29.07.2022	Insurance policy of 1 st respondent's vehicle bearing Regn.No.TN-72-BM-8416 (Copy)
Ex.P7	13.07.2022	Postmortem Certificate of deceased Mrs.Susila (Certified copy)
Ex.P8	12.07.2022	Death Certificate of deceased Mrs.Susila (Copy)
Ex.P9	06.08.2022	Legal heir certificate of deceased Mrs.Susila (Copy)
Ex.P10	--	Bank pass book 1 st page of petitioners in MCOP No.58/2023 (Copy)
Ex.P11	--	Aadhar card of petitioner in MCOP No.58/2023 (Copy) (Compared with original)
Ex.P12	--	Registration Certificate of Sivasakthi Tiffin Centre (Original)
Ex.P13	--	PAN card of deceased Mrs.Susila (Copy) (Compared with original)
Ex.P14	--	Identity card of deceased Mrs.Susila (Copy)
Ex.P15	10.07.2022 to 22.07.2022	Discharge summary of petitioner in MCOP No.699/2022, issued by Madurai Government Rajaji Hospital (Original)
Ex.P16	26.07.2022 to 09.08.2022	Discharge summary of petitioner in MCOP No.699/2022, issued by Madurai Devadoss Hospital (Original)
Ex.P17	--	Medical bills of petitioner in MCOP No.699/2022 (Original)
Ex.P18	--	Requisition for physiotherapy treatment cards of petitioner in MCOP No.699/2022 (Original)
Ex.X1	--	Identity card of P.W.2 (Original)
Ex.X2	--	Medical records of petitioner in MCOP No.699/2022, issued by Madurai Devadoss Hospital (Copy)
Ex.X3	--	Medical bills of petitioner in MCOP No.699/2022, issued by Madurai Devadoss Hospital (Copy)

Ex.P19	10.07.2022 to 14.07.2022	Discharge summary of petitioner in MCOP No.700/2022, issued by Madurai Government Rajaji Hospital (Original)
Ex.P20	--	Bank pass book 1 st page of petitioner in MCOP No.700/2022 (Copy) (Compared with original)
Ex.P21	--	Aadhar card of petitioner in MCOP No.700/2022 (Copy) (Compared with original)

List of 2nd Respondent's side witness:-

R.W.1 - Mr.Samuvel

R.W.2 - Mr.Petchi

List of 2nd Respondent's side Exhibits:-

Ex.X4	06.12.2024	Authorisation letter of R.W.1 (Original)
Ex.X5	23.08.2022	Motor Vehicle Inspection report of vehicle bearing Regn.No.TN-57-BX-4564 (True copy)
Ex.X6	19.07.2022	Motor Vehicle Inspection report of vehicle bearing Regn.No.TN-72-BM-8416 (True copy)

List of Court Document:

Ex.C1	06.01.2024	Disability certificate of petitioner in MCOP No.699/2022, issued by Medical Board, Government Medical College Hospital, Dindigul District (Original)
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The account particular of the petitioners is given as detailed hereunder

Sl. No.	Name of the applicants	Name of the Bank and Branch	Bank IFSC Code	Account No. of the applicants
1.	Mr.Sethu	Indian Overseas Bank, Nilakottai	IOBA0002464	246401000007309

2.	Ms.Sivasakthi	Indian Overseas Bank, Nilakottai	IOBA0002464	246401000014974
3.	Minor.S.Veeru Chinnammal @ Saranya	Canara Bank, Nilakottai	CNRB0003001	3001120090839

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

Note:

Following the judgment of the Honourable 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.