

IN THE COURT OF EXCLUSIVE MOTOR ACCIDENT CLAIMS
TRIBUNAL, DHARMAPURI

PRESENT : **Thiru.A.S.Raja, B.Sc.,B.L.,(TN01852)**
Presiding Officer,
Exclusive Motor Accident Claim Tribunal
Dharmapuri.

Monday, 25th day of August 2025

Thiruvalluvarandu, 2056 Visuvavasu Varudam, Aavani Thingal 9th Day

MCOP No.297/2025
(CNR No.TNDP0A0001872025)

1. Kaviyavarshini (aged 20), W/o. Late. Suresh,
 2. Minor. Sahana Sri (aged 1), D/o. Late. Suresh,
(Minor petitioner rep. by NF/Mother Kaviyavarshini)
 3. Rajendhiran (aged 60), S/o. Marimuthu,
 4. Vijaya (aged 49), W/o. Rajendhiran,
- All are residing at Ponnagar Village, Samichettipatti
Post, Nallampalli Taluk, Dharmapuri District.

.... Petitioners

/Versus/

1. MRL Transports, represented by its Proprietor,
No.7/28, Perumampalayam Village, Muthugappatty
Post, Namakkal District – 637 405.

- 2.ICICI Lombard General Insurance Company
Limited, represented by its Branch Manager,
Unit No:684 690, Third Floor, Seethakathi
Business Centre, 4 Moores Road, Thousand
Lights Anna Salai, Chennai – 600 006.

.... Respondents

Date of Petition : 04.03.2025

This petition came up for final hearing before me on 22.08.2025 in the presence of Mr.M.Sathiyarayanan, Advocate for petitioners and respondents remained exparte and after hearing the arguments advanced on petitioners' side and upon perusing the materials available on records, having stood over for consideration till this day, this tribunal delivered the following:-

AWARD

1. This petition has been filed by the petitioners under Section 166 of the Motor Vehicles Act, 1988, claiming a total compensation of Rs.2,00,00,000/- (Rupees Two Crores only) for the death of Suresh, aged 28 years, who died in a road traffic accident that occurred on 12.12.2024 due to the negligence of the driver of the Ashok Leyland Trailer vehicle bearing Registration No. TN28-BA-8598.

2. The averments in the claim petition in brief is as follows:-

On 12.12.2024 at about 04:45 a.m., the deceased, Mr. Suresh, was riding his motorcycle bearing Registration No. TN29-BC-8039 along the Karur–Namakkal Bye-Pass Road, near Velur Anichampalayam Pirivu. At that time, an Ashok Leyland Trailer bearing Registration No. TN28-BA-8598, driven at a high speed and in a rash and negligent manner, came from behind and violently hit the motorcycle. As a result of the impact, Mr. Suresh sustained grievous injuries. He was immediately taken to the Government Hospital, Velur, but unfortunately succumbed to the injuries on the way.

At the time of the accident, Mr. Suresh was 28 years old and was engaged in running a fruit shop under the name and style of “Palamuthircholai” at Paramathi, earning a monthly income of about Rs. 1,00,000/-. A complaint was promptly lodged by the first petitioner, and on its basis, the Velur Police Station registered Crime No. 327 of 2024 under Sections 281 and 106(1) of the Bharatiya Nyaya Sanhita (BNS) against the driver of the Ashok Leyland Trailer. The accident occurred solely due to the rash and negligent driving of the said vehicle. The first respondent is the registered owner of the offending vehicle, and the second respondent is its insurer. Therefore, both respondents are jointly and severally liable to pay just and reasonable compensation to the petitioners, who are the legal heirs of the deceased namely, his wife, minor child, and parents. In view of the untimely and wrongful death of Mr. Suresh, the petitioners have filed this claim petition seeking a total compensation of Rs. 2,00,00,000/- (Rupees Two Crores only).

3. After receipt of notice from this Tribunal, the respondents failed to appear either in person or through counsel to contest the claim. Hence, they were set ex parte.

4. On the basis of the above contentions of the petitioners, the following points have to be considered by this Tribunal:-

1. Whether the petitioners prove that the deceased Suresh died due to a road traffic accident as averred in the petition?
2. Whether the petitioners prove that the accident occurred due to the

negligence of the driver of the Ashok Leyland Trailer vehicle bearing registration No. TN28-BA-8598?

3. Whether the petitioners prove that they are entitled for compensation? If so, to what extent and from whom?

5. On the side of the petitioners, two witnesses were examined as P.W.1 and P.W.2, and Exhibits P1 to P18 were marked in support of their case.

6. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

7. Point No:1 and 2:-

7.1. It is the case of the petitioners that on 12.12.2024 at about 04:45 a.m., the deceased, Mr. Suresh, was riding his motorcycle bearing Registration No. TN29-BC-8039 along the Karur–Namakkal Bye-Pass Road, near Velur Anichampalayam Pirivu. At that time, an Ashok Leyland Trailer bearing Registration No. TN28-BA-8598, driven at a high speed and in a rash and negligent manner, came from behind and violently hit the motorcycle. As a result of the impact, Mr. Suresh sustained grievous injuries. He was immediately taken to the Government Hospital, Velur, but unfortunately succumbed to the injuries on the way.

7.2. It is a well-settled proposition of law that in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, the occurrence of the accident is a *sine qua non*

for entertaining the claim. Since the claim is based on the principle of fault liability, it is incumbent upon the petitioners to establish the negligence of the driver of the offending vehicle by placing credible evidence on record. However, the standard of proof in such proceedings is not as rigorous as that required in criminal trials. The Tribunal is not bound by the strict rules of evidence, and the matter must be adjudicated based on the preponderance of probabilities. The approach must be holistic, taking into account the entirety of the evidence, both oral and documentary. While negligence must be clearly established, the Tribunal is not expected to insist upon proof beyond reasonable doubt, but rather to assess whether, on a balance of probabilities, the accident occurred due to the rash and negligent driving of the offending vehicle. Reference may be made to the judgments titled as **New India Assurance Co. Ltd. v. Sakshi Bhutani & Others., MAC APP. No. 550/2011 decided on 02.07.2012, Bimla Devi & Others v. Himachal Road Transport Corporation & Others (2009) 13 SC 530, Parmeshwari v. Amirchand & Others 2011 (1) SCR 1096 & Mangla Ram v. Oriental Insurance Company Ltd. & Others 2018, Law Suit (SC) 303.**

7.3. In order to prove the occurrence of the accident and establish the rash and negligent act of the Ashok Leyland Trailer vehicle driver, the petitioners examined two witnesses on their side. P.W.1, the wife of the deceased Suresh, though not an eyewitness to the incident, deposed regarding the mode and manner of the accident

based on information received from persons present at the scene. To substantiate the same, the petitioners examined one Mr.Munusamy as P.W.2, who is an eyewitness to the accident. In his deposition, P.W.2 has clearly stated that “on 12.12.2024 at about 04:45 a.m., the deceased, Mr. Suresh, was riding his motorcycle bearing Registration No. TN29-BC-8039 along the Karur–Namakkal Bye-Pass Road, near Velur Anichampalayam Pirivu. At that time, an Ashok Leyland Trailer bearing Registration No. TN28-BA-8598, driven at a high speed and in a rash and negligent manner, came from behind and violently hit the motorcycle. As a result of the impact, Mr. Suresh sustained grievous injuries. He was immediately taken to the Government Hospital, Velur, but unfortunately succumbed to the injuries on the way.” P.W.2 has categorically stated that she witnessed the accident directly. Both P.W.1 and P.W.2 have consistently deposed that the accident occurred solely due to the rash and negligent driving of the Ashok Leyland Trailer vehicle driver and that it took place on 12.12.2024 at about 04:45 a.m., in Karur–Namakkal Bye-Pass Road, near Velur Anichampalayam Pirivu. In support of the oral evidence, the petitioners marked Exhibits P1 to P18. To prove the accident, reliance is placed on the police records. Ex.P1 – FIR, which is the complaint lodged by Pw1, wife of Suresh, led to the registration of case in Crime No. 327 of 2024 under Sections 281 and 106(1) of the Bharatiya Nyaya Sanhita (BNS) against the Ashok Leyland Trailer vehicle driver. Further, Ex.P3 – Postmortem Report confirms that the cause of death was due to injuries to vital organs sustained in the accident. It is also pertinent to note that, after

receipt of notice from this Tribunal, the respondents failed to appear either in person or through counsel. Consequently, they were set ex parte. Based on the consistent and corroborative oral evidence of P.W.1 and P.W.2 and the documentary evidence, particularly Ex.P1 – FIR and Ex.P3 – Postmortem Report, this Tribunal safely concludes that the accident occurred on 12.12.2024 at about 04:45 a.m., in Karur–Namakkal Bye-Pass Road, near Velur Anichampalayam Pirivu, and that Suresh sustained fatal injuries and died as a result of the said accident. This Tribunal further holds that, had the driver of the Ashok Leyland Trailer vehicle exercised proper care, caution, and adhered to traffic regulations, the accident could have been avoided. Thus, the rash and negligent driving of the Ashok Leyland Trailer vehicle driver is held to be the direct cause of the fatal accident. Accordingly, Point Nos. 1 and 2 are answered in favour of the petitioners and against the respondents.

8. Point No:3

8.1.(a) As per Ex.P3 – Postmortem Certificate, the deceased died due to injuries from a road accident. Ex.P4 – Death Certificate confirms the death. Ex.P5 – Legal Heir Certificate establishes that the petitioners are the deceased’s wife, child, and parents. Hence, they are entitled to claim compensation as dependents.

(b) The petitioners have produced Ex.P9 driving license of the deceased Suresh. It shows that Suresh was born on 04.05.1996. Relying upon Ex.P9, the age of

the deceased Suresh is fixed as 28 years at the time of the accident.

(c) Although the petitioners claim was engaged in running a fruit shop under the name and style of “Palamuthircholai” at Paramathi, earning a monthly income of about Rs. 1,00,000/-. The petitioners have not produced any documents to prove the avocation and income of the deceased. Treating him as self-employed, the Tribunal reasonably fixes the notional monthly income at Rs.18,000/-.

(d) Following the Pranay Sethi judgment, 40% is added to the income towards future prospects, as the deceased age was under 40 years and self-employed.

(e) As per Sarla Verma guidelines, a multiplier of **17** is applied for the age group of 26-30 years.

(f) With four dependents, 1/4th of the income is deducted for personal expenses. The total compensation under loss of dependency is calculated as:

$\text{Rs.18,000} + 7,200/- \text{ (future prospects)} = 25,200 \times 12 \times 17 \times 3/4 = \text{Rs.38,55,600/-}$

8.2. Based on **Pranay Sethi** and the decision of the Honorable High Court of Madras in **2024(1)TNMAC 23 (DB), dt. 19.12.2023 M/S.Royal Sundaram Alliance Insurance ... vs V.Vimala Devi**, conventional heads of compensation are enhanced by 10% every three years. In this case the accident took place in the year 2024. Therefore, the petitioners are entitled to:

- Loss of consortium – Rs.48,400/-
- Funeral expenses – Rs.18,150/-
- Loss of estate – Rs.18,150/-

Thus, the compensation awarded under various heads are as follows:

Description	Amount Awarded
Loss of Dependency	Rs.38,55,600/-
Loss of consortium	Rs. 48,400/-
Loss of Love and Affection	Rs. 48,400/-
Filial consortium (Father & Mother) Rs.48,400/- X2	Rs. 96,800/-
Loss of estate	Rs. 18,150/-
Funeral expenses	Rs. 18,150/-
Medical expenditure	NIL
Total	Rs.40,85,500/-

Thus, the petitioners are entitled to get total compensation of **Rs.40,85,500/-**

8.3 In this case, the petitioners are the wife, child and parents of the deceased, Suresh. Recognizing their status as legal heirs and dependents, the Tribunal apportions the compensation as follows:

First petitioner (wife): Rs.23,85,500/-

Second petitioner (child): Rs.10,00,000/-

Third and fourth petitioners (parents): Rs.3,50,000/- each.

The distribution is made in a just and equitable manner considering their financial dependency.

8.4. It is established from Point No.2 that the accident occurred due to the rash and negligent driving of the Ashok Leyland Trailer vehicle. The documents produced on the side of the petitioners include:

- Ex.P6: Registration Certificate of the Ashok Leyland Trailer vehicle
- Ex.P7: Insurance Policy of the Ashok Leyland Trailer vehicle
- Ex.P8: Driving License of the 1st respondent driver

Ex.P6 and Ex.P7 clearly show that the first respondent is the registered owner of the Ashok Leyland Trailer vehicle and that the vehicle was insured with the second respondent insurance company. Ex.P8 is the driving license in the name of the driver of the first respondent. There is no evidence of any policy violation by the owner or the driver. Hence, the first respondent is vicariously liable to pay compensation to the petitioners, and since the vehicle was insured, the second respondent insurer is also liable to indemnify the first respondent by paying the compensation. Accordingly, Point No.3 is answered in favour of the petitioners and against the respondents.

9. RESULT:-

- i) In the result, the petition is partly allowed and a total compensation of

Rs.40,85,500/- (Rupees Forty lakhs eighty five thousand five hundred only) is awarded to the petitioners with cost. The second respondent is directed to deposit the award amount with interest @ 7.5% p.a. from the date of petition till date of deposit (excluding the period of dismissal for default if any) within 30 days to the credit of State Bank of India, **VAN collection No.SDJDP1MCOP2972025, IFSC Code No. SBIN0004266** directly by NEFT or RTGS mode.

ii) The first petitioner is entitled to Rs.23,85,500/- **and** the petitioners 3 and 4 are entitled to **Rs.3,50,000/- each**. The awarded amount shall be invested in fixed deposits in a Nationalised Bank for a period of three years. The petitioners are permitted to withdraw the interest accrued once every six months. Disbursement to the petitioners shall be made by direct transfer to their respective bank accounts through NEFT or RTGS.

iii) The second petitioner is entitled to a sum of Rs.10,00,000/-. The share in respect of minor petitioner is concerned, the same shall be invested in fixed deposit in a Nationalized bank, in an interest bearing fixed deposit account till the minor attains majority and the Next friend of the minor petitioner is permitted to withdraw accrued interest once in 3 months. On such occasions, interest shall be directly transferred to the bank account of the minor petitioner by NEFT or RTGS mode.

iv) The petitioners are directed to pay the balance court fee of **Rs.39,855.00** within two weeks from the date of this order. Until the balance court fee is paid as

directed, the petitioners shall not be entitled to withdraw the compensation amount deposited as per this award.

v) Advocate fee for the petitioners' counsel of **Rs.60,355.00** shall be transferred by **NEFT or RTGS** mode.

vi) The second respondent is further directed to pay a sum of **Rs.1,00,791.50** towards the costs of the petitioners as tabulated herein.

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

Other Necessary Particulars

Date of Petition	:	04.03.2025
Date of Award	:	25.08.2025
Amount of Compensation claimed is	:	Rs.2,00,00,000/-
Amount of Compensation is awarded by this Tribunal is	:	Rs.40,85,500/-
Court Fee payable for the said amount is	:	Rs.40,227.50
Court Fee already paid	:	Rs. 372.50
Balance court fee to be paid	:	Rs.39,855.00

Cost list for the petitioners

Particulars	petitioners' side	Respondents side
Court fees	40,227.50	

Vakalath Nama Stamp	10.00	
Process fee	9.00	---
Advocate fee	60,355.00	
Stamp for documents	90.00	
Typing charges	100.00	
Total	Rs.1,00,791.50	

Dictated to the Steno-Typist, typed by her directly into the computer, corrected, printed out and pronounced by me in open court on the 25th day of August 2025.

Presiding Officer,
Exclusive Motor Accident Claim Tribunal
Dharmapuri.

Petitioners' side witnesses :-

Pw.1 Kaviyavarshini
Pw.2 Munusamy

Petitioners' side documents :-

Ex.P1 Xerox copy of First information report
Ex.P2 Xerox copy of Accident Register issued by GH, Velur
Ex.P3 Xerox copy of Postmortem certificate
Ex.P4 Xerox copy of Death Certificate
Ex.P5 Xerox copy of Legal Heir Certificate
Ex.P6 Xerox copy of Registration Certificate of TN 28 BA 8598
Ex.P7 Xerox copy of Insurance Policy of TN 28 BA 8598
Ex.P8 Xerox copy of Driving licence of 1st respondent vehicle driver
Ex.P9 Xerox copy of Driving licence of deceased Suresh
Ex.P10 Xerox copy of Registration Certificate of MS Palamuthircholai

Ex.P11	Xerox copy of Licence of MS Palamuthircholai
Ex.P12	Xerox copy of Aadhar Card of 1 st petitioner
Ex.P13	Xerox copy of Aadhar Card of 2 nd petitioner
Ex.P14	Xerox copy of Aadhar Card of 3 rd petitioner
Ex.P15	Xerox copy of Aadhar Card of 4 th petitioner
Ex.P16	Xerox copy of Aadhar Card of Munusamy (Pw2)
Ex.P17	Xerox copy of Registration Certificate of Vaishnavi Fruit Stall
Ex.P18	Xerox copy of Registration Certificate of TN 29 CB 2225

Respondent's side witnesses and documents :- Nil

Presiding Officer,
Exclusive Motor Accident Claim Tribunal
Dharmapuri.

Fair/Draft Award in
MCOP.No.297/2025
Dated – 25.08.2025.