IN THE COURT OF THE V JUDGE, COURT OF SMALL CAUSES, CHENNAI

(MOTOR ACCIDENTS CLAIMS TRIBUNAL)

PRESENT: Tmt. M. SHAKKIRA BANU, M.A.M.L.,MHR.,PGDHRM.,PGDIPR.,DLLAL.,

V Judge

Saturday, this the 04th day of July 2026

MCOP No.5090/2023

CNR No.TNCH09-009985-2023

1.M. Shanthi,
aged about 69 years
W/o.Mahendiran.

2. P. Mahendiran,
aged about 70 years,
S/o. Ponnurangam.

Both are residing at,
No.1115A, Type, 3rd main road,
Mathur, Thiruvallur,
Manali - 600 068. …Petitioners

Vs.

1. D. Pawan Kumar,
No.16, E.H. Road,
Sundaram nagar,
Tondiarpet,
Chennai - 600 081.

2. The United India Insurance Co. Ltd.,
Third party Hub, Silingi Building,
No.134, Greams Road,
Chennai - 600 006. ... Respondents

This petition came up on **22.06.2026** for final hearing before me in the presence of **Mr. T. Arumugam** Counsels for the petitioners and **Mr.D. Bhaskaran**

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Counsel for the second respondent and the **first respondent called absent set exparte** and upon hearing both sides and on perusing the case records and having stood over for consideration till this date, this court delivered the following.

AWARD

This petition has been filed under Section 166 of Motor Vehicles Act,1988 claiming a compensation of **Rs.40,00,000/-** with interest and costs.

1. Brief averments in the petition:

The petitioner submitted that on 03.08.2023 between 20.30 hours and 20.50 hours the deceased M. Sathishkumar was sleeping at the corner of the road at Basin road, Opposite to Container yard near L.P. No.224, Thiruvottiyur, Chennai. At that time the driver of the parked Goods Carrier Vehicle bearing Reg. No. TN 03 AB 4225 suddenly started the vehicle without observing the deceased at a dangerous speed in rash and negligent manner endangering to public safety and without adhering the traffic rules, ran over the deceased and thereby causing the accident. As a result of which the deceased sustained severe head injuries and died on the spot. The accident occurred only due to the fault of the 1st respondnet Goods Carrier Vehicle. Hence the first respondent being the owner and the second respondent being the insurer of that vehicle are liable to pay compensation to the petitioner.

2. Brief averments in the counter of 2nd respondent :

The 2nd respondent denied the various allegations contained in the petition save those that are specifically admitted herein. The petition is not maintainable either in law or on facts. The respondent denied the column No.23 in the claim petition about the manner of accident. The respondent submits that even as per FIR an unknown vehicle caused the accident and it is a case of hit and run. The claimants have to establish involvement of first respondent vehicle in the accident, manner of accident and death due to involvement of first respondent vehicle through proper oral and documentary evidence. The respondent stated that this is a hit and run case and as per the Solatium Sheme 1989 framed in terms of section 163 of the Act, the Tribunal is not appointed as authority for grant of compensation hence Tribunal has no jurisdiction to decied and the claim. The respondent denied the age, avocation and income of the deceased. Hence prayed for dismissal.

3. <u>Evidence:</u>

The first petitioner was examined as PW1 and marked Ex.P1 to Ex.P11 and third party eyewitness was examined as PW2 and marked as Ex.P12. On the side of 2nd respondent, insurance company official was examined as RW1 and marked Ex.R1 to Ex.R3.

4. <u>Points for determination :</u>

1)	Whether the accident occurred due to the rash and negligent driving of the 1st respondent Goods Carrier Vehicle ?
2)	Whether the 1st respondent Goods Carrier Vehicle driver was having valid driving license and whether the said vehicle was covered under valid insurance and proper documents, as contemplated under the M.V. Act at the time of accident?
3)	Whether the petitioner is entitled to get compensation? If so, what should be the quantum of compensation, and by whom it is payable?

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5. Point No.1:

The petitioner submitted that on 03.08.2023 between 20.30 hours and 20.50 hours the deceased M. Sathishkumar was sleeping at the corner of the road at Basin road, Opposite to Container yard near L.P. No.224, Thiruvottiyur, Chennai. At that time the driver of the parked Goods Carrier Vehicle bearing Reg. No. TN 03 AB 4225 suddenly started the vehicle without observing the deceased at a dangerous speed in rash and negligent manner endangering to public safety and without adhering the traffic rules, ran over the deceased and thereby causing the accident. As a result of which the deceased sustiained severe head injuries and he was died on the spot. In this regard the police complaint was lodged by deceased mother namely Shanthi (1st petitioner) to Washermenpet traffic investigation wing and Ex.P1 FIR was registered in Crime No.92/2023 u/s.279 and 304(A) IPC, 134(a), 134(b) MV Act against the an Eicher Lorry with an unknown registration number. On completion of investigation the police filed Ex.P6 final report against the first respondent lorry driver. The 1st respondent remained exparte. Though the insurance company official was examined as RW1, he has not denied the manner of accident. The evidence of PW2, an independent eyewitness, remained unshaken in cross-examination and corroborates the contents of the FIR and final report. Considering the same and the FIR and Final report, this Tribunal holds that the accident occurred due to the negligence of the 1st respondent lorry driver. The point No.1 is decided accordingly.

6. Point No.2:

In this point it has to be ascertained whether the 1st respondent lorry driver had valid driving license at the time of accident. In evidence the petitioner side did not mark the driving license of the first respondent lorry

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driver. Further the RC book, MV report of the lorry have not been marked. But Ex.R3 insurance policy marked by the second respondent shows that the first respondent lorry had valid insurance at the time of accident. Further RW1 also admitted the valid insurance. The insurer has not produced any evidence to establish breach of policy conditions or absence of a valid driving license. Though the petitioners have not produced the driver's license, the burden to prove policy violation lies upon the insurer. Since no evidence has been adduced by the insurer, adverse inference cannot be drawn against the claimants. Accordingly, the Tribunal holds that the insurer has failed to establish any statutory defense under Section 149(2) of the Motor Vehicles Act. Therefore, this court is of the view that the lorry involved in the accident was under the cover of insurance and had valid driving license at the time of accident. The point No.2 is decided accordingly.

7. Point No.3:

i) Cause of Death:

The accident occurred on 03.08.2023 and the deceased died on the spot. The postmortem certificate marked as Ex.P4 shows that the deceased died due to shock and haemorrhage due to crush injury sustained in the head. Hence it is proved that the deceased died due to the accident injuries.

ii) Dependency to the deceased:

The petitioners stated that the 1st petitioner is the mother of the deceased and the 2nd petitioner is the father of the deceased and they are the legal heirs to the deceased. In support to their claim the petitioners marked Ex.P5 legal heir certificate issued by the Thasildar, Madhavaram. A perusal of Ex.P5 reveals that apart from the petitioners, the brother of the deceased is also shown as one of the legal heirs. However, the brother of the deceased has not chosen to implead himself as a claimant in the present petition. There is also no evidence on record to show that he was dependent upon the earnings of the deceased at the time of the accident. On the other hand, the mother and father are the proved dependents of the deceased. In the absence of any claim by the brother and in the absence of proof regarding his dependency, this Tribunal holds that the petitioners 1 and 2 alone are entitled to receive and share the compensation awarded in this petition.

iii) <u>Age of the deceased</u>

Though the petitioners in their claim petition alleged that the deceased was aged 44 at the time of the accident, no proof for age is filed. Whereas the postmortem certificate of the deceased shows his age as 44. Considering the same the age of the deceased is fixed as **44** years at the time of accident.

iv) <u>Monthly income of the deceased</u>:

In the claim petition, though it has been stated that at the time of the accident the deceased was a Painter, his income is not stated. There is no proof for the occupation or income. PW1 has also admitted in her cross examination that no proof is filed regarding income of deceased. Since there is no proof for occupation or income, this Tribunal is inclined to fix notional income. Considering the age of the deceased and year of accident, prevailed working atmosphere his monthly income is notionally fixed as **Rs. 17,500/-** per month.

v) <u>Future Prospects</u>

As per the Judgment of Hon'ble Apex court reported in **2017 (2) TNMAC 609** between ***National Ins. Co. Ltd. Vs. Pranay Sethi and others*** future prospects for the age group of 40-50 is 25%. So a sum of Rs.4,375/-

to be added with monthly income. Thus, the annual income of the deceased is arrived as **Rs.2,62,500/-** (21,875 x 12).

vi) <u>Deduction for personal and living expenses of the deceased:</u>

As per judgment of the Honble Supreme Court in ***Sarla Verma and Ors. Vs. Delhi Transport Corporation and Ors***. reported in **2009 (2) TNMAC 1**, The dependents to the deceased are two persons and the deceased was unmarried. Hence 1/2 has to be deducted as the personal and living expenses of the deceased. As such, 1/2 of the amount Rs.2,62,500/- which is Rs.1,31,250/- deducted from the annual income of the deceased so the balance is **Rs.1,31,250/-** is the contribution to the dependents per annum.

vii) <u>Multiplier and total loss of dependency:</u>

After the deduction of the personal and living expenses of the deceased now there is need to calculate the loss of dependency. In this process the multiplier is significant as per judgment of the **Hon'ble Supreme Court in *Sarla Verma and Ors. Vs. Delhi Transport Corporation and Ors*. reported in 2009 (2) TNMAC 1,** since the age of the deceased was 44 at the time of death the multiplier for the age group of 41-45 will be M- 14. Therefore, the total loss of dependency is arrived as **Rs.18,37,500/-** (Rs.1,31,250 x 14)

viii) <u>Loss of Consortium:</u>

As per the judgment of Honourable Apex court in **New India Assurance company vs Somwati in Civil appeal No:3093/2020** dated 7-9-2020 *and **Magma General Insurance Co.Ltd., Vs. Nanu Ram Alias Chuhru Ram and others reported in 2018(2) TNMAC 452 (SC)***, it has been decided that no compensation can be granted under the head of Love and affection and the dependents of the family are only entitled for the compensation under the head of loss of consortium according to their relationship under the head of spousal consortium, parental consortium, filial consortium. As per the Judgment of Hon'ble Apex court reported in **2017 (2) TNMAC 609** between ***National Ins. Co. Ltd. Vs. Pranay Sethi and others***, each of the petitioners entitled for Rs.40,000/- towards loss of parental consortium.

ix) <u>Loss of Estate:</u>

As per the Judgment of Hon'ble Apex court reported in **2017 (2) TNMAC 609** between ***National Ins. Co. Ltd. Vs. Pranay Sethi and others***, the petitioners are entitled to **Rs.15,000/-** under the head of "Loss of Estate".

x) <u>Funeral Expenses</u>:

As per the Judgment of Hon'ble Apex court reported in **2017 (2) TNMAC 609** between ***National Ins. Co. Ltd. Vs. Pranay Sethi and others*** the petitioners are entitled to **Rs.15,000/-** under the head of "**Funeral expenses**".

xi) <u>Medical Expenses:</u>

The petitioners did not mark any medical bills for the treatment to the deceased and hence no amount awarded towards medical expenses.

Summing up the above said amount under various heads are as follows

Loss of dependency	**Rs. 18,37,500/-**
Loss of Consortium	**Rs. 80,000/-**
Loss of Estate	**Rs. 15,000/-**
Funeral Expenses	**Rs. 15,000/-**
Medical bills	**Nil**
Total	**Rs.19,47,500/-**

8. In view of the above discussion and calculation arrived in the above paras in various head, this tribunal comes to the decision that a sum of **Rs. 19,47,500/-** would be a just compensation to the death of deceased in road accident .

9. In the result, this petition is partly allowed and

(i)	An award of **Rs. 19,47,500/-** (Rupees Nineteen lakhs forty seven thousand and five hundred only) is passed in favour of the petitioners with interest at 7.5% p.a. from the date of petition, viz. 13.10.2023 to till the date of payment payable by the 2nd respondent with costs.
(ii)	There will be no interest for the default period if any.
(iii)	The compensation amount shall be deposited into this court Bank Account in the name of Registrar (MACT), Court of Small Causes, Chennai Account No. 7103261207 IFSC No. IDIB000M157 Indian Bank, Madras High Court Branch, Chennai within two months.
(iv)	Out of the total award amount the 1st petitioner/mother of the deceased is entitled to Rs.9,73,750/- and the 2nd petitioner/father of the deceased are entitled to Rs.9,73,750/-. The petitioners are permitted to withdraw the amount on deposit.
(v)	On petition for payment of the above said initial amount excluding, costs, Advocate fees and bank charges due and payable to the petitioner/claimant which shall be transferred to 1st petitioner/claimant's bank account petitioner/claimant's bank account No. 00420110067116, UCO Bank, Sowcarpet Branch,Chennai, IFSC UCBA0000042; 2nd petitioner/claimant's bank account No. 00420110067062 UCO Bank, Sowcarpet Branch,Chennai, IFSC UCBA0000042; through RTGS (or) NEFT .

(vi)	The petitioner has paid a sum of Rs. 375/- towards Court fee. As per this award, the Court fee is Rs.18,848/-. The Advocate fee is fixed at Rs.26,475/-.The Additional Court fee of a sum of Rs.18,473/- shall be paid within 10 days.

Dictated by me to the Typist and she directly typed it in the computer after corrections pronounced by me in Open Court, on this the 04th day of July 2026.

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(M. SHAKKIRA BANU)
V JUDGE
COURT OF SMALL CAUSES
CHENNAI

Petitioner side Witnesses: -

S.no.	Date	Name of the Witnesses	Remarks
PW1	16.10.2025	Shanthi (1st petitioner)	Ex.P1-Ex.P11
PW2	25.11.2025	Samuvel (eyewitness)	Ex.P12

Petitioner side Exhibits: -

Sl No.	Date	Document Particulars	Document Type
Ex.P1	03.08.2023	First Information Report	Photocopy
Ex.P2	--	Death report	Photocopy
Ex.P3	02.09.2023	Death certificate	Photocopy
Ex.P4	06.08.2023	Postmortem certificate	Photocopy
Ex.P5	03.10.2023	Legal heir certificate	Photocopy
Ex.P6	29.09.2023	Charge sheet	Photocopy
Ex.P7	--	Deceased Voter ID	Photocopy
Ex.P8	--	1st petitioner Aadhar card	Photocopy
Ex.P9	--	2nd petitioner Aadhar card	Photocopy
Ex.P10	--	1st petitioner Bank account	Photocopy
Ex.P11`	--	2nd petitioner Bank pass book	Photocopy
Ex.P12	--	Aadhar card of the PW2	Photocopy

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Respondent side Witness : -

S.no.	Date	Name of the Witnesses	Remarks
RW1	02.04.2026	Jawahar (insurance company official)	Ex.R1 to Ex.R3

Respondent side Exhibits : -

Sl No.	Date	Document Particulars	Document Type
Ex.R1	--	Authorization letter	Photocopy
Ex.R2	--	Investigation report	Photocopy
Ex.R3	--	Insurance policy	Photocopy

Court Document : - Nil

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(M.SHAKKIRA BANU)
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CHENNAI

OTHER PARTICULARS

Date of filing of the petition	13.10.2023
Date of Award	04.07.2026
Amount Claimed under Compensation	Rs.40,00,000/-
Amount Awarded as Compensation	Rs. 19,47,500/-
Total Court Fees	Rs. 18,847.5/-
The Court Fee already paid	Rs. 375/-
Balance Court Fee to be paid	Rs. 18,472.5/-

Date:04.07.2026

Costs List

Cost Particulars	Amount
Stamp duty for Award Amount	Rs. 18,848/-
Vakalath	Rs. 5.00/-
Preparation of Summon Batta Charges	Rs. 40.00/-
Advocate Fees	Rs. 26,475/-
TOTAL	Rs. 45,368/-

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