

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
TIRUCHIRAPPALLI**
**(In the Court of the Special District Judge No. II to deal with MCOP cases,
Tiruchirappalli)**

Present: Tmt. C. Karthika, M.A., B.L.,
Special District Judge No.II,
Tiruchirappalli.

Thursday, the 30th day of July, 2026
Motor Accident Claims Original Petition No.994/2022
CNR No.TNTP0C-000625-2022

- 1.M.Lakshmi, aged about 42 years,
W/o.Mathirama,
 2. Nagasiva, aged about 20 years,
S/o.Mathiraman,
 3. Minor Deepasri, aged about 15 years,
D/o.Mathiram,
- (Minor 3rd petitioner is represented by her
mother and natural guardian M.Lakshmi)

All are residing at:-

No.1/208, Opposite Vallikovil,
Ranasinkapuram, Sivagangai-630 211.

... Petitioners

-Vs-

1. C.Balakrishnan, S/o.Chinnandi,
No.89, Karuppur Kottaiyiruppu,
Tirupattur Bus Stand S.O., Sivaganga-630 211.
2. Chola MS General Insurance Com. Ltd,
Rep. By it's the Branch Manager,
Dare House, NSC Bose Rd,
Parrys, George Town, Chennai-600001.
- 3.Chola MS General Insurance Com.Ltd,
The Branch Manager,
Having its branch office at,
TAB Complex, Bharathidasan Salai,
Cantonment, Tiruchirappalli-620001.

...Respondents

This petition is coming on 24.07.2026 for final hearing before me in the presence of Thiru. C. Muthumari, Advocate for the petitioners and Thiru. A. Anand, Advocate for the 2nd respondent and for 1st respondent remained exparte and upon hearing both side arguments and perusing documents produced and having stood over till this day for consideration, this court delivered the following:

ORDER

The above petition is filed by the petitioners U/s.140 and 166 of Motor Vehicles Act claiming compensation for the death of C.Mathiraman, S/o. Chinnaiah.

2. The averments of the petition in brief are as follows:

The accident took place on 21.04.2022 at about 04.45 P.M. Infront of Karthick Grocery Shop. From Pudhukattambur To Sivagangai Road and the vehicle involved in the accident is Bearing Registration No.1. TN-63-BM-1779 (Motorcycle). 2. TN-63-BD-2515 (Motorcycle)

At the time of accident the deceased was riding a Motorcycle Bearing Registration No.TN-63-BD-2515 and which was proceeding from Pudhukattambur To Sivagangai Road. Infront of Karthick Grocery Shop, a Motorcycle Bearing Registration No.TN-63-BM-1779 and which was coming from the same direction and which was driven by its driver in a rash and negligent manner that too with high speed and without adhering traffic rules and dashed behind the deceased motorcycle. Due to the sudden impact of the accident the deceased were fell down from his motorcycle and he has Sustained Grievous Injuries all over his body Particularly on his head. Immediately after the accident the deceased was taken to Govt hospital. Thiruppathur for first aid and then for further treatment he was admitted in the Apollo hospital Madurai as inpatient

from 21.04.2022 to 25.04.2022, there he died due to succumbed to injuries on 25.04.2022 Medical Bills spent Rs.4,00,000/-

Thus the Accident occurred due to the rash and negligent driving of the 1st respondent's driver and the Thirukostiyur Police Station, in Sivagangai Dt. Has registered a Criminal case against the above said vehicle driver in Cr.No.50/2022. U/S 279,337 and 304 (A) of IPC.

The deceased was aged only 50 years. At the time of accident the deceased was working as an Agriculture Cooley and he was earning a sum of Rs.1,000/- Per day as Income. Due to the sudden death of the deceased he family is suffering from mental agony. The petitioner is the dependents of the deceased. At the time of accident the deceased was hale and healthy.

The 1st Petitioner is the Wife of the deceased, she had lost her love and affectionate Husband. The 2nd petitioner is the son of the deceased and the 3rd minor daughter of the deceased they had lost their love and affectionate Father. The death of the deceased cannot be replaced in terms of money. In short, the petitioners have lost everything in their life in all aspects of their life. The deceased father is also already pre-deceased.

The 1st Respondent is the owner of the vehicle Bearing Registration No.TN-63-BM-1779 (Motorcycle). The 2nd Respondent is the Insurer of the 1st Respondent's Vehicle. Hence both the respondents are jointly and severally liable to pay compensation to the Petitioners.

Even though the loss occasioned to the petitioners could not be estimated in the terms of money and any how the petitioners estimate the loss, due to the accident and thereby resulted death, for loss of love and affection, for loss of income, for loss of Parental consortium and happiness, for mental agony, for funeral expenses are Rs.25,00,000/- (Rupees Twenty Five Lakhs Only)

3. Brief facts of the counter filed by 2nd respondent Adopts by 3rd Respondent are as follows:-

All the allegation with petitioners are all denied as false, frivolous, vexatious and baseless and the petitioners are put to strict proof of the same.

The Petition filed by the petitioners is not maintainable under law and as such the petition is unsustainable in law.

The petitioners are put to strict proof of the allegation in columns 3 to 6. The particulars given in answer of columns 3 to 6 are all denied. The petitioners are put to strict proof of the age and income of the deceased Mathiraman. The allegation that deceased age is 50 years and loss of consortium to the 1st respondent and loss of income, loss of love and affection to all the petitioners etc., due to the death of the deceased in accident are all denied as false and the petitioners are put to strict proof of the same.

The claim amount is highly exorbitant and without any basis, In order to make exorbitant claim consolidated claim is made without any particulars in column 21A and Part-I.

It is submitted that the loss of properties mention for the cloths and ornaments and other articles for a sum Rs.20,000/- in the column No:11A is ridiculous and this respondent is denied as false claim and petitioners have to prove with the document proof for the loss and the petitioners are put to strict proof.

It is true that this 1st respondent is the owner cum rider of the bike bearing it's Reg.No:TN 63 BM 1779 at the time of the accident.

It is submitted that at the time of accident the 1st respondent did not having license to ride the bike and the 1st respondent did not adopt the policy condition as agreed in the terms of Insurance of Contract. Thus this respondent cannot able to

compensate the injuries sustained in the accident to the petitioners and this petition is liable to dismissed against this 2nd and 3rd respondents and the petitioners are put to strict proof.

It is submitted that without prejudice the petition was filed by the petitioner beyond the limitation was prescribed in the new amendment M.V.Act and the petition is not maintainable and the petition is liable to dismissed.

It is submitted that as per the petition petitioners are residing at Sivagangai Dist and the 1st respondent was residing at Sivanai Dist and the policy issuing office was not at Trichy, but the case was filed by the petitioners at this jurisdiction is only that the 3rd respondent having office at Trichy. The purpose of filing this case in this Court is that this case of violation of policy and this respondent did not able to take sufficient evidence and document proof about the manner of accident and to tough to prove the violation of policy adopt by the 1st respondent and thus the petition is not maintainable and the petitioners are put to strict proof.

The allegation as stated in para 23 of the petition all are false frivolous and unsustainable in law and facts of the case and the petitioners are put to strict proof of each and every allegation contained in the petition. The manner in which the alleged accident alleged to have been taken place has not been properly set out in the petition. In fact the petitioners are suppressed the true facts and have come forward with this false and frivolous allegation. The true facts are as follows. The accident took place at Thirupathur to Sivagangai road and the road goes north to south and the northern side leads to Thirupathur to Sourthern side leads to Sivagangai road and there is a white dotted line drawn by the highways authorities in the center of the road to know the centre place of the road to the users and the accident spot is the corner of the road towards west side of south to north road. On 21.04.2022 the 1st respondent was riding the bike bearing it's

Reg.No.TN 63 BM 1779 towards south to north in the extreme left side of the road with care and caution and adhere traffic rules and regulation. While going near to the Karthick grocery shop at the time the deceased Mathimaran was riding a bike bearing it's Reg.No.TN 63 BD 2551 towards north to south towards Sivagangai in the opposite direction and suddenly riding towards right side of the road, in a rash and negligence manner without minding on coming vehicles on the road and without adhere any traffic rules and regulation and dashed the 1st respondent vehicle and thus cause accident. The deceased who invited the accident, if the deceased ride the bike in a careful manner in the left side of the road, this accident will be forfeited. So all the things will go to show that there was no rash and negligence driving on the part of the driver of the 1st respondent. In order to claim compensation the petitioners have come forward with false allegation that the 1st respondent vehicle is responsible for accident.

This respondent submitted that without prejudice the deceased is also contribution for the accident.

It is submitting that the petitioners are mentioned in the 23rd column that the deceased was admitted at Govt.Hospital at Thirupathur and then admitted at Apollo Hospital from 21.04.2022 to 25.04.2022 and died to succumbed of accidental injuries is denied as false and frivolous and in fact the deceased was discharge from the Apollo hospital in a good condition and the deceased was died due to the disease and there is no nexus between the injury and death of the deceased to go for post-mortem though it has prove as the decease was not died due to the accidental injuries. The post mortem is alone to prove the cause of death of any person and the petitioners are put to strict proof.

It is submitted that after accident the deceased was admitted at Govt Hospital at Thirupathur and then admitted at Apollo Hospital at Madurai the petitioners are spend medical expense for a sum of Rs.4,00,000/- are all denied as

false and the petitioner is put to strict proof.

The deceased was working as agriculture collie Mason and earned a sum of Rs.1,000/- per day are all denied as false and the petitioners are put to strict to proof.

It is submitted that without prejudice, the petitioners are not dependent of the deceased and the petitioners are living with their own income and they was not entitled to claim compensation as a dependent of the deceased and the 1st petitioner was looked of the deceased and petitioners are put to strict to proof.

It is submitted that at the time of accident that the age of deceased is above 50 and the petitioners are put to strict proof.

It is submitted that without prejudice the deceased was riding bike under the drunken mood and he consumed alcohol at the time of accident and the petitioners are put to strict proof.

It is submitted that at the time of accident the deceased was riding the bike without valid driving license and not wearing helmet at the time of accident and the petitioner is put to strict proof.

It is submitted that the proving of death of the deceased due to the accidental injuries by way of conducting post-mortem only and the petitioners are not taken steps for conduction post-mortem it proves that the deceased might have died due to the decease and there is no nexus between the injury and death of deceased and petitioners are put to strict proof.

Any have the claim amount is unreasonable, meaningless and too high.

6. Points for consideration:-

1. Whether the accident occurred due to the rash and negligent driving of the driver of 1st respondent vehicle bearing Reg. No. TN 63 BM 1779? Whether the deceased contributed to the accident as alleged by the respondents 2 and 3?
2. Whether the petitioners are entitled to get compensation as

prayed for? Who is liable?

3. What is the quantum of compensation payable to the petitioners?
4. To what relief the petitioners are entitled to?

7. On the side of the Petitioners, 2 witnesses are examined as PW1 and PW2 and 9 documents are marked as Ex.P.1 to Ex.P.9. On behalf of respondents 2 and 3, respondents side four witness examined as RW1 to RW4 and Ex.R1 To Ex.R3 and Ex.X1 to X10 documents are marked.

8. Point No. 1:-

Heard both sides. Documents perused. It is stated on the side of the petitioners that on 21.04.2022 at about 04.45 P.M. Infront of Karthick Grocery Shop. From Pudhukattambur To Sivagangai Road and the vehicle involved in the accident is Bearing Registration No.1. TN-63-BM-1779 (Motorcycle). 2. TN-63-BD-2515 (Motorcycle) and at the time of accident the deceased was riding a Motorcycle Bearing Registration No.TN-63-BD-2515 and which was proceeding from Pudhukattambur To Sivagangai Road and infront of Karthick Grocery Shop, a Motorcycle Bearing Registration No.TN-63-BM-1779 and which was coming from the same direction and which was driven by its driver in a rash and negligent manner that too with high speed and without adhering traffic rules and dashed behind the deceased motorcycle. Due to the sudden impact of the accident the deceased were fell down from his motorcycle and he has Sustained Grievous Injuries all over his body and he died.

Where as, the respondents 2 and 3 opposed the above case stating that, at the time the deceased Mathimaran was riding a bike bearing it's Reg.No.TN 63 BD 2551 towards north to south towards Sivagangai in the opposite direction and suddenly riding towards right side of the road, in a rash and negligence manner without minding on coming vehicles on the road and without adhering any traffic

rules and regulation and dashed the 1st respondent vehicle and thus caused accident.

In order to prove the case of the petitioners PW1 and PW2 are examined and marked Ex.P.1 to Ex.P.9. Ex.P.1 is the certified copy of First Information Report. As per Ex.P1, the FIR filed against the driver of 1st respondent vehicle bearing regn No.TN 63 BM 1779 u/s. 279 and 337 of IPC, dated 21.04.2022 namely Balakrishnan. Ex.P2 is the original of Discharge Summary of deceased issued by Apollo Hospital, Trichy. As per Ex.P2, the discharge summary, the deceased was admitted as inpatient on 21.04.2022 and discharged on 25.04.2022 and was treated in Hospital as inpatient for 5 days. Ex.P3 is the xerox copy of Death Certificate of deceased. Ex.P4 is the online copy of of Legal Heir Certificate of deceased. As per Ex.P4, the petitioners 1 to 3 alone the legal heirs of the deceased. Ex.P5 is the xerox copy of Aadhar Card of 1st petitioner. Ex.P6 is the xerox copy of Aadhar Card 2nd petitioner. Ex.P7 is the xerox copy of Aadhar Card of 3rd petitioner. Ex.P8 is the xerox copy of Motor Inspection Report of 1st respondent's vehicle bearing Reg. No. TN 63 BM 1779. Ex.P9 is the xerox copy of Rough Sketch. As per Rough Sketch, the accident occurred of the deceased traveled road.

9. On behalf of respondents 2 and 3, RW1 to RW4 are examined and Ex.R1 to Ex.R3 are marked and Ex.X1 to Ex.X10 are marked. Ex.R.1 is the True copy of Insurance policy between respondent for the period from 09.02.2022 to 08.02.2027 and the date of accident is on 21.04.2022. As per Ex.R1, the Bundled policy between respondent was in subsistence on the date of accident. Ex.R2 is the original of Legal notice sent to driver of 1st respondent. Ex.R3 is the original of Postal Receipt sent to 1st respondent.

Ex.X1 is the original of Authorization letter given by RTO Office, Sivagangai. Ex.X2 is the true copy of Motor Vehicle Inspection Report of vehicle bearing Reg. No. TN 63 BD2515 and following damaged 1. RH side panel body

damaged, 2. FL panel body, 3. FL Handle bar body scratches, 4. Rear wheel struck, 5. Handle bar bent. Ex.X3 is the true copy of Motor Vehicle Inspection Report of 1st respondent's vehicle bearing Reg. No. TN 63 BM 1779 and following damaged 1. FL panel body fully damaged, 2. Front mudguard damaged, 3. Front wheel jam. Ex.X4 is the xerox copy of Form 24 Motor Vehicle Register of deceased's vehicle bearing Reg. No. TN 63 BD 2515. Ex.X5 is the xerox copy of Form 24 Motor Vehicle Register of vehicle bearing Reg. No. TN 63 BD 2515. Ex.X6 is the online copy of Driving licence of deceased. Ex.X7 is the xerox copy of Driving licence inspection report of vehicle bearing Reg. TN 63 BM 1779. Ex.X8 is the xerox copy of xerox copy of Motor Vehicle Inspection Report of 1st respondent's vehicle bearing Reg. No. TN 63 BM 1779 and following damaged 1. FL panel body fully damaged, 2. Front mudguard damaged, 3. Front wheel jam. Ex.X9 is the xerox copy of Rough Sketch. Ex.X10 is the original of Death Report of deceased.

9. On perusal of the documents produced by the petitioners and evidence let in, it is very much clear that the 1st respondent's Vehicle was involved in the accident and the FIR in Ex.P.1 is filed only against the 1st respondent vehicle driver. The owner of 1st respondent also remained exparte and did not come forward to dispute the case of petitioners. Where as, PW2, the eye witness has clearly stated that only due to the rash and negligent driving of 1st respondent vehicle, the accident occurred and at the time of accident, the deceased worn helmet. Though he was cross examined, nothing was elicited proving the contentions of 2nd respondent.

Though the 2nd respondent contended that, at the time the deceased Mathimaran was riding a bike towards north to south towards Sivagangai in the opposite direction and suddenly riding towards right side of the road, in a rash and negligence manner without minding on coming vehicles on the road and without adhering any traffic rules and regulation and dashed the 1st respondent vehicle and thus caused accident, the 2nd

respondent did not come forward to disprove the case of petitioners by adducing any oral or documentary evidence.

Another contention of 2nd respondent that, the deceased was riding bike under the drunken mood and he consumed alcohol at the time of accident. The 2nd respondent did not take steps to prove that the deceased was under the influence of alcohol and the accident occurred due to his intoxication by examining the doctors who have treated him after accident.

Our **Hon'ble Supreme Court in the case of Chandu Vs. Multi Speciality Lab Services Pvt., Ltd., in C.M.A. No.1348 of 2018** decided on 04.03.2019 has held as under;

“Mere smelling of alcohol from the mouth, dilation of pupils and incoherence in speech are not enough and cannot said to be conclusively prove drunkenness. Unless Urine or Blood Test is carried, it cannot be conclusively established that the driver of the vehicle was under the influence of alcohol. Mere smell of alcohol or consumption of alcohol should not be taken as contributory negligence on the part of claimant. Respondent should prove the drunken state of the claimant, which leads to nexus with accident”.

In the present case, there is no evidence to prove that any Urine or Blood test was done by the Medical officer. Without blood sample and urine being sent to the chemical analyzer and without any scientific report it cannot be said that the deceased was under the influence of alcohol so that he could not control himself and thereby contributed to the accident.

Considering all the above facts, this tribunal has come to the conclusion that the accident happened only due to the rash and negligent driving of the 1st respondent vehicle driver and the deceased did not contribute to the accident as alleged. Accordingly, this point is answered.

7.Point No.2:-

In the above case, the accident occurred on 21.04.2022 and the deceased died on 25.04.2022 in hospital after continuous treatment. Though, the 2nd respondent contended that the proving of death of the deceased due to the accidental injuries by way of conducting post-mortem only and the petitioners are not taken steps for conduction post-mortem it proves that the deceased might have died due to the decease and there is no nexus between the injury and death of deceased.

As per Ex.P2 Discharge Summary, the deceased was admitted as inpatient on 21.04.2022 and discharged on 25.04.2022 and was treated in Hospital as inpatient for 5 days and it is shown that, the deceased suffered to road accident with Head Injury and Facial Injury, Subarachnoid Hemorrhage, Diffuse Axonal Injury-Right Temporal Contusion, Left Tripod Fracture. As per Ex.X10 death report also confirms that the deceased died on 25.04.2022. Moreover, the PW1 stating in her evidence that,

விபத்து நடந்து 4 நாட்கள் கழித்து என் கணவர் இறந்தார்.

RW4 the VAO stated in his examination that,

இறந்தவர்களின் வீட்டில் உள்ளவர்களையும் மட்டும் விசாரித்தேனா என்றால் அக்கம் பக்கம் உள்ளவர்களையும் விசாரித்தேன். இறந்தவர் எதனால் இறந்துபோனார் என்று நான் போய் விசாரித்தேன். விசாரணையில் தெரியவந்ததன் அடிப்படையில் விபத்தால் இறந்துபோனதாக சொல்கிறேன் என்றால் சரிதான்.

Hence, the evidences of PW1, RW4 and Ex.P2 Discharge summary also confirms that, the deceased died on the same day due to the injuries.

When there is sufficient evidence before this court for the injuries sustained by the deceased and for the continuous treatment taken by the deceased, the 2nd respondent did not let in any evidence to rebut the evidence of petitioners

regarding cause of death. In this regard learned counsel for the petitioners relied upon the citation of our Hon'ble High Court reported in **2014(1) TNMAC 384 in National Insurance Co., Ltd., Vs. Anthony @ Rakesh and others**. In the said case, it is observed by our Hon'ble High Court that, in the absence of any contra evidence let in by the appellant nexus between death and injuries sustained in the accident is established and merely because postmortem report not produced it cannot be said that death had no nexus with injury particularly when death can be inferred from other materials. Hence, mere failure to do postmortem could not be considered as a proof of deceased death due to some other reason and as there is sufficient evidence before this court to prove the nexus between the accidental injuries and the death of deceased, it is decided that, the deceased died only due to the accidental injuries sustained.

It is already decided that the 1st respondent vehicle driver only caused the accident and the deceased did not contribute to the accident as alleged.

Another contention of 2nd respondent contended that there is no driving licence to the driver of the 1st respondent, hence it is violation of policy condition. To prove the same, RW1 is examined and Ex.X3 and Ex.X7 are marked. RW1, the Sivagangai RTO office witness has deposed that the driving licence of 1st respondent was not produced at the time of inspection and check report was issued and fine amount Rs.2,000/- has been paid in this regard.

Further RW2, the police witness stated in his evidence that,

வழக்கில் குற்ற இறுதியறிக்கை ச/பி 279 மற்றும் 338 இதச பிரிவின் கீழ் தாக்கல் செய்து அது STC 177/2022 என்ற எண்ணில் கோப்பிற்கு எடுக்கப்பட்டு எதிரி குற்றத்தை ஒப்புக்கொண்டு ரூ.2,000/- கடந்த 27.09.2022ம் தேதி அபராதம் செலுத்தியுள்ளார். மோட்டார் வாகன ஆய்வறிக்கையின்படி எதிரி பாலகிருஷ்ணன் தணிக்கையின் போது தனது ஓட்டுநர் உரிமம் சமர்ப்பிக்கவில்லை என்ற குறிப்பு உள்ளது.

As per Ex.X8 MVI Report, the driving licence of 1st respondent rider was not produced at the time of inspection. As per Ex.R2, the Legal Notice of 2nd respondent to the 1st respondent and 1st respondent vehicle rider. Ex.R4, the acknowledgment card of the 1st respondent rider, it is evident that, the 2nd respondent had sent legal notice to the 1st respondent and his rider to produce the driving licence of 1st respondent rider and inspite of receiving notice, driving licence of 1st respondent rider is not produced. From this, this court could infer and draw the adverse inference that the 1st respondent rider had no valid driving licence at the time accident. Allowing a person without driving licence to drive vehicle is a violation policy condition.

Hence, this tribunal has come to the conclusion that as there is a violation of policy condition, the 2nd respondent is not liable to pay compensation to the petitioners. Still, following the decision of our Hon'ble Supreme court of India in **National Insurance Co.Ltd Vs Swaran Singh's and others dated 05.01.2004, reported in 2004 TNMAC (1)P.104, SC**, this tribunal finds it proper to direct the 2nd respondent to pay the compensation to the petitioners and to recover the same from the 1st respondent. Though, the learned counsel for the 2nd respondent argued that after the Amendment Act 2019, the principle of pay and recover cannot be applied, the learned counsel for the petitioners relied upon the following decision of our Hon'ble High court of Allahabad in **ICICI Lombard General Insurance Co.Ltd Vs Arti Devi and 8 others dated 31.01.2025, reported in 2025(1) TN MAC 248 (All.)**. In the said case, Hon'ble High court of Allahabad has held that, the principle of pay and recover still continuous to govern the field advancing social object of Act protecting Third party interest and principle of law laid down by Supreme Court in Swarn Singh case not lost its significance and binding effect despite omission of Proviso to section 149(4) of Motor Vehicles Act, 1988 (59 of 1988) Section 149(4) [as substituted by Section

150 by 2019 Amendment Act (32 of 2019)] – Effect of Amendment – Omission of Proviso to Section 149(4) and replacement by Section 150, neither takes away liability of Insurer to pay compensation to claimants nor its right to recover amount from owner and Law to this effect remain intact and unaffected by 2019 Amendment and the Object of Act remains same even after 2019 Amendment and Intention of legislature was never to withdraw protection and reliefs ensured by previous provisions and Pay and Recover Principle still continues to govern filed advancing social object of Act protecting Third party interest and Principle of law laid down by Supreme Court in Swaran Singh not lost its significance and binding effect despite omission of Proviso to Section 149(4). As per the following decision of our Hon'ble Supreme court of India in **S.Latha Vs The United India Insurance Company Limited dated 25.11.2024, reported in Civil Appeal No. 13043 of 2024** also clearly upheld the pay and recovery order to protect the third party interest.

10. Hence, following the above judgment, the 2nd respondent is directed to pay the award amount to the petitioners and to recover the same from the 1st respondent. Accordingly, point no.2 is answered.

8. Point No.3:-

The petitioner is the wife of the petitioner of the deceased. Ex.P4 is the copy of legal heirs certificate of deceased issued by the Tahsildar of Thirupattur Taluk, Sivagangai District. The Tahsildar of Thirupattur Taluk certified that the petitioner is the legal heir of the deceased. Hence, the petitioner is dependent of the deceased and the entitled to get compensation.

Age of the deceased:-

As per the petitioners 1 to 3, the deceased was aged 50 years. No reliable proof, such as Birth Certificate or School Certificate are produced to prove the age of the deceased. In Ex.P2 Discharge Summary of the deceased, him age is

noted as 48 years. Since no reliable documents are available, relying the best evidence, Discharge Summary, the age of the deceased is calculated as 48 years.

Income of the deceased:-

As per the petition, that deceased was working as a Agriculture Coolie and he had been get Rs.25,000/- per month. But, no income proof is produced before this court for her income. Hence, notional income of deceased is to be fixed. In this regard, our Hon'ble Supreme Court in **Syed Siddque – Vs – Divisional Manager, United India Insurance Co., Ltd., 2014 (2 SCC) Page 735**, has fixed the notional income of vegetable vendor in the year 2014 as Rs.6,500/- P.M. for the accident of the year 2008. In this regard, our Hon'ble High Court in Saritha and others Vs Siva and other reported in 2020 (2) TN MAC 404 held that pragmatic approach required while fixing notional income. Considering the cost of living index and minimum wages etc., even as a daily casual worker the deceased could have easily earned Rs.264/- per day as a daily wages as mentioned in **Andal and 2 others Vs. Avinav Kannan and New India Insurance Co. Ltd., Chennai reported in 2019 (1) TN MAC 54 (Division Bench)** as per the above judgment of Our Honourable High Court Madras the Notional Monthly Income of the deceased Vegetable Vendor comes to Rs.13,302.32/-. Hence, the Notional Monthly Income for the deceased taken by the Tribunal as per the guidelines of the above judgment. Here in this case, considering the age of the deceased being 48 years and the date of accident is of the year 2022 and working as a Agriculture coolie, this court fixes the notional income of deceased as Rs.16,000/- per month.

Future Prospects :-

The age of the deceased aged was 48 years and his employment status is not a permanent one and so as per the principle laid down by the Honourable Supreme Court of India in Smt. Sarla Verma Vs. Delhi Transport Corporation,

2009 ACJ 1298 (SC) and National Insurance Company Limited Vs. Pranay Sethi and others reported 2017 (2) TN MAC 609 (SC), 25% of the Income of the deceased can be fixed as his future prospects. If so $\text{Rs.16,000} \times 25/100 = \text{Rs.4,000/-}$, $\text{Rs.16,000} + \text{Rs.4,000/-} = \text{Rs.20,000/-}$ is fixed as Actual Monthly Income of the deceased.

Deduction:-

The petitioner alone is the dependent of the deceased. In view of Hon'ble Supreme Court of India in **Smt. Sarla Varma & Others Vs. Delhi Transport Corporation & Another, 2009 (2) TN MAC 1 (SC)**, Since, the deceased was having three dependent, 1/3th of his income is to be deducted towards his personal expenses.

If so, $\text{Rs.20,000} \times 1/3 = \text{Rs.6,666/-}$.

The contribution of the deceased is calculated as Rs.13,334/-
(20,000 – 6,666).

Loss of dependency:-

The age of the deceased aged was 48 years. In view of Hon'ble Supreme Court of India in **Smt. Sarla Varma & Others Vs. Delhi Transport Corporation & Another, 2009 (2) TN MAC 1 (SC)**, for age group of among 46 - 50 years, Multiplier 13 is to be adopted and so the compensation for loss of dependency is calculated as Rs.20,80,104/- ($13,334 \times 12 \times 13$).

Consortium:

In view of the Honourable Supreme Court of India in **National Insurance Company Limited -Vs- Pranay Sethi and Others, 2017 (2) TN MAC 609 (SC)**, **Magma General Insurance Co. Ltd., Vs. Nanu Ram alias Chuhru Ram and others, 2018 (4) T.A.C. 345 (S.C.)** and **The Divisional Manager, National Insurance C.Ltd., Dindigul Vs. M. Amutha and 4 others, C.M.A. (MD) No.925 of 2018 dated 20.10.2023 of Honourable Madurai Bench of Madras High Court**, the

petitioner is the wife of the deceased is entitled to Rs.50,000/- Spousal Filial Consortium and the petitioners 2 and 3 are the son and daughter of the deceased are entitled to Rs.50,000/- Parental Consortium. (Rs.50,000 X 3 = Rs.1,50,000/-)

Loss of love and affection:-

Due to the death of the deceased, the petitioner is suffered with great loss of love and affection. Hence the petitioners, each is entitled to get compensation for a sum of Rs.10,000/- towards love and affection. (10,000 x 3 = Rs.30,000/-)

Transportation:

Due to the accident, the deceased died on 25.04.2022 he taken to hospital and his body given by the hospital. Hence, the petitioner is entitled to get transportation charges for taking the body from the hospital to home for cremation and other ceremonies. Accordingly, this Tribunal concluded to give compensation for a sum of Rs.10,000/- towards transportation expenses.

Loss of Estate:-

In view of Honourable Supreme Court of India in National Insurance Company Limited -Vs- Pranay Sethi and Others, 2017 (2) TN MAC 609 (SC) and Jayasree Vs. Cholamandalam MS General Insurance Co. Ltd., 2021 SCC Online 967, and The Divisional Manager, National Insurance C. Ltd., Dindigul Vs. M. Amutha and 4 others, C.M.A.(MD) No.925 of 2018 dated 20.10.2023 of Honourable Madurai Bench of Madras High Court, the Petitioner is entitled to Rs.16,500/- towards Loss of estate.

Funeral expenses:-

In view of Honourable Supreme Court of India in National Insurance Company Limited -Vs- Pranay Sethi and Others, 2017 (2) TN MAC 609 (SC) and Jayasree Vs. Cholamandalam MS General Insurance Co. Ltd., 2021 SCC Online 967, and The Divisional Manager, National Insurance C. Ltd., Dindigul Vs. M. Amutha and 4 others, C.M.A.(MD) No.925 of 2018 dated 20.10.2023 of

Honourable Madurai Bench of Madras High Court, the Petitioners is entitled to Rs.25,000/- towards funeral expenses.

Compensation for mental agony:

Due to this accident, the petitioners are very much suffered for the great mental agony is undeniable. Hence it is necessary to give compensation for mental agony as per judgment delivered by **our Honourable High Court of Madras in 2015 Accident Claimant Journal 2343 ICICI Lombard General Insurance Co. Ltd., Vs. Prakash.** Accordingly this Tribunal concluded to give compensation for a sum of Rs.10,000/- towards mental agony.

Apportionment of the Compensation determined by this Tribunal is detailed below:-

Head	Amount
Loss of dependency	Rs.20,80,104/-
Parental Consortium, to the petitioners	Rs.1,50,000/-
Loss of love and affection to the Petitioners	Rs.30,000/-
Transportation	Rs.10,000/-
Loss of Estate	Rs.16,500/-
Funeral Expenses	Rs.25,000/-
Compensation for mental agony	Rs.10,000/-
Total	Rs.23,21,604/-

Thus, total Compensation is fixed as Rs.23,21,604/-. Out of the award amount, the 1st petitioner being wife is entitled to Rs.13,21,604/- and the petitioners 2 and 3 being son and daughter are entitled to Rs.5,00,000/- and point no.3 is answered accordingly.

11. Point No.5:-

In the result,

1. that the petition filed by the petitioners are partly allowed with proportionate cost.

2. that the petitioner is awarded Rs.23,21,604/- together with interest at the rate of 7.5% per annum (Excluding the DFD period if any) from the date of petition till the date of realization of entire compensation amount.

3. that the respondents 2 and 3 are directed to pay the award amount to the petitioner.

4. that the respondents 2 and 3 shall deposit the award amount with interest and cost within one month from the date of this order by NEFT/RTGS mode in M.C.O.P. Virtual Account No.**SDJNOII9942022**, IFSC IOBA0001813, Indian Overseas Bank, District Court Branch, Tiruchirappalli of Motor Accident Claims Tribunal, Special District Court No.II, Tiruchirappalli under intimation by way of sending pay advice slip.

5. that the 1st petitioner being wife is entitled to Rs.13,21,604/- and the petitioners 2 and 3 being son and daughter are entitled to Rs.5,00,000/- and out of the award amount.

The amount of minor 3rd petitioner shall be deposited in any one of the Nationalised bank until she attains majority. The 1st petitioner is entitled to receive the interest on the minor amount for their maintainance once in every 3 months which shall be sent to the 1st petitioner account directly by the Bank concerned.

6. that the petitioners are directed to deposit the balance Court fee amount of Rs.22,216/- within 15 days from the date of this award. If the petitioners are not deposit the balance Court fee amount they will not eligible to withdraw the deposited amount.

7. that the petitioners are permitted to withdraw their respective share in the award amount along with proportionate interest and cost immediately after deposit by 2nd respondent through their Savings Bank Accounts by NEFT/RTGS subject to deposit of balance court fee.

8. that the 2nd respondent is permitted to recover the deposited amount from the 1st respondent on filing separate application in the same proceedings on the execution side.

9. that the Petitioners' Advocate fee is fixed as Rs.48,716/-.

10. that the 2nd respondent is directed to pay cost of Rs.71,414.50 to the petitioners.

Other necessary particulars:-

Date of petition	:13.06.2022
Date of Award	:30.07.2026
Amount of Compensation claimed	:Rs.25,00,000/-
Amount of Compensation awarded by this Tribunal:	Rs.23,21,604/-
Court Fee payable for the award amount	:Rs.22,588.50
Court Fee already paid	:Rs.372.50
Balance Court Fee to be paid	:Rs.22,216/-

COST LIST FOR THE PETITIONERS:

Sl. No.	Particulars of Cost for petitioners	Amount
1	Stamp for the award amount	Rs.22,588.50
2	Stamp on Vakalat	Rs.10.00
3	Service of Process and Charges	Rs.50.00
4	Stamp on Documents	Rs.50.00
5	Fee of Advocate for petitioners	Rs.48,716.00
	Total	Rs.71,414.50

Total Cost amount for the petitioners is Rs.71,414.50/-.

Dictated to the Steno-typist, computerized by her directly, corrected and

pronounced by me in the open court, this the 30th day of July, 2026.

Special District Judge No.II,
Special District Court No.II
to deal with MCOP Cases,
Tiruchirappalli.

Petitioner's side witnesses :-

PW1. Lakshmi

PW2. Mahendran

Petitioner's side documents :

Ex.P1	-	FIR	Xerox copy
Ex.P2	-	Discharge Summary of deceased issued by Apollo Hospital, Trichy	Original
Ex.P3	-	Death Certificate of deceased	Online copy
Ex.P4	-	Legal Heir Certificate of deceased	Online copy
Ex.P5	-	Aadhar Card of 1 st petitioner	Xerox copy
Ex.P6	-	Aadhar Card of 2 nd petitioner	Xerox copy
Ex.P7	-	Aadhar Card 3 rd petitioner	Xerox copy
Ex.P8	-	Motor Inspection Report of vehicle bearing Reg. No. TN 63 BM 1779	Xerox copy
Ex.P9	-	Rough Sketch	Xerox copy

Respondents' side Witnesses:-

RW1. Ajrin Kareem

RW2. Gunasekaran

RW3. Srijith Mohan

RW4. Balamurugan

Respondents' side Documents:-

Ex.R1	-	Insurance policy	True copy
Ex.R2	-	Legal notice sent to driver of 1 st respondent	Original
Ex.R3	-	Returned cover of driver of 1 st respondent.	Original

Third Party Documents:-

Ex.X1	-	Authorization letter given by RTO Office, Sivagangai	Original
Ex.X2	-	Motor Vehicle Inspection Report of vehicle bearing Reg. No. TN 63 BD2515	Xerox copy
Ex.X3	-	Motor Vehicle Inspection Report of vehicle bearing Reg. No. TN 63 BM 1779	True copy
Ex.X4	-	Form 24 Motor Vehicle Register of vehicle bearing Reg. No. TN 63 BD 2515	Original
Ex.P5	-	Form 24 Motor Vehicle Register of vehicle bearing Reg. No. TN 63 BD 2515	Xerox copy
Ex.X6	-	Driving licence of deceased	Xerox copy
Ex.X7	-	Driving licence inspection report of vehicle bearing Reg. TN 63 BM 1779	Xerox copy
Ex.X8	-	Motor Vehicle Inspection Report of vehicle bearing Reg. No. TN 63 BM 1779	xerox copy
Ex.X9	-	Rough Sketch	Original
Ex.X10		Death Report of deceased	Original

Special District Judge,
Special District Court No.II
to deal with MCOP Cases,
Tiruchirappalli.

Note: All necessary particulars are incorporated in the award as per the order of Honourable Madras High Court in Tr. CMP Nos.264/2020 to 281/2020 dt.11.05.2020. Hence Decretal Order will not be prepared separately.