



**MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUNELVELI
SPECIAL SUB COURT DEALING WITH MCOP CASES
TIRUNELVELI.**

**PRESENT:-THIRU.V. BREZNEV, M.A., L.L.M., (TN01507)
Special Sub-Judge,
Motor Accident Claims Tribunal, Tirunelveli.**

Dated 13th day of June 2025

Motor Accident Claims Original Petition No.639/2017

C.N.R. No. TNTL170007192017

T.Moses Thiraviyam, aged 61 years,
S/o. Thangamani,
residing at D.No.7/38,
West Street, Athisayapuram,
Rajagopalaperi, V.K Pudur Taluk,
Tirunelveli District.

... Petitioner

/Vs/

1. V.Madasamy,
S/o. Vallinayagam,
residing at D.No.1/422,
N.No.2, Bharathiyar Nagar,
Suthamalli,
Tirunelveli - 627 004.

2. United India Insurance Company Limited,
through its Branch Manager,
having office at No.221/1M,
Angu Vilas Building,
Main Road, Puliangudi - 627 855.

... Respondents

This petition was coming up on 05.06.2025 for final hearing before me in the presence of Thiru.S.Krishnakumar, Advocate for the Petitioner,



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Thiru.K.Kuttalanathan, Advocate for the 2nd Respondent and 1st respondent was being called absent set exparte and upon hearing the arguments and upon perusing the case records, and having stood over for consideration till this day, this tribunal delivers the following:-

AWARD

1. This Petition was filed u/s. 166 and 140 of the Motor Vehicles Amended Act 54/94, Claiming compensation amount of ₹ 15,00,000/- with interest at the rate of 12% per annum from the date of petition to till date of payment with costs.

1)	Name of the injured	: Moses Thiraviyam
2)	Age of the injured	: 61 years
3)	Occupation of the injured	: Agriculturist
4)	Income Pleaded	: ₹ 25,000/- per month
5)	Compensation Claimed	: ₹ 15,00,000/-
6)	Name of the Respondents	: 1. V.Madasamy, S/o. Vallinayagam, 2. United India Insurance Company Limited,
7)	Name of the Driver	: Esakkidurai, S/o. Madasamy Thevar
8)	Date of Accident	: 04.04.2017
9)	Date of Petition	: 10.07.2017



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

2. It is stated that on 04.04.2017 at about 9.30 Hrs, when the petitioner was riding in his motorcycle bearing Registration No. TN69AZ9966 from south to north at Thennampillai Street, V.K Pudur, west of Parasuraman House and when he was turning the motorcycle towards west, after giving proper signal, another motorcycle bearing Registration No. TN72P7906 belonging to the 1st respondent insured with the 2nd respondent driven by its rider in a rash and negligent manner, without observing the traffic rules and regulations of the road, came from east to west and dashed against the petitioner's motorcycle and as a result, the petitioner sustained injuries. Immediately, the petitioner was taken to the Hospital for treatment and admitted as inpatient. Due to injuries, the petitioner is permanently disabled. The V K Pudur Police registered a case in Cr.No. 86/2017, u/s 279, 337 IPC as against the rider of the 1st respondent and the same is pending before J.M. Court, Alangulam. The 1st respondent is the owner of the vehicle and 2nd respondent is the insurer of the said vehicle. Hence, both the respondents are jointly and severally liable to pay compensation to the petitioner. Hence, the petitioner is claiming a sum of ₹ 15,00,000/- as compensation under various heads with interest and costs.

3. The 1st respondent is remained exparte.



The contention of the 2nd respondent in the counter is as follows:-

4. This petition is not maintainable. The entire accident has been taken place only due to the careless and negligence on the part of the petitioner. Hence, the 1st respondent's rider was not responsible for the accident. The driver of the 1st respondent was not having valid driving licence and the 1st respondent's vehicle was not insured at the time of accident. Hence, the 1st respondent has violated the policy conditions. Hence, this respondent is not liable to pay compensation to the petitioner. The other allegations stated in the petition regarding the age, nature of injuries, nature of treatment, incurring of expenditure and the manner of the accident are all false and the petitioner has put to strictly prove the same. The compensation claimed under various heads and interest are highly excessive. Therefore, it is prayed for dismissal of the petition.

5. Documents and Evidence : -

In order to substantiate the petitioner's claim, the petitioner himself examined as PW1 and Ex.P1 and Ex.P10 were marked. On the side of respondents RW1 examined and Ex.R1 and Ex.R2 were marked.

6. Point for determination:-

1. Whether the accident occurred due to rash and negligent riding of the rider of the 1st respondent?
2. Whether the petitioner is entitled compensation from the respondents?
3. What is the quantum of compensation payable to the petitioner?



Point No.1 and 2 :-

7. The petitioner has examined as PW1 and he has stated that on 04.04.2017 at about 9.30 Hrs, when the petitioner was riding in his motorcycle bearing Registration No. TN69AZ9966 from south to north at Thennampillai Street, V.K Pudur, west of Parasuraman House and when he was turning the motorcycle towards west, after giving proper signal, another motorcycle bearing Registration No. TN72P7906 belonging to the 1st respondent insured with the 2nd respondent driven by its rider in a rash and negligent manner, without observing the traffic rules and regulations of the road, came from east to west and dashed against the petitioner's motorcycle and as a result, the petitioner sustained injuries.

8. In this respect, on perusal of Ex.P1 - FIR, it is seen that it was registered against the riding of the 1st respondent rider. There is no independent witnesses examined on the side of the respondents to disprove the manner of accident. Hence, preponderance of probabilities available in favour of petitioner. The 2nd respondent stated that the petitioner is responsible for the accident but there is no evidence adduced by the respondent to prove that the petitioner is also responsible for the accident. Hence, considering the evidence of PW1, contents of FIR, this tribunal of the view that accident occurred due to rash and negligent riding of the 1st respondent's rider.



9. Further, the 2nd respondent has contended that the 1st respondent's rider did not possess valid driving licence at the time of accident. In this respect, on perusal of FIR in Ex.P1 the driver name is mentioned as Esakkidurai but on perusal of Ex.R2 – MVI Report, the driver of the 1st respondent shown as N.Mahendran, S/o. Manickaraj. The 2nd respondent examined the RTO, Tenkasi to produce the driving licence of one Madasamy but who is not the driver of the vehicle bearing Registration No. TN72P7906. The RTO official/ RW1 says that one Madasamy does not hold driving licence. In this respect, the 2nd respondent insurance company has not been examined to prove who is the driver of the vehicle bearing Registration No. TN72P7906. Further, there is no notice issued by the 2nd respondent to the driver and owner of the vehicle bearing Registration No. TN72P7906. Even the 2nd respondent did not examine the police official to prove who is the driver of the motorcycle bearing Registration No. TN72P7906. Even the 2nd respondent did not produced the criminal case Final Report to prove who is the driver of the vehicle bearing Registration No. TN72P7906. Hence, the 2nd respondent has not proved that the 1st respondent's driver has no valid driving licence at the time of accident. Further, the 2nd respondent has not proved that the petitioner has no valid driving licence at the time of accident. As per the FIR the driver of the 1st respondent is responsible for the cause of accident. Since, the 1st respondent's vehicle was insured with the 2nd respondent insurance company, the 2nd respondent shall indemnify compensation payable to the petitioner. Accordingly, Point No.1 and 2 are answered.



Point No.3 :-

10. The petitioner stated that due to injuries, the petitioner suffered grievous injuries due to accident. In this respect, the petitioner has been examined as PW1 and marked Discharge Summaries, Doctor Prescriptions, Lab Reports, Scan Reports and Photographs as Ex.P2 to Ex.P7. On perusal of Scan Reports, it is seen that the petitioner suffered fracture noted in right frontal bone and orbital rim and in medial wall of right orbit and fracture noted in bilateral nasal bone. The said injuries are grievous in nature. Further, the petitioner has dispensed with the appearance before Medical Board for assessing disability. Hence, considering the injuries suffered by the petitioner, this tribunal of the view that the injuries are grievous in nature. Therefore, considering the nature of injuries, this tribunal is inclined to award a lump sum of ₹ 65,000/- as compensation for his **grievous injuries**.

11. The petitioner has stated that he was an Agriculturist and earned ₹ 15,000/- per month. The petitioner has not produced any document to show his income. However, it does not mean that the petitioner was not at all worked. Even as a Labour the petitioner could easily earn about ₹ 250/- per day. In this respect, considering the age of petitioner and the nature of employment alleged to have been done by him and year of accident, this tribunal is of the view that the petitioner would have earned ₹ 7,500/- per month. Accordingly, this tribunal fix the notional income of the petitioner



at **₹ 7,500/- per month**. Considering the nature of injuries and the period of treatment, this tribunal is of the view that the petitioner would not have gone to his regular work at least for a period of **2 months**. Therefore, the **loss of income** would be **₹ 7,500/- x 2 months = ₹ 15,000/-**.

12. The petitioner has produced medical bills for ₹ 2,85,788/- as Ex.P8. The said bills is denied by the respondents. Hence, the petitioner is entitled a sum of **₹ 2,85,788/-** is awarded under the head of **Medical Expenses**.

13. This tribunal also fix at **₹ 20,000/-** under the head of **pain and sufferings**, A sum of **₹ 15,000/-** towards **loss of convenience, loss of amenities, damages of clothes and articles**. This Tribunal allows a sum of **₹ 5,000/-** towards **Transport charges**. A sum of **₹ 5,000/-** is fixed for **Attendant Charges** and a sum of **₹ 10,000/-** is fixed for **Extra Nourishment**. In total, the petitioner is entitled to claim **₹ 4,20,788/-** as compensation which is just and reasonable. Accordingly, Point No.3 is answered.

14. In the result, this petition is partly allowed with proportionate costs. The petitioner is entitled to a sum of **₹ 4,20,788/-**, as compensation with interest at 7.5% percent per annum from the date of filing as mentioned in para 1 to till the date of payment (Excluding the default period if any). The 2nd respondent is liable to pay compensation and it is directed to pay/deposit such compensation in Virtual Account No. V00474**6392017**



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(IFSC Code : IDIB000K184) within 30 days from the date of this order. On such deposit the petitioner is permitted to withdraw the entire award amount with accrued interest. Advocate fee is fixed at ₹ 11,208/-. The 2nd respondent is also directed to pay the cost as tabulated hereunder.

<u>Cost Statement on petitioner side</u>		₹
1	Vakalath	10
2	Batta Memo	35
3	Stamp on documents	15
4	Advocate Fee	11208
5	Court Fee	3580
Total		₹ 14,848/-

15. The petitioner has filed separate petition under rule 24(3) of M.V. Claim rules for exemption of court fee and Paid Court Fee of ₹ 20/- is affixed in the claim petition. The **Court Fee is fixed at ₹ 3,580/-**. The petitioner is directed to deficit/ balance Court Fees within a month from the date of this order and only on such payment, the petitioner shall be permitted to withdraw the award amount.

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 Section 168 (2) of the MV Act and Rule 20 (6) of the Motor Vehicle Accident Claim Tribunal Rules.



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Directly dictated to Steno Typist and typed in the computer directly and it was corrected and pronounced by me on **13th day of June 2025**.

Special Sub Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

Petitioner side witness :-

PW1	Moses Thiraviyam (Petitioner)
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Petitioner side Documents :-

Ex.P1	Copy of FIR
Ex.P2	Discharge Summary
Ex.P3	Discharge Summary
Ex.P4	Doctor Prescriptions
Ex.P5	Lab Reports
Ex.P6	Scan Report
Ex.P7	Photographs
Ex.P8	Medical Bills
Ex.P9	Copy of Aadhaar card of petitioner
Ex.P10	Copy of front page of bank passbook of petitioner



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Respondents side witness :-

RW1	Mathiyarasan, Typist, RTO, Tenkasi
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Respondents side Documents :-

EX.R1	Authorization letter in favour of RW1
EX.R2	Copy of MVI Report of both vehicles

Special Sub Judge,
Motor Accident Claims Tribunal,
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