

BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
CHENNAI

(In the IV Court of Small Causes, Chennai)

Present: Tmt.M.Arundhadhi, B.A. B.L.,
IV Judge

Thursday, the 9th day of July 2026

M.C.O.P. 2524 of 2022
CNR No.TNCH09-006086-2022

Shajahan,
S/o.Nasar Muslim,
No.21, Santhuvelli amman Kovil Street,
Kundrathur,
Kancheepuram-600069.

....Petitioner

-Vs-

1. Ganesh, S/o.Rangaami,
No.13/48, Gangai Amman Kovil Street,
IND Estate Ekkattuthangal,
Guindy, Chennai-600 032.

2. ~~Royal Sundaram Insurance Company Ltd.,~~
Reliance General Insurance Company Limited.,
(Amended as per memo order dated 10.08.2026 in SR 21157A dated 05.08.2026)
Plot No.2054, 2nd Floor,
2nd Avenue, Raj towns,
Anna Nagar, Chennai-40.

....Respondents

This petition is came up before me for final hearing on 20.04.2026 in the presence of M/s.P.Shanmugam and M/s.Lilly Rani, Counsels appearing for the Petitioner, 1st respondent remained exparte M/s.M.Jayaraj , Counsel appearing for the 2nd respondent upon hearing the arguments on both sides and upon perusing the entire records of the case, having stood over for consideration till this date, this Tribunal pronounces the following:-

ORDER

1. This petition has been filed under Section 166 of the Motor Vehicles Act and

Rule 3 of the Motor Vehicles Rules, seeking for compensation of Rs.20,00,000/- for the injuries sustained by the Petitioner in a motor accident.

2. The averments made in the petition are briefly as follows:-

(i) The case of the petitioner is that on 25.05.2022 at about 18.000 hrs, while the petitioner was driving his Motorcycle Bearing Reg.TN10-AK-9346 at Pallavaram to Poonamallee Road near Manancherry in Kundrathur, at that time on a Bolero Truck bearing Reg.No.TN 09-CS-8600 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner and hit against the petitioner and thus caused the accident to the petitioner. As a result, the petitioner sustained grievous injuries as stated in Column No.11 of the petition. The accident was reported to The Inspector of police, TIW Chrompet Police Station, Chennai and the case was registered in Crime No.369/22 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the driver of the respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 40 years and he is a owner of Chicken Stall and earning Rs.24,000/- per month at the time of accident. Due to the injuries sustained by the petitioner, he is unable to do the activities as before the accident. The 1st respondent being the owner and 2nd respondent being the insurer of the vehicle viz., Truck bearing Reg.No. TN 09-CS-8600 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.20,00,000/- with along with cost. Hence this claim petition.

3. The averments made in the counter filed by the 2nd respondent are briefly as follows:-

(i) The 2nd respondent denies the age, occupation and income of the petitioner. Further denies that the accident occurred due to the negligence of the 1st respondent vehicle driver and denies the manner of accident.

(ii) Further denies that the driver of the 1st respondent's vehicle possessed valid driving license, Fitness certificate, permit and his vehicle was insured with this respondent at the time of accident.

(iii) The respondent submits that at the time of accident the petitioner was riding his Motorcycle without Driving Licence and helmet in a rash and negligent manner and hit against the 1st respondent's Truck bearing Reg.No. TN 09-CS-8600 and thus invites the accident. The driver of the 1st respondent's vehicle not responsible for the accident.

(iv) The respondent further submits that the driver of the 1st respondent vehicle has not possessed valid driving licence at the time of accident, the 1st respondent well aware of the fact allowed the driver to drive the vehicle without valid Driving Licence and thereby committed willful breach of policy condition. So the 2nd respondent is not liable to indemnify the 1st respondent.

(v) Further denies the nature of injury, period of treatment and medical expenses of the petitioner and alleges that the claim is excessive. The respondent craves leave to file section 170 petition under M.V. Act and also reserves its right to file additional counter and therefore prayed to dismiss the petition.

(vi) The 1st respondent remained exparte.

4. On the above pleadings the following points arise for determination:

- (1) Whether the accident has occurred due to rash and negligent driving by the driver of the vehicle viz., Truck bearing Reg.No. TN 09-CS-8600 which is owned by 1st respondent and insured with 2nd respondent?
- (2) Whether the Petitioner is entitled for any compensation? If yes, what is the quantum of compensation and from which respondent?
- (3) To what relief the petitioner is entitled to?

5. ON THE POINTS:

(i) On the side of the petitioner, PW1 Shajahan examined on proof affidavit and Ex.P1 to P14 & Ex.C1 were marked.

(ii) 1st respondent remained exparte. The 2nd respondent filed a petition u/s 170 MV Act in M.P.1/2026 viz. Order dated 19.02.2026, the same was allowed and the 2nd respondent is permitted to contest the case on all grounds that are available to the

insured. On the side of 2nd respondent, RW1 insurance official examined and Ex.R1 and R2 were marked.

(iii) Based on the above materials the Learned Counsel for the petitioner and 2nd respondent submitted their arguments. After hearing both sides and perusing material records and after giving careful consideration to the submission made on either side, the above points are answered as below.

6. Point No.1:

(i) The 2nd respondent denies the manner of accident and the negligence upon the driver of respondent's Truck and the petitioner also contributed towards the accident so the burden of proof is upon the petitioner to establish the manner of accident and negligence is upon the driver of offending vehicle bearing Reg.No.TN 09-CS-8600. The petitioner examined himself as PW1 on proof affidavit, he reiterated the petition averments and attributing the total negligence upon the driver of the 1st respondent's vehicle that on 25.05.2022 at about 18.000 hrs, while the petitioner was driving his Motorcycle Bearing Reg.TN10-AK-9346 at Pallavaram to Poonamallee Road near Manancherry in Kundrathur, at that time on a Bolero Truck bearing Reg.No.TN 09-CS-8600 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner and hit against the petitioner and thus caused the accident to the petitioner. In the said road traffic accident the petitioner sustained grievous injury.

(ii) In support of him case PW1 relies upon Ex.P1 FIR, Ex.P2 Discharge Ex.P3 Discharge Summaries.

(iii) On the other hand, the 1st respondent remained exparte, inspite of service of summons.

(iv) The 2nd respondent/Insurance Company filed counter denies all the petition averments as false. The 2nd respondent further contended that the accident occurred only due to the rash and negligent riding by the petitioner / rider of Motorcycle bearing Reg.No.TN 10-AK-9346. The 1st respondent vehicle driver not responsible

for the accident. So the 2nd respondent is not liable to pay compensation to the petitioner. The 2nd respondent insurance company contended that, the petitioner rode the Two wheeler in inebriated state and invites the accident. The petitioner is the tortfeasor and the petition is to be dismissed. In support of its contention, RW1 Insurance official on proof affidavit, through him Ex.R1 and R2 were marked. Ex.R2 is the AR copy. A perusal of Ex.R2 AR copy, it is mentioned as “under alcohol influence”. The 2nd respondent submits that the petitioner was under the influence alcohol and the same is mentioned in the AR copy and it clear that the petitioner is the tortfeasor. At this juncture, it is pertinent to note that mere mentioning of breath smell of alcohol in AR copy is not sufficient to prove that, the petitioner was under the influence of alcohol at the time of accident. There is no evidence to show that the alcohol consumption has influenced the driving capacity of the petitioner. So in the absence of any medical records, a mere breath of alcohol is not sufficient to prove that the alcohol consumption has influenced the driving capacity of the petitioner. The above issue has been dealt by Hon’ble High Court in Ramesh .vs. Selvakumar 2024 SCC Online Madras 809 decided on 16.04.2024. So in view of the above Judgment the contention of the 2nd respondent is not sustainable.

(v) Though the 2nd respondent denies the negligence & manner of accident upon the driver of 1st respondent’s vehicle but fails to substantiate the same with oral and documentary evidence. Whereas the petitioner through Ex.P1 FIR, Ex.P2 Discharge summary & Ex.P3 Discharge Summary clearly establishes that criminal Prosecution is lodged against the driver of the 1st respondent vehicle for the road traffic accident caused by him. Therefore from the oral evidence of PW1 documentary evidence Ex.P1, P2 & P3 the petitioner proves the negligence upon the driver of the offending vehicle namely Truck bearing Reg.No.TN 09-CS-8600. Hence Point No.1 answered affirmatively.

7. Point No.2 :-

(i) In view of the findings in Point No.1 the petitioner is entitled for just &

reasonable compensation for the injuries suffered by him in the accident. There is no dispute that the offending vehicle Truck bearing Reg.No. TN 09-CS-8600 is owned by the 1st respondent and insured with the 2nd respondent at the time of accident. No dispute with respect to the accident and the petitioner got injured. Hence both the respondents 1 & 2 are jointly severally and vicariously liable to pay compensation to the petitioner.

(ii) The factors that are relevant to be considered in order to arrive at just compensation and the quantum of loss of income are the age of the claimant, the nature of employment, income, the nature of disability suffered and the impact of the permanent disability upon the earning capacity of the injured having regard to the nature of the employment.

(iii) The occurrence has taken place on 25.05.2022. As per the medical records in Ex.P2 Discharge summary & Ex.P3 Discharge Summary, the age is given as 38 years as on the date of accident (i.e.,25.05.2022). Ex.P12 Aadhar card of PW1 the year of birth is given as 1982. Considering the same the age of the petitioner as on the date of accident is fixed as 40 years.

(iv) According to the petitioner he is running a Chicken Stall and earning Rs.24,000/- per month, at the time of accident. But to substantiate the same no oral or documentary evidence produced to prove avocation and income.

(v) Hence following the Judgment reported in 2018(2) TNMAC 168 (National Insurance Co., Ltd., and Ors. Vs. Thangadurai), considering his age, ability and economic condition in the year of 2022. Hence the notional income of the petitioner is fixed as Rs.16,500/- per month.

(vi) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P2 Discharge Summary, the petitioner was taken treatment at Rajiv Gandhi Government Hospital, Chennai as inpatient for about 30 days from 25.05.2022 to 23.06.2022. He was diagnosed with Right Both Bone Forearm Fracture and Right 4th and 5th Metacarpal Fracture with Clavicle Fracture Right Side. He

undergone surgery, ORIF done for Femur Fracture, Plating for Both Bone Forearm Fracture done on 10.06.2022 and got discharged on 22.06.2022. Ex.P3, the petitioner got admitted at Sri Muthukumran Medical College and Hospital and taken inpatient treatment for about 30 days from 06.09.2022 to 07.10.2022 for infected plate removal Both Bone Forearm. He undergone surgery on 26.09.2022, plate was removed and got discharged on 07.10.2022. Ex.P4 is the Continuous Treatment Note.

(vii) Considering the nature of injury, petitioner referred to Regional Medical board as per the directions of the Honourable High Court in the reported decision **Branch Manager, TATA AIG General Insurance Co., Ltd., Coimbatore -Vs- Prabhu & Others 2016 (1) TNMAC 609(DB)** for assessment of disability. The Medical Board opined that the petitioner has suffered 41% Locomotor disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(viii) A perusal Ex.C1 Disability Certificate, Medical Board has obtained that the petitioner suffered 41% of physical disability, out of which 28% has functional disability. Hence following the Judgment of the Hon'ble High Court in United India Insurance Co. Ltd. v. Veluchamy reported in 2005 ACJ 1483 & Raj Kumar v. Ajay Kumar and Anr. (2011) 1SCC 343. The petitioner has suffered 41% partial physical permanent disability due to Femur Fracture, Both Bone Forearm Fracture and Clavicle Fracture.

(ix) The petitioner aged 40 years as on the date of accident. There is no proof that the petitioner has suffered loss of earning capacity due to the accident. However, considering the nature of injury where the lower limb and upper limb got fractured, he will not be able to walk and do his avocation in the normal manner as before. This will definitely affect his capacity to earn and to do other activities like other normal person and affecting his future prospects.

(x) Hence considered the above aspects this Tribunal is of the view that the petitioner has suffered functional disability leading of loss of earning capacity will be

to the extent of 28% and it will be just and proper to adopt multiplier method to arrive at compensation, and as held by the Hon'ble Division Bench in CDJ 2018 MHC 6065 (Mohammed Babu Versus MGM Travels, Chennai & Another) the assessment under the heads loss of income during medical treatment need not be made.

(xi) Based on the above discussed materials and facts and circumstances of the case, the compensation under both Pecuniary and Non-Pecuniary heads are assessed as below:

Loss due to Permanent Disability:

As per Medical records and the Disability Assessment Certificate in Ex.C1, the petitioner has suffered 41% partial physical permanent disability and the functional disability is also assessed at 28%. In B.Kothandapani Vs. Tamil Nadu State Transport Corporation Ltd., 2011 2 TN MAC 62 (SC), it is held that each disability to be compensated separately. Also in 2013 5 LW 576 (S.Manickam vs Metropolitan Transport Corporation Ltd) and 2017(2) TN MAC 544 (New India Assurance Co.Ltd., vs.Sakthivel and another compensation is awarded for both the disability. Following the same ratio, considering the serious nature of injury the petitioner is entitled for compensation for both physical and functional disability.

Disability compensation:

The petitioner has suffered 41% partial physical permanent disability as per medical board report in Ex.C1. It is assessed at Rs.8,000/- per percentage and the loss due to disability compensation is arrived at **Rs.3,28,000/-** (Rs.8,000/- x 41%).

Loss of earning capacity:

The functional disability of the petitioner is assessed at 28%. The petitioner is aged about 40 years as on the date of accident. Applying the ratio laid down by the Hon'ble Supreme Court in 2017 (2)TN MAC 609 (SC) (National Insurance Co. Ltd vs Pranay Sethi and anr.), future prospects will be 25% and the monthly income is Rs.20,625/- (Rs.16,500 x 25/100 = Rs.4,125). The multiplier applicable will be 9 since the petitioner is aged 45 years. Thus the loss of earning capacity is calculated at

$(Rs.20,625 \times 12 \times 28\%) \times 15m = \text{Rs.10,39,500/-}$.

Medical expenses:

The petitioner has taken treatment at Government and Private Hospital. He produced Ex.P5 series of Medical Bills for **Rs. 28,135/-**. Since there is no serious objection raised on the side of 2nd respondent and all the bills are original bills, the same is awarded as it is.

Transport Charges:

The petitioner taken treatment at Government & Private Hospital as inpatient for about 60 days. Hence he would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at **Rs.15,000/-**.

Extra-nourishment & Damages to clothing and articles:

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.20,000/-** towards extra nourishment and **Rs.1,000/-** towards damages to clothing and articles.

Compensation for Pain and Sufferings:

The petitioner has suffered Right Both Bone Forearm Fracture and Right 4th and 5th Metacarpal Fracture with Clavicle Fracture Right Side and ORIF done and he was treated as inpatient for 60 days at Government & Private Hospital. Hence considering the nature of injury, period of treatment & disablement, trauma & pain undergone by the petitioner it is just and proper to award **Rs.40,000/-** towards pain and sufferings.

Attender Charges:

The petitioner admitted at Government & Private as an in-patient for about 60 days and ORIF and Plating done. The mobility of the petitioner is restrained by the injury and he depends on an attender to do his day to day avocations. Hence considering the nature of injuries and period of recovery a sum of **Rs.10,000/-** is awarded towards attender charges.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Right Both Bone Forearm Fracture and Right 4th and 5th Metacarpal Fracture with Clavicle Fracture Right Side suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.50,000/-** towards loss of amenities.

In view of the foregoing discussion this Tribunal fixed the just compensation as follows:

CALCULATION:

1. Disability	:	Rs. 3,28,000/-
2. Loss of earning capacity	:	Rs. 10,39,500/-
3. Medical Expenses	:	Rs. 28,135/-
4. Transportation	:	Rs. 15,000/-
5. Extra Nourishment	:	Rs. 20,000/-
6. Damages to clothing and articles	:	Rs. 1,000/-
7. Pain and Sufferings	:	Rs. 40,000/-
8. Attender Charges	:	Rs. 10,000/-
9. Loss of amenities	:	Rs. 50,000/-

Total Compensation is fixed at	:	<u>Rs. 15,31,635/-</u>
Rounded off to	:	Rs. 15,31,700/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.15,31,700/-** i.e., **fifteen lakhs thirty one seven hundred** and Point No.2 is answered accordingly.

8. Point No.3:

In view of the above finds, the petitioner is entitled for compensation as above together with interest at 7.5% p.a from the date of petition with cost and none other relief the petitioner is entitled to and point No.3 is answered accordingly.

9. Result:

In the result, this petition is partly allowed and a sum of **Rs.15,31,700/- (Rupees fifteen lakhs thirty one thousand seven hundred only)** is awarded as just compensation to the Petitioner with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e., 10.06.2022 till the realization, payable by the 2nd Respondent. No interest for the default period as per orders if any. The 2nd respondent is directed to deposit the said amount to the credit of the bank account of this claim tribunal directly by NEFT OR RTGS mode within a period of two months from this order, and intimate the said deposit details to this tribunal with a copy of the said Bank advise. Thereafter, the said amount shall be made directly to the credit of the Petitioner bank account.

This Tribunal Account particulars:

Registrar (MACT), Court of Small Causes, Chennai

Account No. 7103261207

IFSC No. IDIB000M157

Indian Bank, Madras High Court Branch, Chennai.

E-mail ID. chnccc.sccrc-tn@indiancourts.nic.in

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The Petitioner name is – Shajahan

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Bandhan Bank, Adyaar Branch.	Acc : 502300022922431 IFSC : BDBL0001841	6633 4744 2774	Not furnished

In view of the direction issued by the Honourable Division Bench of the High Court of Madras in CMA No. 428/2016 dated 11.03.2016, the petitioner is hereby directed to furnish the self attested copy of Pan card to this Tribunal within a period of one month from to-day without fail. The petitioner has paid a sum of **Rs.372.50/-** towards Court fee. As per this award, the Court fee is **Rs.14,689.50/-**. The Advocate

fee is fixed at **Rs.22,317/-**. The deficit court fee of **Rs.14,317/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	10.06.2022
Date of taken up on file	14.06.2022
Compensation claimed in the M.C.O.P.	Rs.20,00,000/-
Compensation awarded in this petition	Rs.15,31,700/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.14,689.50/-
Additional court fee shall be paid	Rs.14,317/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.37,051.50/-** towards the costs of this petition.

Cost List for the petitioner

<u>STATEMENT OF COSTS</u>							
<u>For the petitioners</u>					<u>For the Respondents</u>		
		<u>Rs.</u>		<u>P.</u>		<u>Rs.</u>	<u>P.</u>
Stamp on petition	-	14,689	.	50			
Stamp on Vakalat	-	5	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees		22,317	.	00			
Costs allowed	-	37,051	.	50			

The direction regarding copy of the Judgment and decretal order prepared

under Sub rule 6 of Rule 20 of TNMAC Rules, 1989 and Hon'ble Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 are obediently followed and further it is informed that, as per the direction of the Honourable High Court, as far as this claim Petition is concerned, Decree is not drafted separately and in the award, instead of drafting the decree, necessary details have been incorporated in this claim Petition's order.

This order has been dictated by me to the typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Thursday, the 9th day of July 2026.

**Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai**

Petitioner's side Exhibits:

- Ex.P-1 : FIR Xerox
- Ex.P-2 : Rajiv Gandhi Hospital Discharge summary
- Ex.P-3 : Muthukumarn Medical College Hospital Discharge summary
- Ex.P-4 : Outpatient Records
- Ex.P-5 : Medical Bills Rs.28,135/-
- Ex.P-6 : LAB Reports
- Ex.P-7 : 1st Respondent Registration Certificate
- Ex.P-8 : 1st Respondent Vehicle Insurance copy
- Ex.P-9 : 1st Respondent Vehicle Inspection Report
- Ex.P-10 : 1st Respondent Driving License
- Ex.P-11 : 1st Respondent Vehicle Permit
- Ex.P-12 : Aadhar Card xerox

Ex.P-13 : Bank Pass Book Xerox

Ex.P-14 : X-ray

Respondents Side Witness:

R.W.1: Saravanabavan

Respondent's side Exhibits:

Ex.R-1 : ID Card

Ex.R-2 : Accident Register of the Petitioner

Court documents:

Ex.C1 Disability Certificate issued by Medical Board.

**Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai**