BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL

(III COURT OF SMALL CAUSES, CHENNAI)

Present: Shri. M.DHARMAPRABU, M.A., M.L.,

III Judge, Court of Small Causes

Wednesday, the 22nd day of July 2026

Motor Accidents Claims Original Petition No.638 of 2020

CNR NO : TNCH09-001343-2020

Mr. D.Rajavel S/o. Duraisamy,
M.K.Koil Street, Vardakottipakkam,
Alathur Post, Marakanam Tk, Villupuram. …Petitioner

-Vs-

1. Veerappan S/o. Subramani,
No.72A, Mariyannan Koil Street,
Kayalmedu, Vanur, Tk, Villupuram,

2. National Insurance Co. Ltd.,
Third Party Claims Office,
Regina Manson, 3rd Floor, No.46,
Moore Street, Parry's Corner, Chennai – 01. …Respondents

Appearance:

M/s.M.Manikandhan & Others, Counsels appearing for the Petitioner.

1st Respondent: Set *exparte* on 19.03.2021.

M/s.M.Harivenkatesh, Counsel appearing for the 2nd Respondent.

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Upon perusing the entire records, I passed the following

AWARD

The Petitioners filed claim petition seeking for a compensation of Rs. 25,00,000/- for the injuries sustained by him in a motor accident.

2. Gist of the Petition:

The Petitioner was aged about 47 years working as a Former and Coolie thereby earning Rs. 1,000/- per day. On 24.02.2019 at about 09.00 p.m., when the petitioner was riding a motorcycle bearing registration number TN 03 Q 2817 and parked the vehicle to cross Tindivanam – Puducherry Highways, near Aryas Hostel, a motorcycle bearing registration number TN 16 E 1098 belonging to the 1st Respondent driven by its driver in a rash and negligent manner on the opposite direction and dashed against thee petitioner due to which the petitioner sustained Closed Fracture of left leg, Open extensore Digitorum longus Tendone injury of left leg, fracture in left leg hoffa and multiple injuries all over his body. A criminal case was registered in Crime No. 140 of 2019 on the file of Tindivanam Police Station. The 2nd Respondent is the insurer.

3. Crux of the Counter of 2nd Respondent:

Denied the manner of the accident. The accident was happened only due to the Petitioner's own negligence by riding his motorcycle in the middle of the road. Age, income and occupation are denied. The Petitioner sustained simple injuries alone. The claim of the petitioner is highly excessive. Since the accident was due to the negligence of the Petitioner, he is not entitled to compensation.

4. Points for Consideration

1. On whose negligence did the accident occur?
2. Whether the petitioner is entitled to compensation? If so, to what Quantum?
3. Who is liable to pay the compensation?

5. On the side of the Petitioner, the Petitioner was examined as PW1 and Ex.P1 to P11 were marked. On the side of the 2nd Respondent, an application under Section 170 of the MV Act was filed and allowed, however, no documentary evidence was adduced. The Petitioner was referred to the Medical Board and the Disability was assessed at 17% and the Disability certificate was marked as Ex.C1

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6. Answer to Point No. 1:

(a) The burden lies upon the Petitioner to establish that the accident occurred due to the rash and negligent riding of the motorcycle belonging to the 1st Respondent. In support of his case, the Petitioner examined himself as PW1 and relied upon Ex.P1 to Ex.P11. Ex.P4 is the First Information Report, which was registered against the rider of the 1st Respondent's motorcycle. The Ex.P8 is the Accident Register. It assumes significance. It specifically records that the Petitioner had the smell of alcohol in his breath at the time of admission. Though there is no material to establish that the Petitioner was prosecuted for drunken driving or that his blood alcohol content was scientifically determined, the contemporaneous medical record cannot be ignored. Even the 2nd Respondent did not raise any defence on that point.

(b) Further, as per the pleadings of the Petitioner himself, he had parked his motorcycle on the side of the Tindivanam–Puducherry Highway and attempted to cross the highway when the accident occurred. A person attempting to cross a National Highway is expected to exercise a high degree of care and caution before entering the carriageway. The fact that the Petitioner attempted to cross the highway coupled with the medical record showing smell of alcohol indicates that he had not exercised the degree of care expected of a prudent road user.

(c) At the same time, the FIR has been registered against the rider of the 1st Respondent's motorcycle and there is no contra evidence adduced by the Respondents. Therefore, this Tribunal is of the considered view that the accident occurred due to the contributory negligence of both parties. The rider of the 1st Respondent's motorcycle was primarily responsible for causing the accident, while the Petitioner also contributed to the occurrence by attempting to cross the highway without exercising adequate caution and by doing so after consuming alcohol, as reflected in Ex.P8. Accordingly, this Tribunal fixes 15% contributory negligence on the Petitioner and 85% negligence on the rider of the 1st Respondent's motorcycle. Point No.1 is answered accordingly.

7. **Answer to Point No. 2:**

(a) Ex.P9, the Discharge Summary, reveals that the Petitioner sustained a closed patellar fracture of the left side, open extensor digitorum longus tendon injury and Hoffa's fracture of the left side and was treated as an inpatient from 25.02.2019 to 19.03.2019. The nature of injuries corroborates the occurrence of the accident.

(b) The Petitioner claimed that he was working as a farmer and coolie earning Rs.1,000/- per day. No documentary evidence has been produced to prove either his avocation or income. Therefore, the income has to be fixed notionally. Considering the Cost Inflation Index for the financial year 2018-2019 (280) and the prevailing wages during the relevant period, this Tribunal fixes the notional monthly income at **Rs.14,000/-**.

(c) The Discharge Summary (Ex.P9) shows that the Petitioner was hospitalized from 25.02.2019 to 19.03.2019 for treatment of closed patellar fracture, Hoffa's fracture of the left side and open extensor digitorum longus tendon injury. Considering the nature of fractures, surgery and the period of treatment, this Tribunal is of the opinion that the Petitioner would not have been in a position to attend his work for at least three months. Hence, a sum of **Rs.42,000/- (Rs.14,000 × 3 months)** is awarded towards **loss of income** during the treatment period.

(d) The Petitioner sustained multiple fractures involving the left knee and tendon injury, underwent inpatient treatment for nearly twenty-three days and would have endured considerable pain during treatment and recovery. Therefore, this Tribunal awards **Rs.50,000/-** towards **pain and suffering.** The injuries would have caused difficulty in day-to-day activities and reduced enjoyment of normal life for a considerable period. Hence, a sum of **Rs.50,000/-** is awarded towards **loss of amenities.**

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(e) Permanent disability was assessed at 17%, and the Disability Certificate and it has been marked as Ex.C1. There is no evidence to show that the disability has resulted in any functional disability affecting his earning capacity. Therefore, compensation has to be awarded under the conventional method by adopting the percentage basis. In ***C. Suresh Kumar v. Akilan & Others,*** **C.M.A. No.2170 of 2023, dated 19.08.2024**, the Hon'ble Division Bench of the Madras High Court approved the award of Rs.6,000/- per percentage of disability for accidents of the year 2018. Since the present accident occurred on 24.02.2019, the same rate can safely be adopted. Accordingly, the Petitioner is awarded **Rs.1,02,000/- (Rs.6,000 × 17%)** towards **permanent disability.**

(f) Ex.P11 consists of medical bills for **Rs.50,090/-**. Hence, the said amount is awarded towards **medical expenses.** Considering the hospitalization and follow-up treatment, the Petitioner would necessarily have incurred expenses towards **transportation, attendant charges and extra nourishment**. Therefore, a consolidated sum of **Rs.15,000/-** is awarded under the said head. A further sum of **Rs.3,000/-** is awarded under **damage to clothes and articles.**

(g) Accordingly, the compensation is awarded in the following table:

Sl. No.	Head of Compensation	Amount (Rs.)
1.	Pain and Suffering	50,000/-
2.	Loss of Amenities	50,000/-
3.	Permanent Disability	1,02,000/-
4.	Medical Expenses	50,090/-
5.	Loss of Income	42,000/-
6.	Transportation, Attendant Charges and Extra Nourishment	15,000/-
7.	Damage to Clothes and Articles	3,000/-
	Total Compensation	**3,12,090/-**
	Less: **15% contributory negligence**	**46,814/-**

Sl. No.	Head of Compensation	Amount (Rs.)
	Total	**2,65,276/-**
	Rounded off	**2,65,000/-**

(h) Accordingly, the Petitioner is entitled to a total compensation of **Rs.2,65,000/- (Rupees Two Lakhs Sixty Five Thousand only).**

8. <u>Answer to Point No. 3:</u>

The 2nd Respondent has not established any breach of the policy conditions. Ex.P5 to Ex.P7 are the Registration Certificate, Insurance Policy and Driving Licence relating to the offending motorcycle, establishing the ownership, insurance coverage and authorization of the rider. They would disclose that the motorcycle was duly insured with the 2nd Respondent on the date of the accident. Since there is no policy violation, the insurer cannot avoid its statutory liability to indemnify the insured. Accordingly, the 2nd Respondent is liable to pay compensation to the Petitioner.

9. <u>Mode of Disbursement:</u>

(a) Insofar as the mode of disbursement of compensation is concerned, it is brought to the notice of this Tribunal that the Hon'ble Supreme Court in ***Parminder Singh v. Honey Goyal & Ors.,*** **2025 INSC 361 : 2025 LiveLaw (SC) 318**, has held that the compensation amount shall be directly transferred to the bank account of the claimant, without requiring deposit before the Tribunal. In the present case, the petitioner has already furnished his bank account particulars before this Tribunal, of which the 2nd Respondent has due notice.

(b) This Tribunal is of the view that insisting upon payment of deficit court fee by the petitioner as a condition precedent for receipt of the compensation may result in avoidable delay in disbursement and consequential accrual of interest. Since the petition is being allowed with costs, and the liability towards court fee is ultimately to be borne by the 2nd Respondent, it is just and proper to direct the 2nd

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Respondent to pay the deficit court fee separately, preferably by way of e-court fee, if any. After deducting such court fee, the balance compensation amount, together with costs, shall be directly transferred to the bank account of the claimant, and intimation of such transfer shall be furnished to this Tribunal forthwith.

(c) The contingency relating to return, reversal, or unsuccessful electronic transfer of the compensation amount shall be governed by the directions contained in the Result portion *infra*.

9. <u>Result:</u>

In fine,

(a) The Petition is partly allowed with Costs,

(b) The petitioner is awarded a total compensation of **Rs. 2,85,000/- (Rupees Two Lakhs and Eighty-Five Thousand only)** with interest at a rate of 6.5% p.a. from the date of filing of the petition till the date of deposit excluding the period of dismissal for default, if any.

(c) **The respondent No. 2 / Insurance Company is directed, within a period of 30 Days from this day, to pay/deposit the deficit court fee,** if any, before this Tribunal in accordance with law, and thereafter to transfer the balance award amount, together with accrued interest and costs, directly to the bank account of the petitioner, whose bank account particulars have been furnished below. In the event of payment after the said period, the rate of interest shall be 7.5 % per annum instead of 6.5% per annum.

(d) The **respondent No. 2 / Insurance Company** shall file before this Tribunal **proof of payment/deposit of the deficit court fee, if any, and proof of electronic transfer of the balance award amount to the Petitioner's bank account(s) immediately after compliance.**

(e) **Only in the event** the electronic transfer is returned, reversed, or remains unsuccessful on account of the bank account being inoperative, closed, incorrect, or for any other reason attributable to the Petitioner, the respondent Insurance Company shall intimate this Tribunal along with proof, if any, and the concerned Petitioner. The Petitioner shall furnish correct and operative bank account particulars before this Tribunal within two weeks from the date of such intimation, and the respondent Insurance Company shall re-transfer the amount to the corrected bank account within the time fixed by this Tribunal. Any delay attributable to such incorrect or inoperative account particulars shall not render the respondent Insurance Company liable for additional interest for the period of such delay.

(f) In the event of non-compliance by the 2nd Respondent, the Petitioner shall pay the deficit Court-fees and execute the Award.

(g) The Advocate fees is fixed as **Rs. 8,700/-.**

REQUIRED PARTICULARS

1.	Date of Presentation	05-02-2020	
2.	Date of filing	05-02-2020	
3.	Compensation Claimed	Rs.	25,00,000/-
4.	Court fees paid	Rs.	372.50/-
5.	Compensation Awarded	Rs.	2,85,000/-
6	Court Fees payable on the Award	Rs.	2,222.50/-
7.	**Deficit Court fees Payable (6-4)**	**Rs.**	**1,850/-**
8.	Petitioner's Bank Name and Branch	SBI, Murukkeri	
9.	Petitioner's Account number and IFSC code	11553763733, SBIN00007850.	
10.	Petitioner's Aadhar	4112 0393 4769	
11.	Petitioner's PAN	DZFPR6610L	
12.	Default period, if any	---	

Additional court fee paid, MP SR.No......………….......; dated

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STATEMENT OF COSTS

For the petitioners						For the Respondents	
		Rs.		P.		Rs.	P.
Stamp on petition	-	2,222	.	50			
Stamp on Vakalat	-	20	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees	-	8,700	.	00			
Costs allowed	-	10,982	.	50			

//Dictated to the Steno typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Wednesday, the 22nd day of July 2026.//

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III Judge
Court of Small Causes, Chennai.

Petitioner's side Witness:

P.W.1 : Mr. Rajavel, Petitioner

Petitioner's side Exhibits:

Ex.P1 : Aadhar card, Ration card & Voter ID
Ex.P2 : Bank Passbook
Ex.P3 : Pan card
Ex.P4 : FIR
Ex.P5 : RC Book
Ex.P6 : Insurance Policy
Ex.P7 : Driving License
Ex.P8 : AR copy
Ex.P9 : Discharge Summary
Ex.P10 : AIR report
Ex.P11 : X-Ray

2nd Respondent side Witness: Nil

2nd Respondent side Exhibits: Nil

Court Document:

Ex.C1 : Disability certificate

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III Judge
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Note:

(a) In view of Sub-rule 6 of Rule 20 of TNMAC Rules, 1989 and **M/S.Cholamandalam MS Genl. Ins Co Ltd. v. Mr. Ayyanar & Ors., Tr.CMP. No. 264-281/2020 dt. 11.05.2020**, Drafting of Decree has been dispensed with by direction of the Hon'ble High Court.

(b) Advocate Fees are fixed fixed by the Tamil Nadu State Legal Authority Act Circular dated 17.10.2016 and Rule 20(5) of Tamil Nadu Motor Vehicles Accident Claims Tribunal Rules 1989.

(c) Digitally Signed copy of the Award shall be utilized for all the purposes.