

Before the Motor Accident Claims Tribunal**(II Court of Small Causes, Chennai)****Present: Thiru.A.B. Naseer Ali., B.A., B.L.,****Thursday the 02nd day of July 2026****Motor Accident Claims Original Petition No.1873 of 2022****CNR NO :-TNCH09-004730-2022**

1. Kaliyamoorthi,
 2. Sumathi,
 3. Elamkathir,
 4. Kayalvizhi,
 No.2/160, Park Street,
 Melkavarapattu Post,
 Pandruti Taluk,
 Cuddalore Dist – 607 112.

...Petitioners

-Vs-

1. M/s. Excel Travels,
 Prop: Muruganandam,
 No.192, M.M. Adigal Sailai,
 Puducherry – 605 005.

2. IFFCO-TOKIO General Insurance Co., Ltd.,
 Itgi Strategic Business Unit,
 No.28, 2nd Floor, North Usman Road,
 T.Nagar, Chennai – 17.

...Respondents

Counsels on Record:-

For Petitioner	M/s.T. Suresh and K. Kanishkar
For 1 st Respondent	<i>Ex parte.</i>
For 2 nd Respondent	Mr.A.Jaganathan

This petition came before this tribunal for final hearing on 30.06.2026 and both sides were heard. Upon perusal of records including the written arguments filed on

behalf of the 2nd respondent and 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 (for short MV Act) seeking compensation of Rs.30,00,000/- for the death sustained by the deceased in a motor accident.

2. Gist of Petition:-

(a) On 01.04.2022 at about 22.30 hrs., while the deceased was riding the two-wheeler bearing Reg.No.TN 11 AP 5464 at GST Road, in front of Transcar India Pvt., Ltd., Alandur Chennai – 16 from North to South direction, a bus bearing Reg.No.PY 01 CT 2777 came behind from left side and tried to move right side in a rash and negligent manner and hit the deceased vehicle and caused fatal injuries all over the body.

(b) The 1st respondent is the owner and the 2nd respondent is the insurer of the vehicle. Both are jointly and severally liable to pay compensation to the petitioners with interest and costs.

3. Gist of Counter of the 2nd Respondent:-

(a) All the allegations are denied except those which are specifically admitted. It is false to state that the accident occurred due to the rash and negligent driving of the private bus bearing Reg.No.PY 01 CT 2777. On the other hand, as per the FIR an unknown car came from right side of Pulsor Motor Cycle which was

driven in a wrong and negligent manner and dashed against the Pulsor Motor cycle, due to which the rider/deceased dashed against the 1st respondent's bus. Hence, the accident occurred due to the sole negligence of the unknown car. There is no negligence on the part of 1st respondent's bus driver.

(b) The age, occupation and monthly income of the deceased and the place, date and time of accident are all to be proved by the petitioners. They have to prove the relationship with the deceased as well. The compensation claimed is excessive and the interest claimed is exorbitant. Hence, the petition is liable to be dismissed.

4. Points for Consideration:-

1. Whether the accident occurred due to the rash and negligent driving of the 1st respondent's bus driver or due to the rashness of the unknown car's driver as alleged by the 2nd respondent?
2. Whether the petitioners are liable to get compensation and if so, from whom?
3. What is the quantum?

5. On the side of the petitioners, the 1st petitioner was examined as P.W.1 and Ex.P1 to Ex.P20 were marked and a witness was examined as PW2 and Ex.P21 was marked. On the side of the 2nd respondent, no witness was examined and no document was marked. First respondent remained *ex parte*.

6. Point Nos.1 and 2:-

(a) It is the case of the petitioners that on 01.04.2022 at about 22.30 hrs., while the

deceased was riding the Bajaj Pulsor two-wheeler bearing Reg.No.TN 11 AP 5464 at GST Road in front of Transcar India Ltd., Alandur, Chennai from North to South direction, a private bus bearing Reg.No.PY 01 CT 2777 came behind from the left side and while it tried to move right side in a rash and negligent manner hit the deceased vehicle and caused the accident.

(b) On the other hand, it is the counter allegation that an unknown car was the sole cause for the accident as narrated in the counter of the 2nd respondent.

(c) Ex.P1 is the copy of FIR connected to the case in Crime No.67/2022 of TIW, St. Thomas Mount Police Station. No doubt in the FIR, the involvement of the unknown car has been narrated. But at the same time, the involvement of 1st respondent's bus has also been narrated. The case did not end with the FIR. After investigation, a final report has been filed and copy of the same has been marked as Ex.P11. In the final report, the alleged negligence on the part of the unknown car has not been mentioned. So, it can be inferred that though the involvement of the unknown car has been stated in the FIR, the investigation might have revealed that the car did not involve and that is why the final report has no mention about the car.

(d) The author of the complaint connected to the FIR has been examined as PW2 in our case. In his oral evidence he also did not speak anything about the involvement of the car. Of course, during cross examination of PW2, the second respondent attempted to elicit the involvement of the car. However,

while doing so, the written version in the complaint or in the FIR had not been directly brought to the notice of PW2 so as to get admissible contradictory evidence in favour of R2. Therefore, this tribunal is of the view that when the cross examination has failed to properly elicit the involvement of the car through PW2, this tribunal cannot simply rely upon the contents of the FIR when the final report is not in consonance with it. It is also to be noted that the 2nd respondent has not taken any step to examine the investigation officer to get a clear cut case as to why the final report does not speak about the alleged involvement of the car. Therefore, by going through the contents of the final report, this tribunal comes to the conclusion that it is only the 1st respondent's bus that is the cause for the accident.

- (e) The learned counsel for the petitioners relied upon the judgment in *Khenyei Vs New India Assurance Co., Ltd., & Others.*, reported in 2015 (1) TN MAC 801 (SC), which speaks about composite negligence. In our case, as per the above discussion it has been decided that only the 1st respondent's vehicle is the cause for the accident and so, the relevant judgment is not applicable to our case.
- (f) Ex.P9, copy of RC proves that the 1st respondent is the owner of the bus bearing Reg.No.PY 01 CT 2777. Ex.P8, copy of MVI report reveals that the 2nd respondent is the insurer of the 1st respondent's vehicle. Therefore, it is concluded that the 2nd respondent cannot escape from the liability and it has to pay compensation to the petitioners.

(g) The learned counsel for the 2nd respondent argued that in the post mortem report ethyl alcohol was deducted in the stomach, intestines, liver and kidneys and so, the learned counsel argued that since the deceased consumed alcohol, contributory negligence is to be applied. When it was confronted by the tribunal as to how the matter which was not stated either in the counter or in the evidence and also in the written arguments can be considered in the eleventh hour, the learned counsel for the 2nd respondent submitted that having conducted the case by summary procedure, the tribunal might take notice of the alcohol which is in the documentary evidence of the petitioners themselves. If not, the 2nd respondent would have to file an application to reopen for filing additional counter.

(h) In response, the learned counsel for the petitioners left the matter to the tribunal for proper decision on this aspect. As rightly argued by the learned counsel for the 2nd respondent, since this tribunal has tried the case only by adopting summary procedure, formal application for reopening the case and for additional counter etc., to say about the consumption of alcohol is not required, that too when the petitioners themselves have no serious objections in this regard. Therefore, taking note of the presence of alcohol in the stomach, intestines, liver and kidneys of the deceased as per Ex.P3, the post mortem report, this tribunal comes to the conclusion that the deceased had consumed alcohol at the time of accident and so, the contributory negligence to the extent

of 15% is credited to the claim.

(i) Accordingly, these points are answered partly in favour of petitioners.

7. Point No.3:-

(a) Ex.P12, Aadhar card copy of the deceased reveals that the deceased was aged 21 years at the time of his death. It has been alleged that the deceased was a Gana Singer and was earning Rs.30,000/- per month. But the income has not been proved. Nor has the avocation been proved. Therefore, as per the guidance in *Andal and others Vs Avinav Kannan and another* 2019 (1) TN MAC 54 (DB), this tribunal fixes a sum of **Rs.16,000/-** as the **Notional Income** of the deceased, since the accident took place in the year 2022. Therefore, annual income is calculated as **Rs.16,000 X 12 = 1,92,000/-**.

(b) In this case, father, mother, brother and sister of the deceased are claiming to be the dependents. Ex.P13 to P16 Aadhar card copies of the petitioners 1 to 4 prove that the petitioners are father, mother, elder brother and younger sister respectively. Since the deceased is said to be a bachelor, no doubt, the entire family might have been dependent upon the income of the deceased. Therefore, the argument that the brother and sister cannot be the dependents is disregarded.

(c) In case of self employed persons, as per the judgment in *National Insurance Co., Ltd., Vs Pranay Sethi and others*, reported in 2017 (2) TN MAC 609 (SC) an additional of **40%** is to be added as future prospects if the deceased is below

40 years. Therefore, the annual income with **Future Prospects** is calculated as
1,92,000/- + 76,800 = Rs.2,68,800.

(d) As per *Sarla Verma Vs Delhi Transport Corporation*, reported in 2009 (2) TN MAC 1 (SC) if the dependents are 4 to 6 then the deductions towards **Personal Expenses** shall be 1/4. Since the age of the deceased was 21 years, the **Multiplier** applicable to this case is 18. Therefore, the Loss of Dependency would be **(2,68,800 – 67,200) X 18 = Rs.36,28,800.**

(e) As per the judgment in *National Insurance Co., Ltd., Vs Pranay Sethi and others*, reported in 2017 (2) TN MAC 609 (SC), for **Loss of Consortium**, the petitioners are entitled to Rs.44,000/- each i.e., **Rs.1,76,000/-**.

(f) As per the Judgment in *National Insurance Co., Ltd., Vs Pranay Sethi and others*, reported in 2017 (2) TN MAC 609 (SC), for Loss of Estate a sum of **Rs.16,500/-** and for **Funeral Expenses** a sum of **Rs.16,500/-** are awarded.

(x) CALCULATION:

1. Total loss of dependency	:	Rs.	36,28,800/-
2. Loss of Consortium	:	Rs.	1,76,000/-
3. Loss of Estate	:	Rs.	16,500/-
4. Funeral Expenses	:	Rs.	16,500/-

Total Compensation is fixed at : Rs. 38,37,800/-

(g) As already pointed the deceased has also contributed to the cause of accident and his negligence has been calculated at 15%. Therefore, the petitioners are entitled to **Rs.38,37,800 – 15% = Rs.32,62,130/-**. Accordingly, this point is

answered partly in favour of the petitioners.

8. In the result,

- 1) this petition is partly allowed and a sum of **Rs.32,62,130/- (Rupees Thirty Two Lakhs Sixty Two Thousand One Hundred and Thirty Only)** is awarded as just compensation to the petitioners with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e., 22-04-2022 till the realization, payable by the 2nd respondent. Out of the total compensation the 1st and 2nd petitioners being the parents of the deceased are entitled to **Rs.13,31,065/- each** and the 3rd and 4th petitioners being, the brother and sister of the deceased are entitled to **Rs.3,00,000/- each**. The petition is dismissed with regard to the rest of the claim amount. There will be no interest for the default period as per orders if any.
- 2) The 2nd respondent is directed to deposit the said amount to the credit of the bank account of this claim tribunal directly (i.e.,) **Registrar (MACT), Court of Small Causes, Chennai, Account No.7103261207, IFSC No.IDIB000M157, Indian Bank, Madras High, Court Branch, Chennai** through NEFT or RTGS mode within a period of thirty days from this date, under intimation to this tribunal with the copy of the transaction details.
- 3) It is also made clear that the petitioners are entitled to withdraw the amount if deposited by the 2nd respondent as per the terms of this award only in the event of payment of court fees, if any to be deposited as directed through this award.

The registry shall ensure the payment of entire court fees before transferring the compensation amount to the account of the petitioners.

- 4) Considering the fact that the petitioners are not shown to be illiterates, the petitioners are permitted to withdraw their respective share amount on deposit of the same together with proportionate interest and costs and the said amount shall be credited through Electronic Clearing System (ECS) in favour of the petitioner's accounts, the details of which are as given below:-

The 1st Petitioner's name is **Kaliyamoorthi**

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
ESAF Small Finance Bank, Madhurantakam Branch	A/c.No.53250002883829 IFSC Code:-ESAF0001455	722980270981	Not furnished

The 2nd Petitioner's name is **Sumathi**

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Ramapuram Branch	A/c.No.6407025589 IFSC Code:-IDIB000R037	983888414160	Not furnished

The 3rd Petitioner's name is **Elamkathir**

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Ramapuram Branch	A/c.No.6668905826 IFSC Code:-IDIB000R037	920638875433	Not furnished

The 4th Petitioner's name is **Kayalvizhi**

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Ramapuram Branch	A/c.No.6672947226 IFSC Code:-IDIB000R037	972708828830	Not furnished

- 5) 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 petitioners are hereby directed to furnish the self attested copy of PAN Card to this Tribunal within a period of fifteen days from today without fail.
- 6) The Court fee paid along with the petition is Rs.375/-.
- 7) The Court fee for the award amount is Rs.31,994/-. The deficit court fee of Rs.31,619/- shall be paid by the petitioners within two weeks from the date of order.
- 8) Advocate fee is Rs.39,621/-.
- 9) The second respondent shall pay to the petitioners a sum of Rs.71,675/- towards the costs of this petition.

Other necessary particulars:

Date of Presentation of petition	-	13-04-2022
Date of taken up on file	-	22-04-2022
Compensation claimed in the M.C.O.P.	-	Rs.30,00,000/-
Compensation awarded in this petition	-	Rs.32,62,130/-
Court fee paid along with the petition	-	Rs.375/-
Court fee payable on the award amount	-	Rs.31,994/-

Additional court fee shall be paid - Rs.31,619/-

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

Cost List for the petitioner

STATEMENT OF COSTS

<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	- 31,994 . 00		
Stamp on Vakalat	- 10 . 00		
Stamp for process	- 50 . 00	-- not filed --	
Advocate fees	39,621 . 00		
Costs allowed	- <u>71,675 . 00</u>		

The direction regarding copy of the Judgment and decretal order to be prepared under Sub rule 6 of Rule 20 of TNMAC Rules, 1989, as per Honourable Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 is 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.

This order was dictated by me to the steno typist, transcribed by her, corrected and pronounced by me in the open Court, on this Thursday, the 02nd day of July 2026.

II Judge
Court of Small Causes, Chennai.

Petitioners Side Witness:

PW1 : Mr. Kaliyamoorthi

PW2 : Mr. Hariharan

Petitioners Side Documents:

Ex.P1	FIR	Copy
Ex.P2	Accident Register	Copy
Ex.P3	Postmortem Certificate	Copy
Ex.P4	Death Certificate	Online copy
Ex.P5	Legal Heir Certificate	Online copy
Ex.P6	Rough Sketch	Copy
Ex.P7	Insurance Certificate	Copy
Ex.P8	MVI Report	Copy
Ex.P9	Registration Certificate	Copy
Ex.P10	Driving Licence of driver of R1	Copy
Ex.P11	Final Report	Copy
Ex.P12	Aadhar card of the deceased	Copy
Ex.P13	Aadhar card of the 1 st petitioner	Copy
Ex.P14	Aadhar card of the 2 nd petitioner	Copy
Ex.P15	Aadhar card of the 3 rd petitioner	Copy
Ex.P16	Aadhar card of the 4 th petitioner	Copy
Ex.P17	Bank pass book of the 1 st petitioner	Copy
Ex.P18	Bank pass book of the 2 nd petitioner	Copy
Ex.P19	Bank pass book of the 3 rd petitioner	Copy
Ex.P20	Bank pass book of the 4 th petitioner	Copy
Ex.P21	Aadhar card of the PW2	Copy

2nd Respondent Side Witnesses & Documents: Nil

II Judge
Court of Small Causes, Chennai.