

**IN THE COURT OF THE V JUDGE, COURT OF SMALL CAUSES,
CHENNAI**

(MOTOR ACCIDENTS CLAIMS TRIBUNAL)

PRESENT: Tmt. M. SHAKKIRA BANU, M.A.M.L.,MHR.,PGDHRM.,PGDIPR.,DLLAL.,

V Judge

Wednesday, this the 08th day of July 2026

MCOP No.2940/2023 and 3598/2023

CNR No.TNCH09-006164-2023

CNR No.TNCH09-006167-2023

MCOP.No. 2940/2023

Khaleelur Rahman,
Aged about 73 years,
S/o. Abdul Majeeth,
No.13, Jeevarathinam street,
Mungil Eri, Pammal,
Chennai - 600 075.

...Petitioner

Vs.

1. Rabinson Manoraj John Samuel,
No.8, B-Block, Rail Nagar,
Koyambedu, Chennai - 600 107.

2. The National Insurance Co. Ltd.,
Motor Third Party Claims Office,
No.66, 1st floor, Greams Road,
Chennai - 600 006.

...Respondents

MCOP.No. 3598/2023

Naseema Banu,
Aged about 64 years,
W/o.Khallelur Rahman,
No.13, Jeevarathinam street,
Mungil Eri, Pammal,
Chennai - 600 075.

...Petitioner

Vs.

1. Rabinson Manoraj John Samuel,
No.8, B-Block, Rail Nagar,
Koyambedu, Chennai - 600 107.
2. The National Insurance Co. Ltd.,
Motor Third Party Claims Office,
No.66, 1st floor, Greams Road,
Chennai - 600 006.

...Respondents

Both claim petitions came up on **24.06.2026** for final hearing before me in the presence of **Mr. K. Ravikumar** Counsel for the petitioner and **Mr. Santhanam** Counsels for the 2nd respondent and **1st respondent called absent and set exparte** and upon hearing both sides and on perusing the case records and having stood over for consideration till this date, this court delivered the following.

AWARD

1.1 The claim petition in MCOP No. 2940/2023 has been filed under Section 166 of Motor Vehicles Act,1988 claiming a compensation of **Rs. 19,00,000/-** with interest and costs for the accident.

1.2. The claim petition in MCOP No.3598/2023 has been filed under Section 166 of Motor Vehicles Act,1988 claiming a compensation of **Rs.7,00,000/-** with interest and costs for the accident.

Since both the claim petitions are arising out of the same accident, joint trial was ordered in MCOP 2940/2023.

2. Brief averments in the petitions:

The petitioners stated that on 19.05.2023 at about 04.50 hours while both the petitioners were travelling in the car bearing Reg. No. TN 02 BR 6039 along with the Anna Salai near saidapet M.C.Raja student hostel from

Pammal to Central station direction, at the time the car Reg. No. TN 11 W 0239 was driven in a rash and negligent manner without following traffic rules and regulations and dashed against the petitioner car. Due to which the petitioners sustained grievous injuries. The accident occurred due to rash and negligent driving of the first respondent car driver. Hence the 1st respondent being owner and 2nd respondent being insurer of the car are liable to pay compensation.

3. Brief averments in the counter of 2nd respondent :

The 2nd respondent denied all the averments and allegations contained in the claim petition except those that are specifically admitted in the counter and puts the petitioners to strict proof of the same. The second respondent denied the manner of accident. The car driver did not possess valid and effective driving license. The second respondent denied the valid fitness certificate, permit, insurance policy. The driver of the insured vehicle was not having a badge at the time of accident. The second respondent denied the column No.10 and 23. The age, occupation, income, place, date and time of accident, injuries, damages to dress, treatment taken, period of treatment, disability are denied. The compensation claimed is excessive, arbitrary, and exaggerated. Hence prayed for dismissal.

4. Evidence:

The petitioner in MCOP.No.2940/2023 was examined as PW1 and marked Ex.P1 to Ex.P8. The petitioner in MCOP.No.3598/2023 was examined as PW2 and marked as Ex.P9 to Ex.P13. On the 2nd Respondent side, no witness examined and no documents marked. The disability certificate issued by the Medical Board to the petitioner in MCOP.No. 2590/2023 Mr.Khaleelur Rahman was marked as Ex.C1.

5. Points for determination are :

1)	Whether the accident occurred due to the rash and negligent driving of the 1 st respondent car driver?
2)	Whether the 1 st respondent car driver was having valid driving license and whether the said vehicle was covered under valid insurance and proper documents, as contemplated under the M.V. Act at the time of accident?
3)	Whether the petitioner is entitled to get compensation? If so, what should be the quantum of compensation, and by whom it is payable?

6. Point No.1:

It is pertinent to note that with regard to the accident the police complaint was lodged by petitioner son namely MD Rizwan K to Gunidy Traffic Investigation wing and Ex.P1 FIR was registered in Crime No.268/2023 u/s. 279 and 337 of IPC against the 1st respondent car driver. In support of their case, PW1 and PW2 have deposed consistently regarding the manner of the accident. Ex.P2 and Ex.P9 Accident Register of the petitioners shows that they had taken treatment after the accident. The first respondent remained exparte and has not entered the witness box or produced any evidence to rebut the allegations of rash and negligent driving. No contra evidence was adduced by second respondent side. The oral evidence of PW1 and PW2 corroborates with the Ex.P1, Ex.P2 and Ex.P9. There is no contra evidence regarding the occurrence of the accident. Hence, this Tribunal holds that the accident occurred due to the rash and negligent driving of the driver of the 1st respondent car. The point No.1 is decided accordingly.

7. Point No.2:

In this point it has to be ascertained whether the 1st respondent car driver had valid driving license and valid insurance at the time of accident. In evidence the petitioner side did not mark the driving license of the first respondent car driver. Further the RC book, insurance policy, MV report of the car have not been marked. Though the 2nd respondent has stated that the driver had no badge, no proof is filed for the same. The insurer has not produced any evidence to establish breach of policy conditions or absence of a valid driving license. Though the petitioners have not produced the driver's license, the burden to prove policy violation lies upon the insurer. Since no evidence has been adduced by the insurer, adverse inference cannot be drawn against the claimants. Accordingly, the Tribunal holds that the insurer has failed to establish any statutory defense under Section 149(2) of the Motor Vehicles Act. Therefore, this court is of the view that the car involved in the accident was under the cover of insurance and had valid driving license at the time of accident. The point No.2 is decided accordingly.

8. Point No.3 :

8.1 MCOP.No.2940/2023:-

As a result of the accident, the petitioner Khaleelur Rahman sustained left proximal humerus shaft fracture, right shoulder peri arthrits and he was first treated at Saidapet Government Hospital as seen in Ex.P2 Accident register. Thereafter he was admitted Sri Ramachandra hospital as inpatient from 19.05.2023 to 07.06.2023 as per the Ex.P3 discharge summary. When the petitioner was referred to the medical board, after examination the medical board fixed disability as 22%. Though the stated that he was doing a business, there is no proof filed for loss of job. Considering the nature of injuries, period of treatment, percentage of disability assessed by the Medical Board

and the absence of evidence regarding loss of earning capacity, this Tribunal deems it appropriate to award compensation under the percentage method under the following heads.

i) Partial disability

Since the disability found by the medical board is 22% and the accident was happened on 19.05.2023 as per the judgment of the **Honble Madras High court in CMA 13/2025 between the Revanth kumar vs M/s. Sun-X-Concrete India private limited and others dated 10.01.2025 in Para No.7 a sum of Rs. 2,20,000/- (22 x 10,000)** awarded under this head.

ii) Pain and suffering

A left proximal humerus shaft fracture, right shoulder peri arthrits is a serious injury causing considerable pain discomfort and restriction of movement. The petitioner would have undergone acute pain at the time of the accident, during hospitalization, at the time of surgery and throughout the period of recovery. He would also have suffered mental agony and inconvenience in attending to his day-to-day activities. The nature of the fracture, surgical intervention and period of hospitalization clearly establish substantial pain and suffering. Considering these aspects, this Tribunal awards a sum of **Rs. 75,000/-** towards pain and suffering.

iii) Medical Expenses

The petitioner has taken inpatient treatment from 15.03.2023 to 07.06.2023. The medical bills are marked as Ex.P5 for a sum of Rs.46,815/-. The said amount is rounded off to **Rs.46,900/-** and awarded under this head.

iv) Attendant Charges

During the said period of hospitalization, a person would have stayed and assisted him and hence a sum of **Rs.25,000/-** awarded under this head.

v) Transport Charges

Though the petitioner would have gone to hospital for few times, no transport bills are marked. However considering the treatment period, distance to hospital a sum of **Rs.20,000/-** awarded under this head.

vi) Loss of Income

The petitioner stated that he was doing a business and earned Rs.20,000/- per month. But in his evidence no documents marked to prove the nature of work and income. Hence, this court considering his age was 73 at the time of accident and prevailed working atmosphere fixed his notional income as Rs.17,500/-. Considering the nature of fracture and surgery undergone by the petitioner, this Tribunal is of the view that he would not have been in a position to attend his work for a period of three months. Hence this Tribunal is inclined to award **Rs. 52,500/-** (3 x 17,500) under this head.

vii) Loss of Amenities

During hospitalization time and in rest period the would have lost amenities by not able to perform his day-to-day activities and depending upon his family members. Hence under this head this Tribunal is inclined to award **Rs.20,000/-**.

viii) Extra nourishment

During the period of treatment and the subsequent days he would have to take nutritious food to restore his body to normal condition. Hence under this head this Tribunal is inclined to award **Rs.20,000/-**.

The summing up of the award amounts under the various heads are as follows

Part disability	Rs. 2,20,000/-
Pain and Suffering	Rs. 75,000/-
Loss of Income	Rs. 52,500/-
Medical expenses	Rs. 46,900/-
Attendant charges	Rs. 25,000/-
Transportation	Rs. 20,000/-
Loss of Amenities	Rs. 20,000/-
Extra Nourishment	Rs. 20,000/-
TOTAL	Rs. 4.79,400/-

8.2 MCOP.No.3598/2023 :

The petitioner Naseema Banu is said to have sustained multiple injuries in the accident. The petitioner examined herself as PW2 and produced medical records. As per Ex.P2 Accident Register the petitioner sustained simple injuries and took treatment at Saidapet government hospital. She was not referred to the Medical Board and no disability certificate has been produced. Therefore, no amount can be awarded under the head of permanent disability. Further, the petitioner has not produced any acceptable evidence to

prove functional disability or loss of earning capacity. Considering the nature of injuries and available medical records, this Tribunal is inclined to award compensation of Rs. 30,000/- for the simple injury. Thus, the petitioner in **MCOP.No.3598/2023** is entitled to a sum of **Rs. 30,000/-** as compensation.

9. In the result,

9.1. In the result, this petition in MCOP No.2940/2023 is partly allowed and

(i)	An award of Rs.4,79,400/- (Rupees Four Lakhs seventy nine thousand and four hundred only) is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition, i.e, 21.06.2023 to till the date of payment payable by the 2 nd respondent with costs.
(ii)	There will be no interest for the default period if any.
(iii)	The compensation amount shall be deposited into this court Bank Account in the name of Registrar (MACT), Court of Small Causes, Chennai Account No. 7103261207 IFSC No. IDIB000M157 Indian Bank, Madras High Court Branch, Chennai within two months.
(iv)	Considering the long pending of this OP and age of the petitioner, on deposit the petitioner permitted to withdraw the entire amount on separate application.
(v)	On petition for payment of the above said initial amount excluding, costs, Advocate fees and bank charges due and payable to the petitioner/claimant which shall be transferred to petitioner/claimant's bank account No. 527502010008549, Union Bank of India, Pallavaram Branch, IFSC UBIN0558907 through RTGS (or) NEFT.
(vi)	The petitioner has paid a sum of Rs.373/- towards Court fee. As per this award, the Court fee is Rs.4166.5/-. The Advocate fee is fixed at

	Rs.11,974/-. The Additional Court fee of a sum of Rs. 3,793.5/- shall be paid with in 10 days.
--	--

9.2 In the result, this petition in MCOP 3598/2023 is partly allowed that,

(i)	An award of Rs.30,000/- (Rupees Thirty Thousand only) is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition i.e, 21.07.2023 to till the date of payment payable by the 2 nd respondent with costs.
(ii)	There will be no interest for the default period if any.
(iii)	The compensation amount shall be deposited into this court Bank Account in the name of Registrar (MACT), Court of Small Causes, Chennai Account No. 7103261207 IFSC No. IDIB000M157 Indian Bank, Madras High Court Branch, Chennai within two months.
(iv)	Considering the long pending of this OP and age of the petitioner, on deposit the petitioner permitted to withdraw the entire amount on separate application.
(v)	On petition for payment of the above said initial amount excluding, costs, Advocate fees and bank charges due and payable to the petitioner/claimant which shall be transferred to petitioner/claimant's bank account No.0910101043705, Canara bank, Pallavaram branch, Chennai, IFSC- CNRB0000910 through RTGS (or) NEFT.
(vi)	The petitioner has paid a sum of Rs.373/- towards Court fee. As per this award, the Court fee is Rs. 60/-. The Advocate fee is fixed at Rs. 5,000/-. The Excess Court fee of a sum of Rs.313/- shall be refunded to the petitioner after appeal period.

Dictated by me to the Typist and she directly typed it in the computer after corrections pronounced by me in Open Court, on this the 08th day of July 2026.

(M. SHAKKIRA BANU)
V Judge
COURT OF SMALL CAUSES
CHENNAI

Petitioner side witnesses: -

S.No.	Date	Name of the Witnesses	Remarks
PW1	25.11.2025	Khaleelur Rahman (Petitioner in MCOP 2940/2023)	Ex.P1-Ex.P8
PW2	25.11.2025	Saseema Banu (Petitioner in MCOP 3598/2023)	Ex.P9– Ex.P13

Petitioner side exhibits:-

Sl No.	Date	Document Particulars	Document Type
Ex.P1	19.05.2023	First Information Report	Photocopy
Ex.P2	--	Accident register in MCOP 2940/2023	Photocopy
Ex.P3	19.05.2023-07.06.2023	Discharge summary in MCOP 2940/2023	Original
Ex.P4	--	Lab reports in MCOP 2940/2023	Photocopy
Ex.P5	--	Medical bills in MCOP 2940/2023	Original
Ex.P6	--	Aadhar card of the petitioner in MCOP 2940/2023	Photocopy
Ex.P7	--	Bank pass book of the petitioner in MCOP 2940/2023	Photocopy
Ex.P8	--	PAN card of the petitioner in MCOP 2940/2023	Photocopy
Ex.P9	--	Accident register in MCOP 3598/2023	Photocopy

Ex.P10	--	Aadhar card of the petitioner in MCOP 3598/2023	Photocopy
Ex.P11	--	Bank pass book of the petitioner in MCOP 3598/2023	Photocopy
Ex.P12	--	PAN card of the petitioner in MCOP 3598/2023	Photocopy
Ex.P13	--	CT scan report in MCOP 3598/2023	Photocopy

Respondent side witness and exhibits :

Court Document:

Sl No.	Date	Document Particulars	Document Type
Ex.C1	--	Disability certificate of the petitioner issued by Medical Board in MCOP 2940/2023	Original

(M.SHAKKIRA BANU)
V JUDGE
COURT OF SMALL CAUSES
CHENNAI

OTHER PARTICULARS in MCOP No. 2940/2023

Date of filing of the petition	21.06.2023
Date of Award	08.07.2026
Amount Claimed under Compensation	Rs. 19,00,000/-
Amount Awarded as Compensation	Rs. 4,79,400/-
Total Court Fees	Rs. 4,166.5/-
The Court Fee already paid	Rs.373/-
Balance Court Fee to be paid	Rs. 3793.5/-

Costs List in MCOP No. 3598/2023

<u>Cost Particulars</u>	<u>Amount</u>
Stamp duty for Award Amount	Rs. 4166.5/-
Vakalath	Rs.5.00/-
Preparation of Summon Batta Charges	Rs.40.00/-
Advocate Fees	Rs.11,794/-
TOTAL	Rs. 16,000.5/-

OTHER PARTICULARS in MCOP No.3598/2023

Date of filing of the petition	21.07.2023
Date of Award	08.07.2026
Amount Claimed under Compensation	Rs. 7,00,000/-
Amount Awarded as Compensation	Rs. 30,000/-
Total Court Fees	Rs. 60/-
The Court Fee already paid	Rs.373/-
Excess Court Fee to be refunded	Rs. 313/-

Costs List in MCOP No. 3598/2023

<u>Cost Particulars</u>	<u>Amount</u>
Stamp duty for Award Amount	Rs. 60/-
Vakalath	Rs. 5.00/-
Preparation of Summon Batta Charges	Rs. 40.00/-
Advocate Fees	Rs. 5,000/-
TOTAL	Rs. 5,105/-

(M. SHAKKIRA BANU)
V JUDGE
COURT OF SMALL CAUSES
CHENNAI