

**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

Thursday, this the 02nd day of July 2026

MCOP No.5163/2021 and 5224/2021

CNR No.TNCH09-011048-2021

CNR No.TNCH09-011080-2021

MCOP.No. 5163/2021

Tippu Raju,
Aged about 19 years,
S/o. Haribabu,
No.4/62, Kothuru h/w Pichatur,
Mandalam,
Vengalathur, Velur,
Chittoor, Andra Pradesh - 517 587.

...Petitioner

Vs.

1. Kuddus Ansari,
S/o. Haran,
Pudikuppam, Tada,
Nellore,
Andra Pradesh - 524 401.
2. The Magma HDI General Insurance Co. Ltd.,
TP cell: Navins Presidium,
3rd floor, N.M. Road,
New No.17/19, Old No.103,
B-Block,3A, Nelson Manikkam road,
Chennai - 29.

...Respondents

MCOP.No. 5224/2021

Samiyelu,
Aged about 16/2021 years,

S/o. Murugaiah,
No.5-41, Chengambakam,
SC colony,
Mallavaipalem East,
Satyavedu, Chittor,
Andra Pradesh - 517 588.

...Petitioner

(*Minor declared as major as per order in MP 2/25 dt.20.02.2025)

Vs.

1. Kuddus Ansari,
S/o. Haran,
Pudikuppam, Tada,
Nellore,
Andra Pradesh - 524 401.

2. The Magma HDI General Insurance Co. Ltd.,
TP cell: Navins Presidium,
3rd floor, N.M. Road,
New No.17/19, Old No.103,
B-Block,3A, Nelson Manikkam road,
Chennai - 29.

...Respondents

Both claim petitions came up on 12.06.2026 for final hearing before me in the presence of **Mr. K. Pranava Kumar** Counsel for the petitioner and **M/s. S. Stanley John and J.B. Hepshibah Jeyanthi** 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. 5163/2021 has been filed under Section 166 of Motor Vehicles Act,1988 claiming a compensation of Rs. 20,00,000/- with interest and costs for the accident.

1.2. The claim petition in MCOP No.5224/2021 has been filed under Section 166 of Motor Vehicles Act,1988 claiming a compensation of Rs.20,00,000/- with interest and costs for the accident.

Since both the claim petitions are arising out of the same accident, joint trial was ordered.

2. Brief averments in the petitions:

The petitioners submitted that on 07.11.2021 at about 21.45 hours while the petitioner in MCOP 5163/2021 was riding a motorcycle bearing Reg. No. AP 03 AW 7545 along with petitioner in MCOP 5224/2021 pillion rider, from Appaiahpalem to Tada road direction, On Sricity express highway near Chengabakam village, at that time auto bearing Reg. No.AP 26 TD 4922 which was driven by its driver with rash and negligently manner dashed the motorcycle. Thereby the petitioners sustained multiple grievous injuries all over the body. The accident occurred only due to rash and negligent driving of the first respondent auto driver. Hence the 1st respondent owner and the 2nd respondent insurer of the auto are lible to pay compensation.

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

The 2nd respondent denied all the averments in the petition. The petitioner must prove the existence of a valid insurance policy, registration certificate, driving licence, badge, and compliance with the policy terms and the provisions of the Motor Vehicles Act. Any breach would absolve the insurer of liability, leaving the vehicle owner solely liable. The petitioner is also put to strict proof of the accident and injuries. The 2nd respondent denied the petitioner's allegations regarding the manner of the accident, including the rash and negligent driving of the auto bearing Registration No. AP-26-TD-

4922, and the injuries allegedly sustained. The 2nd respondent denies issuing the alleged insurance policy covering the offending auto. The policy number mentioned in the claim petition was never issued and does not conform to the policy numbering system and the policy has been fabricated. As no valid insurance policy existed in respect of the offending vehicle on the date of the accident, there is no contractual liability on the part of 2nd respondent. Any liability rests solely with the vehicle owner. The quantum of compensation claimed as excessive, arbitrary, and exaggerated. Hence prayed for dismissal.

4. Evidence:

The petitioner in MCOP.No.5163/2021 namely Tippu Raja was examined as PW1 and marked Ex.P1 to Ex.P6. The petitioner in MCOP. No.5224/2021 namely Samiyelu was examined as PW2 and marked as Ex.P7 to Ex.P9. On the 2nd Respondent side, the company official was examined as RW1 and marked Ex.R1 to Ex.R5. The disability certificate issued to the petitioner in MCOP.No. 5163/2021 Mr.Tippu Raja 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 auto driver?
2)	Whether the 1 st respondent auto 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:

The petitioners submitted that on 07.11.2021 at about 9.45 p.m., while the petitioner in MCOP No.5163/2021 was riding the motorcycle bearing Registration No. AP-03-AW-7545 with the petitioner in MCOP No.5224/2021 as pillion rider on Sri City Express Highway near Chengabakam Village, the auto bearing Registration No. AP-26-TD-4922, driven in a rash and negligent manner, dashed against their motorcycle, resulting in grievous injuries to both petitioners. In this regard the police complaint was lodged by petitioner father namely Haribabu to Sri City Hi-Tech Police Station and Ex.P1 FIR was registered in Crime No.112/2021 u/s.337 of IPC against the 1st respondent auto driver. In support of their case, PW1 and PW2 have deposed consistently regarding the manner of the accident. Ex.P1 FIR was registered in Crime No.112/2021 by Sri City Hi-Tech Police Station against the driver of the offending auto. 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. The evidence of RW1 2nd respondent company official relates only to the insurance policy aspect and does not dispute or disprove the occurrence of the accident or the manner in which it took place. The oral evidence of PW1 and PW2 corroborates with the Ex.P1. 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 auto bearing Registration No. AP-26-TD-4922. The point No.1 is decided accordingly.

7. Point No.2:

7.1 In this point it has to be ascertained whether the 1st Respondent auto driver had valid driving license and insurance at the time of accident. The 2nd respondent insurance company has taken a specific defense that it had

never issued any insurance policy in respect of the offending auto bearing Registration No. AP-26-TD-4922. According to the 2nd respondent, the policy number mentioned in the claim petition does not pertain to the company and does not conform to its policy numbering system. It is further contended that the alleged insurance policy is fabricated and therefore there is no contractual liability on the part of the 2nd respondent to indemnify the owner of the offending vehicle. The 2nd respondent examined its official as RW1 and marked Ex.R1 to Ex.R5. Ex.R1 is the authorization letter, Ex.R2 is the vehicle history report relating to the offending vehicle, Ex.R3 is the screenshot of the company's "Genysis" portal, Ex.R4 is the copy of the complaint lodged by the insurance company along with acknowledgment and Ex.R5 is the copy of the notice issued to the owner with the returned postal cover. RW1 has categorically deposed that no insurance policy was issued by the 2nd respondent in respect of the offending auto on the date of accident. On the other hand, the petitioners have not produced any insurance policy or any official record to establish that the offending vehicle was covered by a valid insurance policy issued by the 2nd respondent as on the date of the accident.

7.2 With regard to the driving licence of the driver of the offending auto, no documentary evidence has been produced by either side. It is the duty of the owner of the vehicle to establish the existence of a valid insurance policy covering the risk on the date of accident. In **C.K. Senthil vs Ranjithkumar**, reported in **2022 SCC OnLine Mad 2248** the Hon'ble Madras High Court has held that when the genuineness of the insurance policy is disputed and the claimant fails to establish the existence of a valid policy, the Insurance Company cannot be made liable. The liability of the insurer arises only when there is a valid contract of insurance. A disputed policy must be proved by acceptable evidence. Under Section 147 MV Act the liability of an Insurance Company is contractual in nature and arises only

when the existence of a valid policy issued by the insurer is established. The petitioners have failed to prove the payment of premium or genuineness of the policy. In the absence of proof regarding issuance of the policy by the second respondent, this Tribunal cannot fasten the liability upon the Insurance Company merely based on the particulars mentioned in the claim petition. At the same time, the negligence of the driver of the offending vehicle and the occurrence of accident have been proved. Hence, the first respondent, being the owner of the offending vehicle, is liable to compensate the petitioners. Therefore, this Tribunal holds that though the driver of the first respondent's vehicle possessed a valid driving licence, the petitioners have failed to prove the existence of a valid insurance policy issued by the second respondent. Hence, the second respondent is not liable to indemnify the first respondent. The first respondent, being the owner of the offending vehicle, is solely liable to pay the compensation awarded to the petitioners. Point No.2 is answered accordingly.

8. Point No.3 :

8.1 MCOP.No.5163/2021:-

As decided in the above points the accident occurred due to the rash and negligent driving of the 1st respondent auto driver and as a result, the petitioner Tippu Raja sustained type II compound fracture left femur, type III A compound fracture both bone left leg with fracture medial Malleolus and he was first treated at MLC Kauvery hospital as seen in Ex.P5 treatment records. Again he was admitted Balaji Orthopaedic and Trauma hospital as inpatient from 08.11.2021 to 13.11.2021 and a surgery was done on 08.11.2021 as per the Ex.P2 discharge summary. When the petitioner was referred to the medical board, after examination the medical board fixed disability as 30%. But 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 30% and the accident was happened on 07.11.2021 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. 2,70,000/- (30 x 9,000)** awarded under this head.

ii) Pain and suffering

A fracture of femur 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. Though permanent disability has not been established by medical evidence, 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 08.11.2021 to 13.11.2021. The medical bills are marked as Ex.P4 for a sum of **Rs.1,300/-** and hence the said amount is awarded under this head.

iv) Attendant Charges

The petitioner has taken inpatient treatment from 08.11.2021 to 13.11.2021 and a surgery was done on 08.11.2021. 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 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.15,000/-** awarded under this head.

vi) Loss of Income

The petitioner stated that he was Carpenter and earned Rs. 30,000/- per month. But in his evidence no documents marked to prove the nature of work and income. Hence, this court considering his age was 19 at the time of accident and prevailed working atmosphere fixed his notional income as Rs.16,000/-. 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 two months. Hence this Tribunal is inclined to award **Rs.32,000/-** (2 x 16,000) 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. 2,70,000/-
Pain and Suffering	Rs. 75,000/-
Loss of Income	Rs. 32,000/-
Medical expenses	Rs. 1,300/-
Attendant charges	Rs. 25,000/-
Transportation	Rs. 15,000/-
Loss of Amenities	Rs. 20,000/-
Extra Nourishment	Rs. 20,000/-
TOTAL	Rs. 4,58,300/-

8.2 MCOP.No.5224/2021 :

As decided in the above points the accident occurred due to the rash and negligent driving of the 1st respondent auto driver and as a result, the Minor petitioner sustained comminuted fracture both bone left leg with wound over left leg and knee and he was admitted at Balaji Orthopaedic and Trauma hospital as inpatient from 09.11.2021 to 13.11.2021 as per the Ex.P7 discharge summary. Though the petitioner was referred to the Medical Board for assessment of disability, he did not appear before the Board. Consequently, no disability certificate has been issued. Further, no doctor has been examined to establish the nature and extent of any permanent disability

arising out of the injuries. In the absence of medical evidence, this Tribunal is unable to determine or quantify any permanent disability. Therefore, the claim for compensation towards permanent/partial disability is not proved and no amount is awarded under this head. However, considering the grievous nature of the fracture, surgical treatment undergone, period of hospitalization and the resultant pain, discomfort and restriction during recovery, suitable compensation is awarded under other heads. The petitioner was minor at the time of accident and no functional disability to him.

i) Permanent/partial disability

Since no medical evidence such as disability certificate has been issued, this Tribunal is unable to determine or quantify any permanent disability. Therefore, the claim for compensation towards permanent/partial disability is not proved and no amount is awarded under this head.

ii) Pain and suffering

The petitioner sustained a grievous injury, namely comminuted fracture both bone with wound over left leg and knee and underwent surgery. The injury would have caused 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. Though permanent disability has not been established by medical evidence, 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

Though the petitioner was treated as inpatient from 09.11.2021 to 13.11.2021, medical bills are not marked and hence no amount awarded under this head.

iv) Attendant Charges

The petitioner has taken inpatient treatment and being a minor, he would have been assisted by his parents. Hence this Tribunal is inclined to award a sum of **Rs.20,000/-** 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.15,000/-** awarded under this head.

vi) Loss of Income

The petitioner was minor at time of accident at 16 years old so it would have not been possible for him either to work or earn income so no income loss to the petitioner. Hence no amount awarded under this head.

vii) Loss of Amenities

In view of the fact that the petitioner sustained comminuted fracture both bone left leg with wound over left leg and knee and he was admitted at Balaji Orthopaedic and Trauma hospital as inpatient from 09.11.2021 to 13.11.2021 as per the Ex.P7 discharge summary. The petitioner being a minor would have been assisted by his parents and would have loss of amenities and not able to perform his day to day work 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.10,000/-**.

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

Part disability	Nil
Pain and Suffering	Rs. 75,000/-
Loss of Income	Nil
Medical expenses	Nil
Attendant charges	Rs. 20,000/-
Transportation	Rs. 15,000/-
Loss of Amenities	Rs. 20,000/-
Extra Nourishment	Rs. 10,000/-
TOTAL	Rs. 1,40,000/-

9. In the result,

9.1. In the result, this petition in MCOP No.5163/2021 is partly allowed and

(i)	An award of Rs.4,58,300/- (Rupees five Lakhs eighty eight thousand and three hundred only) is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition, i.e, 06.12.2021 to till the date of payment payable by the 1 st 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 through RTGS (or) NEFT. The petitioner is directed to furnish the Bank pass book and PAN card details within a month.
(vi)	The petitioner has paid a sum of Rs.375/- towards Court fee. As per this award, the Court fee is Rs.3955.5/-. The Advocate fee is fixed at Rs.11,583/-. The Additional Court fee of a sum of Rs.3580.5/- shall be paid with in 10 days.

9.2 In the result, this petition in MCOP 5224/2021 is partly allowed that,

(i)	An award of Rs. 1,40,000/- (Rupees One Lakhs and Forty Thousand only) is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition i.e, 06.12.2021 to till the date of payment payable by the 1 st 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. 00420110064948, UCO bank, Sowcarpet branch, Chennai, IFSC- UCBA0000042 through RTGS (or) NEFT.
(vi)	The petitioner has paid a sum of Rs.375/- towards Court fee. As per this award, the Court fee is Rs.772.5/-. The Advocate fee is fixed at Rs. 5,800/-. The Additional Court fee of a sum of Rs.397.5/- shall be paid within 10 days.

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 02nd 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	28.10.2025	Tippu Raju (Petitioner in MCOP 5163/2021)	Ex.P1-Ex.P6
PW2	28.10.2025	Samiyelu (Petitioner in MCOP 5224/2021)	Ex.71– Ex.P9

Petitioner side exhibits:-

SI No.	Date	Document Particulars	Document Type
Ex.P1	15.11.2021	First Information Report	Photocopy
Ex.P2	08.11.2021- 13.11.2021	Discharge summary in MCOP 5163/2021	Photocopy
Ex.P3	--	Petitioner Aadhar card in MCOP 5163/2021	Photocopy
Ex.P4	--	Medical bills in MCOP 5163/2021	Original
Ex.P5	--	MLC Kauvery hospital treatment record in MCOP 5163/2021	Photocopy
Ex.P6	--	Petitioner photo copy in MCOP 5163/2021	Photocopy
Ex.P7	09.11.2021- 13.11.2021	Discharge summary in MCOP 5224/2021	Photocopy
Ex.P8	--	Petitioner Aadhar card in MCOP 5224/2021	Photocopy
Ex.P9	--	Petitioner Bank pass book in MCOP 5224/2021	Photocopy

Respondent side witness :

S.No.	Date	Name of the Witnesses	Remarks
RW1	17.03.2026	T.Purandhar Dass (Insurance company official)	Ex.R1 to R5

Respondent side exhibits:

SI No.	Date	Document Particulars	Document Type
Ex.R1	--	Authorization letter	Photocopy
Ex.R2	--	Vehicle history report for respondent vehicles	Photocopy
Ex.R3	--	Screenshot of Genysis	Photocopy
Ex.R4	--	Complaint copy with receipt	Photocopy
Ex.R5	--	Notice copy with returned cover	Photocopy

Court Document:

Sl No.	Date	Document Particulars	Document Type
Ex.C1	--	Disability certificate of the petitioner issued by Medical Board in MCOP 5163/2021	Original

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

OTHER PARTICULARS in MCOP No. 5163/2021

Date of filing of the petition	06.12.2021
Date of Award	02.07.2026
Amount Claimed under Compensation	Rs.20,00,000/-
Amount Awarded as Compensation	Rs.4,58,300/-
Total Court Fees	Rs.3955.5/-
The Court Fee already paid	Rs.375/-
Balance Court Fee to be paid	Rs. 3,580.5/-

Costs List in MCOP No.5163/2021

<u>Cost Particulars</u>	<u>Amount</u>
Stamp duty for Award Amount	Rs. 3955.5/-
Vakalath	Rs. 5.00/-
Preparation of Summon Batta Charges	Rs.40.00/-
Advocate Fees	Rs.11,583/-
TOTAL	Rs. 15,583.5/- (rounded off to Rs.15,584)

OTHER PARTICULARS in MCOP No.5224/2021

Date of filing of the petition	06.12.2021
Date of Award	02.07.2026
Amount Claimed under Compensation	Rs.20,00,000/-
Amount Awarded as Compensation	Rs. 1,40,000/-
Total Court Fees	Rs.772.5/-
The Court Fee already paid	Rs.375/-
Balance Court Fee to be paid	Rs.397.5/-

Costs List in MCOP No.5224/2021

<u>Cost Particulars</u>	<u>Amount</u>
Stamp duty for Award Amount	Rs. 772.5/-
Vakalath	Rs. 5.00/-
Preparation of Summon Batta Charges	Rs. 40.00/-
Advocate Fees	Rs. 5,800/-
TOTAL	Rs.6617.5/- (Rounded off to Rs.6618/-)

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