

Before the Motor Accident Claims Tribunal**(II Court of Small Causes, Chennai)****Present: Thiru.A.B. Naseer Ali., B.A., B.L.,****Tuesday, the 28th day of July 2026****Motor Accident Claims Original Petition No.5123 of 2021****CNR NO :-TNCH09-011000-2021**

1. Mrs. Selvi
 2. Mr. Ravi
 3. Mr. Ramakrishnan
- (Amended as per order in MP.No.4/2026, dated 23.07.2026)**

All are Residing at:-

No.6/C S 9, 2nd Block,
Mogappair West,
Tiruvallur,
Chennai – 37.

...Petitioners

-Vs-

1. Mrs.B. Sasirekha,
W/o. Balachandran,
No.4/629, Pugazhenthai Salai,
Mogappair East, Tiruvallur,
Chennai – 37.
2. The Oriental Insurance Co., Ltd.,
2nd Floor, No.115, Prakasam Salai,
Broadway, Chennai – 108.

...Respondents

Counsels on Record:-

For Petitioners	Mr.S. Dharmaraja
1 st Respondent	<i>Ex parte.</i>
For 2 nd Respondent	M/s.J. Chandran, V. Murali and V. Priyanga

This claim petition came before this tribunal for final hearing on 23.07.2026.

Petitioners side had been heard already. Upon perusal of records including the written argument filed on behalf of the second 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 Amended Petition:-

- (a) The first petitioner is the mother, the second petitioner is the father and the third petitioner is the brother of the deceased namely, R.Sanju. He was a 3rd year BBA Student.
- (b) On 05.11.2021 at about 00.15 hours, the deceased was traveling as a pillion rider in the bike bearing registration number TN 13 T 5097, which was driven by Dheena @ Dinesh with his another friend namely, Saran. At that time, the rider drove it rashly and negligently and into a ditch out of which the deceased and the other two persons fell down and the deceased sustained injuries all over his body. He was taken to Chengalpet Government Hospital, from where he was taken to Rajiv Gandhi Government General Hospital, Chennai (RGGGH) wherein he succumbed to injuries.
- (c) The above said accident occurred only due to the rash and negligent driving of the rider of the above said bike. The first respondent is the owner and the

second respondent is the insurer of the above said bike and both are liable to pay compensation to the petitioners and hence, this petition.

3. Gist of Counter of 2nd Respondent:-

- (a) All the averments in the petition are denied except those which are specifically admitted.
- (b) The accident occurred not due to the rider of the motorcycle bearing registration number TN 13 T 5097.
- (c) This respondent denies that the alleged offending bike was insured with this respondent and that the rider had valid driving license at the time of accident.
- (d) The accident was invited by the pillion rider due to recklessness, without care and caution.
- (e) The petitioners are put to strict proof of the allegations relating to the age, avocation and income of the deceased.
- (f) This respondent seeks permission to avail all the defenses available to the first respondent as per section 170 of the MV Act.
- (g) The compensation claimed under various heads is high and the interest claimed is exorbitant. Hence, the petition is liable to be dismissed.

4. Points for Consideration:-

1. Whether the petitioners are entitled to compensation on account of the death of the deceased person? If so, from whom?
2. Whether the insurance company is not liable to pay compensation since the

deceased was the second pillion rider?

3. What is the quantum?

5. On the side of the petitioners, first petitioner was examined as PW1 and Exs.P1 to P10 and Ex.P12 were marked through him. One third party was examined as PW2 and through him Ex.P11 was marked. On the side of second respondent, one witness was examined as RW1 and through him Exs.R1 to R3 marked. Actually, Ex.P12 has been marked mistakenly as Ex.P13 and the same has been corrected. The first respondent remained *ex parte*.

6. Point Nos.1 and 2:-

- (a) Records were perused. Ex.P1, copy of the First Information Report (FIR) reveals that on 05.11.2021 at about 00.15 hours, the deceased was traveling as a pillion rider in the bike bearing registration number TN13 T 5097, which was driven by Dheena @ Dinesh with his another friend namely, Saran, that the rider drove it rashly and negligently and into a ditch out of which the deceased and the other two riders fell down, that the deceased sustained injuries all over his body and that he was taken to Chengalpet Government Hospital, from where he was taken to RGGGH wherein he succumbed to injuries.
- (b) Ex.P3, copy of Postmortem Report proves that he died because of the injuries sustained.
- (c) Ex.R3, copy of policy proves that the first respondent is the owner and the second respondent is the insurer of the said bike.

(d) It is the contention of the second respondent that the deceased had traveled as a second pillion rider for whom there is no policy coverage since it is a liability only policy. In order to meet this argument, the learned counsel for the petitioners relied upon the judgment in *M/s., The New India Assurance Company Limited vs. M.Chelliah and others* in C.M.A.No.3882 of 2025 of our Honourable High Court wherein it has been held that

“...since the accident occurred within the Third Party Coverage Period and since it was a Two-wheeler Bundled Policy, the insurance company is liable to pay the compensation.”.

(e) From the above judgment, it is clear that the bundled policy covers the pillion rider also for five years. Ex.R3, copy of policy proves that the policy in question in this case is a Bundled Policy. Therefore, this tribunal is of the view that, with no need to develop any doubt, it can be held that the insurance company is liable to pay compensation since Bundled Policy has been issued to the insured which covers pillion rider as well.

(f) The next aspect which is to be considered is whether the insurance company is liable to pay the compensation since the deceased is said to be the second pillion rider. No doubt, the deceased was a second pillion rider. PW2 evidence confirms this. Just because the deceased was the second pillion rider, it cannot be said that the insurance company is relieved off from the clutches. It is a

violation of Act and policy. **So, the insurance company has to pay first. The remedy available to it is that it can recover the said amount from the first respondent.** It is to be noted that no claim is said to be pending or granted in respect of the another pillion rider who is said to have sustained injuries. In such a situation, there is no escape from the payment by the second respondent.

(g) It was also argued that the rider Dinesh had no driving license at the time of accident. But Ex.P12, copy of his driving license proves that he had a valid driving license at the time of accident.

(h) Further, it was argued that the rider had ridden the vehicle under the influence of alcohol. There is no piece of evidence to substantiate the same. Even otherwise, there is no record to say the level of alcohol. As per the verdict in *Ramesh vs. Selvakumar and others*, in C.M.A.No.2494 of 2022, mere smell of alcohol will not be sufficient. Hence, the points in argument of the learned counsel for the second respondent cannot be countenanced.

(i) However, it is an admitted fact that on that day three persons had a ride in the bike which is a violation. Further, the balance might have gone uncontrolled due to additional rider and it might have become the cause for the accident. in such view, the deceased has also contributed to the accident and his part is fixed as 10%.

(j) Ex.P5, the legal heir certificate copy proves that the first petitioner is the mother and the second petitioner is the father of the deceased. Third petitioner

is said to be his brother and there is no dispute in the said aspect. So, they are entitled to get compensation from the second respondent on behalf of the first respondent.

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

7. Point No.3:-

- (a) The deceased was admittedly a student. Hence, there was no possibility of income to him which has been openly admitted in the petition itself. However, after studies the deceased would have secured a job or would have earned by doing business or by his physical labour. Hence, the notional income is to be fixed for the deceased. As per the judgment in *Baby Sakshi Greola vs. Manzoor Ahmad Simon and Another* even for minors, the income shall be fixed.
- (b) This accident occurred in the year 2021. In *P.Radha and anr vs. The Managing Director, MTC.*, in C.M.A.No.650 of 2025, our Honourable High Court fixed the **notional income** as **Rs.18,000/-** for the year 2021. Hence, this tribunal, following the guidelines, fixes the same amount as the notional income of the deceased.
- (c) As per the Transfer Certificate copy marked as Ex.P7, his age was 20 years at the time of his death. So, as per the decision of the Honourable Supreme Court in *National Insurance Co., Ltd., vs Pranay Sethi and others*, reported in 2017 (2) TN MAC 601, in case of self employed persons, aged below 40 years, an addition of **40%** is to be given towards **Future Prospects**.

(d) As pointed out already, though the dependents are three, he died as a bachelor.

Since he was a student at the time of accident, the third petitioner cannot be said to be a dependent except to consider for loss of consortium. Hence, **half** of the income is to be deducted towards **personal expenses** as per *Smt. Sarla Verma and others vs. Delhi Transport Corporation*, reported in (2009) 6 SCC 121.

(e) As pointed out already, since the deceased was 20 years at the time of accident, as per the judgment in *Sarla Verma & others vs. Delhi Transport Corporation & another*, reported in (2009) 6 SCC 121, the appropriate **Multiplier** is **18**.

(f) Therefore, with the above said factors, the calculation towards loss of dependency would be as follows:

Monthly Income Rs.18,000/-

Yearly Income Rs.18,000/- X 12 = Rs.2,16,000/-

Future Prospects Rs.2,16,000/- + 40% = Rs.3,02,400/-

with Multiplier 18 = Rs.3,02,400/- X 18 = Rs.54,43,200/-.

Deduction $1/2 = 1/2$ of Rs.54,43,200/- is Rs.27,21,600/-

Result is Rs.54,43,200 /- – Rs.27,21,600/- = Rs.27,21,600/-.

(g) Therefore, for **Loss of Dependency Rs.27,21,600/-** is awarded.

(h) As per the verdict in *Pranay Sethi cited supra read with Magma General Insurance Co., Ltd vs. Nanu Ram @ Churu Ram*, (2018) 18 SCC 13 the claimants, being three are entitled to Loss of Consortium as follows: **3 X**

Rs.48,400/- = Rs1,45,200/-.

(i) In the same manner, as per *Pranay Sethi case*, for **Loss of Estate Rs.18,150/-** and for **Funeral Expenses Rs.18,150/-** are awarded.

(j) The petitioners have not produced any Medical Bills and so, they are not entitled to any amount as **Medical Expenses**.

(k) Final Calculation:-

1. Total loss of dependency	:	Rs.	27,21,600/-
2. Loss of Consortium	:	Rs.	1,45,200/-
3. Loss of Estate	:	Rs.	18,150/-
4. Funeral Expenses	:	Rs.	18,150/-

Total Compensation is fixed at : Rs. 29,03,100/-

(l) As already pointed the deceased has also contributed to the cause of accident and his negligence has been calculated at 10%. Therefore, the petitioners are entitled to **Rs.29,03,100/- – 10% = Rs.26,12,790/-**. Accordingly, this point is answered partly in favour of the petitioners.

(m) The first and second petitioners being the mother and father respectively, are each entitled to **Rs.12,50,000/-** and the third petitioner being the brother is entitled to **Rs.1,12,790/-** with proportionate interest and costs.

8. In the result,

- 1) the petition is partly allowed to award a sum of **Rs.26,12,790/- (Rupees Twenty Six Lakhs Twelve Thousand Seven Hundred and Ninety)** only with interest at the rate of 7.5 percent from the date of petition i.e., 01-12-2021 till

the date of realization and costs, excluding the period of default if any. Out of the total compensation the first and second petitioners being the mother and father respectively, are each entitled to **Rs.12,50,000/-** and the third petitioner being the brother is entitled to **Rs.1,12,790/-** with proportionate interest and costs.

- 2) The said award amount including interest and costs shall be paid directly to the bank account of the claimants, the details of which are given below by the second respondent within thirty days through net banking after deducting the deficit court fees if any which shall be paid/deposited before this tribunal by the second respondent within thirty days.
- 3) The insurance company shall intimate this tribunal about the payment of court fees as well as the payment of compensation to the claimants with a copy of proof of the transaction details immediately after the compliance.
- 4) In case if the bank account of the claimants are inoperative, the same shall be intimated by the insurance company to the claimants under intimation to this tribunal with proof, in which event the claimants shall furnish the correct account details within two weeks since then. The insurance company need not pay interest from the date of initial transaction till the date of furnishing of correct bank particulars by the claimants.
- 5) **The 2nd respondent is entitled to recover the compensation amount with interest and costs from the 1st respondent after compliance.**

6) Bank Account Details of the Claimants are as follows:-

1st Petitioner Name	Bank name and Branch	Account No. and IFSC code	Aadhar card details	Pan card details
Mrs. Selvi	Not furnished	Not furnished	451639589887	GJNPR0947B

2nd Petitioner Name	Bank name and Branch	Account No. and IFSC code	Aadhar card details	Pan card details
Mr. Ravi	Not furnished	Not furnished	573030336089	APCPR8931G

3rd Petitioner Name	Bank name and Branch	Account No. and IFSC code	Aadhar card details	Pan card details
Mr. Ramakrishnan	Not furnished	Not furnished	665419232889	Not furnished

7) The 1st and 2nd petitioners are hereby directed to furnish the self attested copy of Bank pass book and 3rd petitioner is hereby directed to furnish the Bank pass book and PAN card to this tribunal and also to the 2nd respondent within a period of fifteen days from today without fail.

8) The court fee paid along with the petition is Rs.375/-.

9) The court fee for the award amount is Rs.25,500/-. The deficit court fee is Rs.25,125/-.

10) Advocate fee is Rs.33,128/-.

11) The second respondent shall pay to the petitioners a sum of Rs.58,688/- towards the costs of this petition.

Other necessary particulars:

Date of presentation of petition - 01-12-2021

Date of taken up on file	-	01-12-2021
Compensation claimed in the M.C.O.P.	-	Rs.30,00,000/-
Compensation awarded in this petition	-	Rs.26,12,790/-
Court fee paid along with the petition	-	Rs.375/-
Court fee payable on the award amount	-	Rs.25,500/-
Additional court fee to be paid	-	Rs.25,125/-
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	-	25,500 . 00			
Stamp on Vakalat	-	10 . 00			
Stamp for process	-	50 . 00	-- not filed --		
Advocate fees		33,128 . 00			
Costs allowed	-	<u>58,688 . 00</u>			

As per the direction of the Honourable High Court, decree is not drafted separately.

This order was partly typed by me in laptop and was partly dictated to the stenotypist, transcribed by her, corrected and pronounced by me in the open Court, on this the 28th day of July 2026.

II Judge
Court of Small Causes, Chennai.

Petitioners Side Witnesses:

PW1 : Mrs.R. Selvi

PW2 : Mr.S. Swaminathan

Petitioners Side Documents:

Ex.P1	FIR	Copy
Ex.P2	Death report	Copy
Ex.P3	Postmortem Certificate	Copy
Ex.P4	Death Certificate	Online copy
Ex.P5	Legal Heir Certificate	Online copy
Ex.P6	Aadhar card of deceased	Copy
Ex.P7	TC of deceased	Copy
Ex.P8	Education certificate of deceased	Copy
Ex.P9	Aadhar cards of petitioners	Copy
Ex.P10	PAN card of petitioners 1 and 2	Copy
Ex.P11	Aadhar card of PW2	Copy
Ex.P12	Driving licence of 1 st respondent's vehicle rider	Copy

2nd Respondent Side Witness:

RW1 - Mr.M. Srinivasan

2nd Respondent Side Documents:

Ex.R1	Authorization letter	Original
Ex.R2	Accident Register	Copy
Ex.R3	Insurance policy	Copy

II Judge
Court of Small Causes, Chennai.