

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL/
CHIEF JUDICIAL MAGISTRATE, KANCHEEPURAM DISTRICT @
CHENGALPATTU**

Present: Tmt. T. Jayashree., M.L.
Chief Judicial Magistrate
Kancheepuram District @ Chengalpattu
Thursday the 21st day of December 2023

MOTOR ACCIDENT CLAIMS ORIGINAL PETITION No:31 of 2014

CNR.No:TNKP030009552014

Maduraiveeran, age-41,
S/o Chithirai,
No.16, Ambedkar street,
Athur Vadapathy village,
Chengalpattu Taluk,
Kancheepuram District

... Claimant/Petitioner

(Vs)

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division-III,
Kancheepuram
(opp. to Taluk Office - Kancheepuram)

... Respondent

This Claim original petition is filed on 20.6.2014 and coming up before me for final hearing on 15.12.2023 in the presence of Mr.K.Sivaperuman Counsel for Petitioner, Thiru.C.R.Vinayagam Counsel for respondent and Respondent called absent and set exparte and upon perusing the Claim petition, materials papers and evidences and upon hearing Arguments of petitioner side and having stood over under my consideration till date, this Tribunal delivers the following:

AWARD

The Claim petition is filed under Section 140 & 166 of the Motor Vehicles Act 1988 and Act IV of 39 r/w Rules 3 of the M.A.C.T. Rules for the injuries sustained by the petitioner in a Motor vehicle accident that took place on 24.7.2013 at about 11.30 A.M. at Thozupedu Bridge Service road, at Thozupedu due to the rash and negligent driving of the Driver of the respondent's Bus bearing Regn. No.TN 21 N 0774

Facts of the Claim

S.No.	Particulars	Details
1.	Claim for	GREIVOUS INJURY
2.	Date of Accident	24.7.2013
3.	Age of the injured	41 years
4.	Occupation	Agriculturist
5.	Monthly Income	Rs.6,000/-
6.	Compensation Claimed	Rs.2,50,000/-

1. The averments in the petition in brief is as follows:-

The case of the Petitioner/Claimant is that on 24.7.2013 at about 11.30 a.m the petitioner went to Orathy in his Motor cycle bearing reg. No.TN 21 S 3226 in the service road near Kadamalaiputhur bridge. At that time in the same direction the respondent corporation bus bearing reg. No.TN 21 N 0774 was driven by its driver with high speed in a rash and negligent driving and hit against the petitioner and his two wheeler motor cycle. Due to this sudden impact the petitioner fell down in the left side road cement concrete got head injury in the head, hand, leg , face , eyebrow and two teeth were broken and the petitioner was unconscious stage. Immediately he admitted n Chengalpattu Medical College Hospital as inpatient for treatment from 24.7.2013 to 30.7.2013. The accident occurred only due to the rash and negligent manner and very high speed of the respondent bus .The driver of the vehicle is an employee of the respondent Corporation and hence the respondent is liable to pay compensation to the petitioner. Hence the petition.

2. The Respondent is called absent and set exparte. Counter not filed on their side

3. The Points for Determination:-

- i) Who is negligent for the accident?
- ii) Who is liable to pay compensation?
- iii) Whether the Petitioner is entitled to Compensation, if so, what is the Quantum?

4. The Petitioner, examined himself as PW1 and through him Ex.P1 to Ex.P6 were marked. Certificate issued to Pw.1 by the Medical Board, Chengalpattu is marked as Ex.C1 by the court on the date of pronouncing the order for convenience sake.

5. POINT NO.1

The petitioner examined as PW1 and he deposed that only due to the rash and negligent act of the driver of the Bus the accident was occurred. Through Ex.P1 FIR, it is clear that the accident case was registered on the complaint given by Petitioner and the case was registered in Cr.No.978/2013 of Acharsapakkam Police Station, u/s 279, 337 IPC, only against the Driver of the Bus.

Further the contention of the petitioner is that on 24.7.2013 at about 11.30 a.m the petitioner went to Orathy in his Motor cycle bearing reg. No.TN 21 S 3226 in the service road near Kadamalaiputhur bridge. At that time in the same direction the respondent corporation bus bearing reg. No.TN 21 N 0774 was driven by its driver with high speed in a rash and negligent driving and hit against the petitioner and his two wheeler motor cycle. Due to this sudden impact the petitioner fell down in the left side road cement concrete got head injury in the head, hand, leg , face , eyebrow and two teeth were broken and the petitioner was unconscious stage and the same version has been clearly recorded in the FIR. But the contention raised by the respondent was not proved through oral or documentary evidences. The driver of the vehicle is a employee in the respondent's Corporation. Once the rash and negligent driving of the respondent's Bus driver is proved through the oral and documentary evidences of the petitioner.

6. Through Ex.P1, FIR are all proves that the respondent's vehicle driver alone is responsible for the accident and due to the rash and negligent driving of the respondent's Bus driver the accident was occurred and the The driver of the vehicle is an employee of the respondent's corporation and hence the respondent is liable to pay compensation to the petitioners. There is no evidences to prove contra. It is noteworthy to state that respondent side remained exparte. Therefore, this Tribunal is of the considered opinion that the accident was occurred due to the rash and negligent driving of the respondent's vehicle driver and the respondent is the employer of the vehicle is liable to pay compensation to the petitioner and **Point No.1 and 2** are answered accordingly.

7. Point No.3

The Claimant/Petitioner states that, he was an agriculturist and earned a sum of Rs.6,000/- per month. The age of the Claimant/Petitioner at the time of Accident was 41 years. Admittedly, the petitioner filed Ex.P14 Aadhar card for his Age proof. However there is nothing on record to prove Age, Income, Occupation of the Claimant/Petitioner.

8. After the occurrence of accident the injured/Claimant was taken to treatment in patient at CMCH 24.7.2013 to 30.7.2013 and then at O.P. and the opinion of Doctor is the injuries sustained are Grievous in nature as per Ex.P2 & Ex.P3.

Partial Permanent Disability

9. The Claimant/Petitioner was sent to Medical Board for assessment of disability. The disability assessment is Nil% as per the report of Medical Board, Government Chengalpattu Medical College Hospital at Chengalpattu.

Loss of earning

10. The Claimant did not produce any Evidence to prove the Income. However, this Tribunal fixes the Income of the Claimant/Petitioner at the time of the Accident i.e. on 24.7.2013 was at Rs.6,000/- per month. The Claimant States that he is agriculturist and earned a sum of Rs.6000/- per month. The Medical Opinion and Accident register Ex.P2 and Ex.P3 reveals that the petitioner sustained laceration and abrasions in the forehead and forearm and as per dental surgeon opinion he sustained grievous injury. After the occurrence of accident the injured/Claimant was taken to treatment at CMCH 24.7.2013 to 30.7.2013 and then at O.P. and the opinion of Doctor is the injuries sustained are Grievous in nature as per Ex.P2 & Ex.P3. Considering the Gravity of Injury, Nature of Loss sustained by the petitioner and also keeping in view about the period of treatment this Tribunal is of firm view that Petitioner may atleast require 12 months period for returning to Job. Hence, this Tribunal Awards 12 months Income as Loss of Earnings. For the reasons stated above this court of view that the petitioner Loss of Earnings for the period of 12 months is arrived at Rs.6,000/- X 12 months = **Rs.72,000/-**.

Pain and Sufferings

11. The judgments reported in 2011 (13) SCC236-Ramachandrappa Vs. The Manager, Royal Sundaram Finance Company it is held that, "Compensation to be awarded was not measured by nature, locations or degree of injury, but rather by extent or degree of incapability resulting from injured". The Victim of Accident and Claimant is taken to treatment as in patient at CMCH 24.7.2013 to 30.7.2013 and then at O.P. and the opinion of Doctor is the injuries sustained are Grievous in nature as per Ex.P2 & Ex.P3. Hence considering the nature of injuries sustained and the period of treatment and post treatment of Claimant/Petitioner this tribunal Awards a sum of Rs. **20,000/-** towards the Head of Pain and Sufferings.

Attendant Charges/Bystandar Charges

12. It is clear from the evidences that Claimant/Petitioner has undergone treatment at taken to treatment at CMCH 24.7.2013 to 30.7.2013 and then at O.P. and the opinion of Doctor is the injuries sustained are Grievous in nature as per Ex.P2 & Ex.P3. The Claimant is diagnosed with Grievous injury. Therefore, an Attender is necessary for looking after the Claimant/Petitioner. The Claimant has to maintain Attender and basic necessary charges would have been incurred. This Tribunal, considering the facts and circumstances and nature of injuries arrives at a finding that the Claimant/petitioner shall be entitled for a sum of Rs.**20,000/-** towards the Attendant Charges notionally.

Transport Charges

13. The Claimant/Petitioner did not file any document for Transport Charges. The Claimant has taken treatment at taken to treatment as in patient at CMCH 24.7.2013 to 30.7.2013 and then at O.P. and the opinion of Doctor is the injuries sustained are Grievous in nature as per Ex.P2 & Ex.P3. The Claimant is diagnosed with Grievous injury. Now considering the place of Accident, Place of residence, Place of Hospital and the period of treatment this Tribunal is inclined to award a sum of towards Transportation Charges to Hospital notionally. Therefore a sum of Rs.**5,000/-** towards the Transport Charges.

Nutrition Charges

14. The Claimant/Petitioner shall require extra nourishment for recovery.

Hence, this Tribunal considering the prevailing facts and circumstances of Nature of injuries, period of Treatment as In-Patient and Out-Patient. The Tribunal arrives at a finding that the petitioner shall entitled for a sum of Rs.5,000/- towards the Nutrition Charges.

Medical Expenses

15. It is clear from the evidence that the Claimant/Petitioner has taken treatment at CMCH 24.7.2013 to 30.7.2013 and then at O.P. and he has also not produced any medical bills. The petitioner spent amount for taking x-rays and scan and also purchased medicines during the treatment taken in the Chengalpattu Medical College Hospital, Chengalpattu 24.7.2013 to 30.7.2013 and mental agony due to accident. He also lost his two teeth in the accident and he was not able to chew as before the accident and his face became disfigured. Considering the above said facts and circumstances and nature of injuries **Rs.50,000/-** is awarded under the Head of Medical expenses

Loss of Amenities

16. The Victim of Accident should always be adequately compensated not only for physical injury and treatment, but also for the loss of earning and inability to lead a normal life and enjoy amenities which would have been enjoyed but for the disability caused due to Accident. Considering the nature of injuries sustained a sum of Rs.2,000/- is awarded under the Head of Loss of Amenities.

Damage to Clothes

17. Our Honourable High Court of Judicature at Madras in C.M.A.No.4645 of 2019, Chinnathambi -Vs.- Deepa and another by an order dated 10.1.2020 reported in 2020 (1) TN MAC 617 awarded a sum of Rs.3,000/- towards damages to clothes. This Tribunal in the light of aforesaid dictum award a sum of **Rs.3,000/-** towards the head of damages to clothes.

18.

Sl.No.	Head of Compensation	Rs.	Amount
1.	Pain and sufferings and Mental agony	Rs.	20,000/-
2.	Bystander Charges	Rs.	20,000/-
3.	Transport Charges	Rs.	5000/-

4.	Nutrition	Rs.	5000/-
5.	Medical Expenses	Rs.	50,000/-
6.	Loss of Amenities	Rs.	2000/-
7.	Damages to Clothes	Rs.	3000/-
8.	Loss of Earning	Rs.	72,000/-
	Total	Rs.	1,77,000/-

. For the reasons stated above the Point is decided accordingly.

RESULT

19. In the result, this petition is allowed partly as follows:-

i) The Petitioner/Claimant is entitled to a sum of Rs.1,77,000/-(Rupees One lakh Seventy seven thousand only) towards compensation.

ii) The Respondent are liable to pay with interest at the rate of 7.5% (Seven and half percentage) per annum from the date of petition to till the date of realization with costs.

iii) The Petitioner/Claimant is not entitled for any interest for the default period if any.

iv) The Respondent are directed to deposit the above amount within one month to the credit of Chief Judicial Magistrate Court, Chengalpattu through NEFT/RTGS mode in the State Bank of India, Main Branch, Chengalpattu in A/c No:36092281179, IFSC Code: SBIN 0000824 .

v) The Award amount of the Petitioner/Claimant have to be deposited in a Bank as mentioned hereunder.

vi) The Respondent are shall deposit the Amount Awarded within the period of 30 days (Thirty days) from the date of pronouncement of the Award by this Claims Tribunal.

vii) The Petitioner/Claimant is permitted to withdraw his entire share amount accrued with interest from his Account after transfer of amount by MACT Bank through NEFT or RTGS.

viii) The Advocate Fee is fixed at Rs.6,540/-. Further the petitioner is directed to pay deficit court fee for the award amount if any, within 15 days.

ix) As per Judgment of our Honourable High Court of Judicature at Madras in M/s.Cholamandalam MS General Insurance Co Ltd., Vs. Ayyanar & Others – reported in 2020 (4) CTC 272, no decree is prepared and it is specified that the Claimant shall not be entitled to withdraw the sum deposited pursuant to the Award, unless the balance of court fee is deposited. All the parties are entitled to free copies of the award as per section 168(2) of the MV Act and Rules 20(6) of the Rules.

Dictated by me to the Steno-typist, typed by her directly in the Computer, corrected and pronounced by me in the open court, on this the 21st day of December 2023.

Sd/-T.Jayashree
Motor Accident Claims Tribunal Judge/
Chief Judicial Magistrate, Chengalpattu.

Petitioner Side Witnesses:

PW.1	Mr.Maduraiveeran
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Petitioner Side Documents:

Ex.P1	24.7.2013	Xerox copy of First Information Report
Ex.P2	30.7.2013	Medico Legal opinion
Ex.P3	24.7.2013	Accident Register copy
Ex.P4	--	Copy of Aadhar card
Ex.P5	--	Copy of Bank Pass book first page
Ex.P6	--	Copy of Ration card

Respondents side Witnesses and Documents: Nil

Court Documents

Ex.C1 10.7.2019 Disability Certificate

Sd/-T.Jayashree
Motor Accident Claims Tribunal Judge/
Chief Judicial Magistrate, Chengalpattu.