

**MOTOR ACCIDENT CLAIMS TRIBUNAL,
MADURANTAKAM.**

**PRESENT: Mr. T. GANESH, B.A.,B.L.,
Subordinate Judge,
Madurantakam.**

Thursday, this 25th day of June, 2026

MCOP No. 23/2023

(CNR.No.TNCG-000073-2023)

Balasundaram (age 50 years),

S/o. Elumalai, residing at

No. 44, Bharathi Street,

Alancheri Village,

Uthiramerur Taluk,

Kancheepuram District.

...Petitioner

..Vs..

1. Viswanathan, S/o. Annadurai,

residing at Puzhudhivakkam Village,

Madurantakam Taluk,

Chengalpattu – 603 314.

2. Mr. Viji, S/o. Annadurai,

residing at Puzhudhivakkam Village,

Madurantakam Taluk,

Chengalpattu – 603 314.

... Respondents

This petition was taken on file by this Tribunal court on 22.02.2023.

1.	Name and address of the petitioner	Balasundaram (age 50 years), S/o. Elumalai, residing at No. 44, Bharathi Street, Alancheri Village, Uthiramerur Taluk, Kancheepuram District.
2.	Name and address of the 1 st respondent	Viswanathan, S/o. Annadurai, residing at Puzhudhivakkam Village, Madurantakam Taluk, Chengalpattu – 603 314.
3.	Name and address of the 2 nd respondent	Mr. Viji, S/o. Annadurai, residing at Puzhudhivakkam Village, Madurantakam Taluk, Chengalpattu – 603 314.
4.	Date of filing of petition	23.12.2022
5.	Date of Award	25.06.2026
7.	Person who is liable to pay compensation	Respondents 1 and 2 are liable to pay compensation.
8.	Details of Award amount	Rs.7,08,500.00/- (Rupees Seven Lakh Eight Thousand Five Hundred Only) along with an interest at 7.5% from the date of petition till the date of deposit of the award amount excluding the period of dismissal for default if any.
9.	Details of Interest awarded.	Interest at the rate of 7.5% per annum from the date of petition till the date of realisation.
10.	Details of deposit and disbursement of award amount	Deposit by way of E-transfer such as NEFT, RTGS etc., into State Bank of India, Madurantakam Account No. 42910484246 IFSC code SBIN0000870 of Presiding officer, Motor Accident Claims Tribunal (MACT) Madurantakam. Petitioner to receive directly through E transfer such as NEFT or RTGS etc., in the bank account.
11.	Advocate fees	Advocate fee of Rs.14,085.00 fixed for the petitioner to make payment to his counsel as per the

		sub rule 4 of rule 20 of TN MACT Rules 1989.
12.	Details of court fees	Total court fees to be paid by the petitioner is Rs. 6,457.50. The petitioner has paid a court fee of Rs.1,000.00/-. The deficit court fee of Rs. 5,457.50 shall be paid within 15 days from the date of award by the petitioners.
13.	Orders as to costs	Respondents No. 1 and 2 are liable to pay costs to the petitioner for a sum of Rs. 20,552.50.

This petition came up on 03.06.2026 for final hearing before me in the presence of Mr.C.Venkatesan, counsel for the petitioner and M/s.D.G.Manikandan, K.Tamizh Arasu and R.K.Saraswathi Sathesh Yadaw, counsel for respondents 1 and 2 and upon hearing both sides arguments, perusing the case records and having stood over for consideration till this day, this court delivers the following;

ORDER

This petition is filed under Section 140 & 166 of Motor Vehicles Act 1988 (Act IV of 39 r/w Rules 3 of M.M.C.T Rules 1961) claiming compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs) with interest and costs from the respondents for the injuries sustained by the petitioner in the accident which occurred on 28.12.2021.

2. The case made out by the petitioner in amended claim petition is as follows:

On 28.12.2021 the petitioner was travelling as rider of two-wheeler bearing registration No. TN 21 AE 0290 from Puzhudhivakkam Junction to Vedanthangal. At about 7.30 p.m when he was proceeding near MGR Nagar, Madurantakam Taluk, the 2nd respondent's vehicle bearing registration number TN 19 V 1771 driven by the 1st respondent in the same direction in a rash and negligent manner and hit him. Due to

that the petitioner sustained grievous injuries all over the body. He was taken to Government Hospital, Chengalpattu and underwent treatment in private hospital.

The S.I. of police Madurantakam also registered a case in Crime No. 731/2021 under section 279 and 337 of IPC against the respondents. The 1st respondent is the rider and the 2nd respondent is owner of the vehicle involved in the accident. Hence the respondents are vicariously and statutorily liable to pay compensation to the petitioners. Hence the petitioner is claiming a sum of Rs.25,00,000.00

3. The averments contained in the counter filed by the 1st respondent adopted by 2nd respondent is as follows:

The 1st respondent denies the allegations set out in the petition. Petitioner did not sustain grievous injuries as alleged in the petition. The alleged injuries are only simple in nature. The petitioner did not sustain any permanent disability or any other disabilities. The petitioner with a view to get higher compensation from this court exaggerated the nature of injuries and disabilities in her petition. The petitioner did not file any medical proof with his petition to prove the nature of injuries and the disabilities.

At the time of accident, this respondent's driver drove his vehicle with very slow speed and following all the traffic rules and regulations. The petitioner alone suddenly applied break without traffic rules and due to his own negligent, the accident was happened. There is no any rash and negligent on the part of this respondent. The petitioner have not valid driving licence, R.C. Book and valid Insurance of his vehicle at the time of accident. The petitioner has not wear Helmet at the time of accident. In any event this respondent's driver has got valid driving license at the time of the occurrence. Therefore the respondent's is not alone liable to pay the compensation to the petitioner. Hence this respondent is not liable for pay any compensation to the petitioner. Hence the petitioner is not entitled for any relief against this respondent. Absolutely there is no merits in the application. Hence this petition is liable to be dismissed with cost.

4. Based on the above pleadings, the following points were framed for determination:

1. Whether the accident occurred due to the rash and negligent driving of the of the 2nd respondent's vehicle bearing registration number TN 19 V 1771 by the 1st respondent?
2. Whether the petitioner is entitled for compensation and if so, what is the amount?
3. Who is liable to pay the amount to the petitioner?

5. Petitioner examined himself as Pw1 and Exhibited P1 to P13. Respondents examined the 1st Respondent as Rw1 and through him Exhibit R1 marked.

6. Heard the counsel appearing on either side.

7. The learned counsel appearing for the petitioner would contend that the accident occurred only due to the rash and negligent driving of the driver of the 1st respondent vehicle. He further contends that as a result of injury, the petitioner could not continue his task, as he sustained permanent disabilities. Hence he prays to grant compensation as claimed by the petitioner.

8. Per contra, the learned Counsel appearing for the respondents 1 and 2 would contend that the accident took place not due to the negligent of the 1st respondent and it was due to apply of sudden brake of the petitioner alone. He further contended that the petitioner did not possess a valid driving licence, R.C. Book and insurance for his vehicle, and also did not wear a helmet at the time of accident. He argued that the injuries sustained by the petitioner are only simple in nature and that the petitioner has not sustained any permanent disability as alleged. Hence, he prays for dismissal of the petition.

9. POINT No.1 – NEGLIGENCE:

On a careful consideration of oral and documentary evidence available on record, the petitioner has claimed compensation for the injuries sustained by him in the accident said to have been caused by the vehicle belonging to the 2nd respondent

and ridden by the 1st respondent. The respondents defend the same as such the petitioner alone suddenly applied the brake without traffic rules and due to his own negligence, the accident occurred. Petitioner to prove his version examined himself as Pw1 and clearly deposed that the accident was solely occurred due to the rash and negligent act of the 1st respondent driver. He also filed Ex.P1 - Copy of First Information Report, where a case in Cr.No.731/2021 came to be registered by Madurantakam Police Station on 30.12.2021 for the alleged offences punishable under Sections 279 and 337 of IPC on the ground that the accident occurred only due to the rash and negligent driving by the 1st respondent's vehicle bearing registration number TN 19 V 1771. Nothing adverse was culled out from the mouth of Pw1 by the respondents in support of their version. So, the petitioner by way of examining himself as Pw1 and exhibiting P1 proved that the accident was happened due to the negligent driving of 1st respondent.

Now the respondents ought to disprove the same by way of evidence. Respondents examined the 1st respondent as Rw1 and exhibited the status report of the case registered under Ex P1. Rw1 deposed that the petitioner two-wheeler was tow by another two-wheeler and the accident was happened due to non glowing of light in the vehicle. In Rw1 chief,

"மனுதாரரின் வாகனம் இரவு பழுதாகி விட்டதால் அவருடை ஊர்காரர் மனுதாரரின் வாகனத்தை எந்தவிதமான பாதுகாப்பு முன்னெச்சரிக்கை செய்யாமல் மற்றொரு இருசக்கர வாகனத்தின் மூலம் காலால் டோக் செய்து கொண்டு மனுதாரரும் அவருடைய ஊர்க்காரரும் சென்றனர். மனுதாரரின் வாகனத்தில் மின் விளக்கும் எரியவில்லை. மேற்படி விபத்து மனுதாரரின் கவனக்குறைவால் ஏற்பட்டது".

Here there is no evidence that how the 1st respondent rode his two-wheeler. There is no explanation that how the accident was happened. Apart from that it is not the defence in counter that the accident was happened when the two-wheeler of the

petitioner was tow by another two-wheeler. In counter the respondents took a specific defence that the petitioner suddenly stopped his vehicle and due that alone the accident was happened. Contrarily in evidence they took another defence, which cannot be sustained. Ex R1, the status of case would show that the learned magistrate closed the Ex P1 under section 468 of Criminal Procedure Code. Mere the First Information was closed under section 468 of Crpc itself cannot be a ground to held that the accident was not happened due to the negligent act of the 1st respondent. It is only a closure of case for non filing of final report by the police officials. So, mere the First Information Report was closed itself would not be a evidence to disprove the alleged negligence cast upon the 1st respondent. There is no other evidence placed by the respondents to disprove the contention of the petitioner.

The respondents also contend that the petitioner did not possess a valid driving licence, R.C. Book and valid Insurance for his vehicle. Mere non possession of the said documents itself would not be ground to fasten liability upon the petitioner. In fact the respondents also didn't produce anything in respect their vehicle muchelss the driving licence of the 1st respondent. Even Rw1 himself admitted that he paid fine for non-possessing insurance at the time of accident. So, the said defence by the respondents cannot be countenanced.

Next the respondents contend that the petitioner didn't wear helmet at the time of accident and hence he also contributed the negligence. On perusal of medical records of the petitioner namely Ex P13, P2 to P5, nothing on record to show that the petitioner has sustained head injury. So, it cannot be held that the petitioner also contributed negligence by non-wearing helmet at the time of accident.

In summation the petitioner has proved that the accident was occurred due to the negligence of the 1st respondent who drove the two-wheeler bearing registration number TN 19 V 1771 which belongs to the 2nd respondent. Hence this point is decided accordingly.

10. POINT No.2 QUANTUM :

Ex P13- Accident register, Ex.P2 to P5 the discharge summaries would show that the petitioner sustained open Grade IIIB fracture of both bone left leg and underwent wound debridement with external fixation on 02.01.2022, Ilizarov fixation on 17.09.2022, and removal of Ilizarov fixation on 19.01.2023. Hence, this Court proceeds to award compensation under the following heads:

(i) Permanent disability: -

In order to assess the percentage of disability, the petitioner has appeared before the medical board and after examination, the members of the medical board assessed the disability at 8% which is obvious from disability certificate, Ex P12. There is no contra evidence adduced on the side of respondent to reduce the percentage of disability and as such the disability as assessed by Medical Board is accepted.

As per the decision of our hon'ble high court reported in ***2022 – 1 – TNMAC – 299, Manager claims, IFFCO TOKIO General Insurance Co., Ltd Vs Venkatesh and another*** for each percentage Rs.5,000/- has to be awarded as the accident was occurred in the year 2021. Hence, a sum of (8 X 5000) Rs.40,000 is awarded under this head.

ii) Pain and Sufferings: -

Petitioner has produced Ex P13 – the accident register which shows that the petitioner has sustained both bone fracture on his left leg. Ex P2 – the discharge summary for the period 28.12.2021 to 08.01.2022, would shows that the petitioner has sustained open grade IIIB fracture of both bone left leg and that he underwent wound debridement with external fixation on 02.01.2022. Ex P4 – the discharge summary for the period 30.08.2022 to 15.09.2022, which shows that the petitioner underwent Ilizarov fixations for the said fracture on his left leg on 17.09.2022, where there is infection on his left leg with non-union of bones. Ex P5 – the discharge

summary for the period 17.01.2023 to 23.01.2023, which shows that the Ilizarov fixed to the petitioner was removed on 19.01.2023. It was evidenced by Ex P6 and P7. Ex P2, P4 to P7 would show that the petitioner underwent surgeries on 02.01.2022, 17.09.2022 and 19.01.2023. No doubt that the petitioner has undergone three surgeries. So, the petitioner has suffered untold pain due to the above said injuries and treatment taken. Hence this court awards a sum of Rs. 1,50,000.00 under this head.

(iii) Loss of Income:-

According to the petitioner, he is a painter and earned a sum of Rs.25,000.00 per month. In support of the same the petitioner has not produced any documents. Hence this court wants to fix notional income. This court wants to rely upon a decision of our Hon'ble High court in *Petchiammal and others Vs M. Sathiyamoorthy* in *CMA 2636 of 2022* where it is held that a sum of Rs. 17,000.00 to be taken as notional income of non-earning member of the year 2019. Here the accident was occurred in the year 2021. Considering the same this court fix a sum of Rs.17,000.00 per month as notional income of the injured petitioner. As per Ex P2 to P5 the discharge summaries (28.12.2021 to 23.01.2023), there is no doubt that the petitioner cannot be mobilized till 23.01.2023. It is pertinent to note that Ilizarov was fixed on the left leg of the petitioner. So, no doubt that the petitioner unable to mobilize for nearly 18 months. Petitioner could not have attended his avocation atleast for a period of 18 months, particularly as he sustained both bone fracture on his left leg and external fixator done to him under Ilizarov fixation. Therefore, a sum of (18 X 17,000) Rs.3,06,000.00 is awarded under this head.

(iv) Transport:-

The petitioner has not produced any proof for transport expenses. Considering the nature of injuries sustained by the petitioner and treatment taken for nearly more than one year, this court inclined to award a sum of Rs. 10,000.00 under this head.

(v) Nutritious Food:-

For taking nutritious food to recuperate his health, notionally a sum of Rs.5,000.00 is awarded under this head.

(vi) Medical Expenses:-

The petitioner has produced Ex P8 medical bills for a sum of Rs. 25,517.75 which corresponds to Ex P3. There is no dispute raised by the respondents in respect of the same. Hence this court award a sum of Rs. 25,517.75 under this head.

(vii) Attender charges: -

As the petitioner sustained fracture on his leg, underwent wound debridement, external fixation and removal of external fixation, etc., he would have definitely needed the assistance of an attender to take care of him. No doubt that he cannot move out and be immobilized for a period of 18 months, as Ex P2 to P7 would substantiate the same. Hence assistance of attender was necessary to the petitioner for the said period. Each day the petitioner could have spent a sum of Rs.300.00 as attender charges, as the accident was occurred in the year 2021. Calculating the same the petitioner could have spent a sum of (300 X 18 X 30) Rs.1,62,000.00. Hence, considering the same the petitioner is entitled to a sum of Rs. 1,62,000.00 under this head.

(viii) Comfort and Amenities: -

Due to the said injuries, the petitioner would face lot of discomfort to do his daily chores and has lost his comfort and amenities. Considering the same, this court decided to award a sum of Rs 10,000.00 under this head.

The petitioner is entitled for compensation under various heads is as follows:

Sl.No.	Heads	Granted amount
1)	Permanent Disability	Rs. 40,000.00/-

2)	Pain and Sufferings	Rs. 1,50,000.00/-
3)	Loss of Income	Rs. 3,06,000.00/-
4)	Transport	Rs. 10,000.00/-
5)	Nutritious Food	Rs. 5,000.00/-
6)	Medical Expenses	Rs. 25,517.75/-
7)	Attender charges	Rs. 1,62,000.00/-
8)	Comfort and Amenities	Rs. 10,000/-
	Total	Rs.7,08,517.75/- Rounded off to Rs.7,08,500.00/-

Therefore, the petitioner is entitled for a compensation of Rs.7,08,500.00/- with interest and costs and the point No.2 is answered accordingly.

11. POINT No.3 - LIABILITY:

The petitioner contends that the 1st respondent is the rider and the 2nd respondent is the owner of the vehicle bearing registration number TN 19 V 1771. There is no dispute raised by the respondents in respect of the same. As the 2nd respondent vehicle was not insured, he is liable to pay compensation. Likewise the accident was occurred due to the negligence of the 1st respondent. So, he is also liable to pay compensation. Hence, this court concludes that the both respondents are jointly and severally liable to pay compensation to the petitioner and this point no.3 is answered accordingly.

12. Result:

In the result,

1. This claim petition is partly allowed.
2. That the respondents are jointly and severally liable to pay compensation to the petitioner and they are hereby directed to pay the petitioner a sum of Rs.7,08,500.00/- (Rupees Seven Lakh Eight Thousand Five Hundred Only) along with an interest at 7.5 percent per annum from the date of petition till the date of deposit of the award amount excluding the period of dismissal for default if any.
3. That it is hereby directed that the said amount shall be paid within 30 days from the date of the award in the Bank account of the Presiding Officer, Motor Accident Claims Tribunal, (MACT) Madurantakam in the State Bank of India Account No. **42910484246** (IFSC code SBIN0000870) through the direct bank e-transfer modes of money ie. RTGS or NEFT.
4. That the respondents shall inform the counsel for petitioner immediately after the deposit is made and to file proper proof before the court.
5. That the compensation amount to be deposited in the fixed deposit till the filing of the petition by the petitioner and as per the orders passed in such petition, the petitioner is entitled to receive the amount directly through the bank account of the petitioner through e-transfer modes of money ie. NEFT or RTGS.
6. That the total court fees to be paid by the petitioner is Rs.6,457.50. The petitioner has paid a court fee of Rs.1,000.00/-. The deficit court fee of Rs. 5,457.50 shall be paid within 15 days from the date of award by the petitioner.
7. That the Advocate fee of Rs. 14,085.00 is fixed for the petitioner to make payment to his counsel as per Sub Rule 4 of Rule 20 of TN MACT Rules 1989.
8. That the respondents are directed to pay a cost of Rs.6,467.50/- and Advocate fee of Rs.14,085.00 totaling a sum of Rs.20,552.50 to the petitioner.

Details of petitioner and his bank account

1	Name and address of the petitioner and details of Aadhar card	Balasundaram (age 50 years), S/o. Elumalai, residing at No. 44, Bharathi Street, Alancheri Village, Uthiramerur Taluk, Kancheepuram District.
2	Name of the Bank and Branch	Indian Bank, Attur Branch.
3.	Petitioner's Bank Account No.	6023774293
4	Bank IFSC No.	IDIB000A032

Since the petitioner has not filed the details of his Pan card details, he is directed to file the same immediately.

Details of cost

	Petitioner Side	Rs.P	Respondents side	Rs.P
1	Vakalath	10.00	Vakalath	10.00
2	Court Fee	6,457.50	--	--
3	Advocate Fee	14,085.00	--	--
	Total	20,552.50	Total	10.00

Directly typed by me in my lap – top, corrected and pronounced by me in the open court, this the 25th day of June, 2026.

Motor Accidents Claims Tribunal Judge,
Subordinate Judge,
Madurantakam.

(All necessary particulars are incorporated in the award itself as per the order of Honourable Madras High Court in Cholamandalam MS Genl Insurance Co.Ltd. Vs. Mr.S.Ayyanar and others Tr.CMP Nos.264 to 281 of 2020 Dt.11.05.2020 and hence it is directed to treat the same as decree)

PETITIONER'S WITNESSES:

PW1: Balasundaram (Petitioner).

PETITIONER'S EXHIBITS:

Ex P1	30.12.2021	First Information Report.	True copy
Ex P2	28.12.2021 to 08.01.2022	Discharge Summary, Chengalpattu Medical College and Hospital, Chengalpattu.	Original
Ex P3	11.01.2022	Doctor Prescription, Vasam Hospital.	Original
Ex P4	30.08.2022 to 15.09.2022	Discharge Summary, Chengalpattu Medical College and Hospital, Chengalpattu.	Original
Ex P5	17.01.2023 to 23.01.2023	Discharge Summary, Chengalpattu Medical College and Hospital, Chengalpattu.	Original
Ex P6		CT Scan.	Original
Ex P7		X-Rays.	Original
Ex P8		Medical Bills	Original.
Ex P9		Certificate of Registration.	Xerox copy

Ex P10		Aadhar Card of the Petitioner.	Xerox copy
Ex P11		Bank Pass book of the Petitioner.	Xerox copy
Ex P12		Disability certificate of petitioner.	Original
Ex.P13		Accident Register.	True Copy.

RESPONDENT'S WITNESSES :

RW1 : Viswanathan (1st Respondent)

RESPONDENT'S EXHIBITS:

Ex R1	29.07.2025	Final Disposal Order passed in the Criminal Case vide F.I.R No. 731/2021.	Web Copy.
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Motor Accidents Claims Tribunal Judge,
Subordinate Judge,
Madurantakam.

TNCG130000732023



Fair / Draft order
MCOP No. 23/2023
D.D: 25.06.2026
Sub Court,
Madurantakam.