

BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
CHENNAI

(In the IV Court of Small Causes, Chennai)

Present: Tmt.M.Arundhadhi, B.A. B.L.,
IV Judge

Monday, the 29th day of June 2026

M.C.O.P. 1519 of 2023
CNR No.TNCH09-002604-2023

Antony Alvinster,
S/o.Jesurajakili,
No.6, Anthoniyar First Street,
Kamarajapuram, Anakaputhur,
Chennai – 600 070.

....Petitioner

-Vs-

1. N.Balaji,
S/o.Natarajan,
No.18, Kattabomman Street,
Moongil ERI Pammal,
Chennai – 600 075.

2. United India Insurance Company Limited.,
No.134, 3rd party cell,
Greens Road, Thousand Lights,
Chennai – 600 006.

....Respondents

This petition is came up before me for final hearing on 12.06.2026 in the presence of M/s.G.Babu Ganesh, S.Bharath, R.Karthik, N.Sureka, Counsels appearing for the Petitioner, 1st respondent remained exparte, M/s.R.Jeevanandham, Counsel appearing for the 2nd respondent upon hearing the arguments on both sides and upon perusing the entire records of the case, 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 and

Rule 3 of the Motor Vehicles Rules, seeking for compensation of Rs.25,00,000/- for the injuries sustained by the Petitioner in a motor accident.

2. The averments made in the petition are briefly as follows:-

(i) The case of the petitioner is that on 23.01.2023 at about 11.20 a.m, while the petitioner was riding his Motorcycle bearing Registration. No. TN 85-A-9235 in Anagaputhur Service Road, at that time another Motorcycle bearing Registration No. TN 02-BK-9141 which belongs to 1st respondent, driven by its rider in a rash and negligent manner and hit against the petitioner and thus caused the accident to the petitioner. As a result, the petitioner sustained grievous injuries as stated in Column No.11 of the petition. The accident was reported to Chrompet Police Station, Chennai and the case was registered in Crime No.25/2023 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent riding by the rider of the 1st respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 45 years and he is a working in private company earning Rs.20,000/- per month at the time of accident. Due to the injuries sustained by the petitioner, he is unable to do the activities as before the accident. The 1st respondent being the owner and 2nd respondent being the insurer of the vehicle viz., Motorcycle bearing Reg.No. TN 02-BK-9141 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.25,00,000/- with interest along with cost. Hence this claim petition.

3. The averments made in the counter filed by the 2nd respondent are briefly as follows:-

(i) The 2nd respondent denies the age, occupation and income of the petitioner. Further denies that the accident occurred due to the negligence of the 1st respondent vehicle Two wheeler and denies the manner of accident.

(ii) Further denies that the rider of the 1st respondent's vehicle possessed valid driving license and its a violation of the policy condition. Hence the 2nd respondent is not liable to pay any compensation.

(iii) This respondent submits that at the time of accident the petitioner was riding his Motorcycle in a rash and negligent manner and hit against the 1st respondent's Two wheeler bearing Reg.No. TN 02-BK-9141 and thus invites the accident. The rider of the 1st respondent's vehicle not responsible for the accident.

(iv) Further denies the nature of injury, period of treatment and medical expenses of the petitioner and alleges that the claim is excessive. The respondent craves leave to file section 170 petition under M.V. Act and also reserves its right to file additional counter and therefore prayed to dismiss the petition.

(v) The 1st respondent remained exparte.

4. On the above pleadings the following points arise for determination:

- (1) Whether the accident has occurred due to rash and negligent driving by the rider of the vehicle viz., Two wheeler bearing Reg.No. TN 02-BK-9141 which is owned by 1st respondent and insured with 2nd respondent?
- (2) Whether the Petitioner is entitled for any compensation? If yes, what is the quantum of compensation and from which respondent?
- (3) To what relief the petitioner is entitled to?

5. ON THE POINTS:

(i) On the side of the petitioner, PW1 Antony Alvinster examined on proof affidavit and Ex.P1 to P17 & Ex.C1 were marked.

(ii) 1st respondent remained exparte. The 2nd respondent filed a petition u/s 170 MV Act in M.P.1/2026 viz. Order dated 04.06.2026, the same was allowed and the 2nd respondent is permitted to contest the case on all grounds that are available to the insured. There is no oral or documentary evidence let in on the side of contesting 2nd respondent.

(iii) Based on the above materials the Learned Counsel for the petitioner and 2nd respondent submitted their arguments. After hearing both sides and perusing material records and after giving careful consideration to the submission made on

either side, the above points are answered as below.

6. Point No.1:

(i) The 2nd respondent denies the manner of accident and the negligence upon the rider of respondent's Two wheeler and the petitioner also contributed towards the accident so the burden of proof is upon the petitioner to establish the manner of accident and negligence is upon the rider of offending vehicle bearing Reg.No.TN 02-BK-9141. The petitioner examined himself as PW1 on proof affidavit, he reiterated the petition averments and attributing the total negligence upon the rider of the 1st respondent's vehicle that on 23.01.2023 at about 11.20 a.m, when the petitioner was riding his Motorcycle bearing Registration. No. TN 85-A-9235 in Anagaputhur Service Road, at that time another Motorcycle TN 02-BK-9141 which belongs to 1st respondent, driven by its rider in a rash and negligent manner and hit against the petitioner and thus caused the accident to the petitioner. In the said road traffic accident the petitioner sustained grievous injury.

(ii) In support of his case PW1 relies upon Ex.P1 FIR, Ex.P2 Charge Sheet, Ex.P8 Rough Sketch, Ex.P9 AR copy & Ex.P11 Discharge summary.

(iii) On the other hand, the 1st respondent remained exparte, inspite of service of summons.

(iv) The 2nd respondent/Insurance Company filed counter denies all the petition averments as false. The 2nd respondent further contended that the accident occurred only due to the rash and negligent riding by the petitioner / rider of Motorcycle bearing Reg.No.TN 85-A-9235. The petitioner doesn't possess valid driving license at the time of accident and hence the contributed towards the accident. The 1st respondent vehicle rider not responsible for the accident. So the 2nd respondent is not liable to pay compensation to the petitioner.

(v) Though the 2nd respondent denies the negligence & manner of accident upon the driver of 1st respondent's vehicle but fails to substantiate the same with oral and documentary evidence. Whereas the petitioner through Ex.P1 FIR, Ex.P2 Charge

Sheet, Ex.P8 Rough Sketch, Ex.P9 AR copy & Ex.P11 Discharge summary clearly establishes that criminal Prosecution is lodged against the driver of the 1st respondent vehicle for the road traffic accident caused by him. Therefore from the oral evidence of PW1 documentary evidence Ex.P1, P2, P8, P9 & P11 the petitioner proves the negligence upon the driver of the offending vehicle namely Motorcycle bearing Reg.No.TN 02-BK-9141. Hence Point No.1 answered affirmatively.

7. Point No.2 :-

(i) In view of the findings in Point No.1 the petitioner is entitled for just & reasonable compensation for the injuries suffered by him in the accident. There is no dispute that the offending vehicle Motorcycle bearing Reg.No. TN 02-BK-9141 is owned by the 1st respondent and insured with the 2nd respondent at the time of accident. No dispute with respect to the accident and the petitioner got injured. Hence both the respondents 1 & 2 are jointly severally and vicariously liable to pay compensation to the petitioner.

(ii) The factors that are relevant to be considered in order to arrive at just compensation and the quantum of loss of income are the age of the claimant, the nature of employment, income, the nature of disability suffered and the impact of the permanent disability upon the earning capacity of the injured having regard to the nature of the employment.

(iii) The occurrence has taken place on 23.01.2023. As per the medical records in Ex.P9 AR copy, the age is given as 45 years as on the date of accident (i.e.,23.01.2023). Ex.P13 Aadhar card of PW1 the date of birth is given as 27.10.1977. Considering the same the age of the petitioner as on the date of accident is fixed as 46 years.

(iv) According to the petitioner, he is working at a private company and earning Rs.20,000/- per month, at the time of accident. But to substantiate the same no oral or documentary evidence produced to prove avocation and income.

(v) Hence following the Judgment reported in 2018(2) TNMAC 168 (National

Insurance Co., Ltd., and Ors. Vs. Thangadurai), considering his age, ability and economic condition in the year of 2023. Hence the notional income of the petitioner is fixed as Rs.17,500/- per month.

(vi) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P9 AR Copy, the petitioner was taken to Government Hospital Tambaram, immediately after accident, after first aid, the petitioner has taken treatment at Rela Hospital, Chennai for 4 days as inpatient from 23.01.2023 to 26.01.2023, there he was diagnosed with Crush Injury, Open Dislocation of Left 5th Toe PIP Joint Hematoma Proximal Left Leg and Distal Thigh Prepatellar Hematoma Left Knee. He underwent surgery on 23.01.2023, Wound Debridement, ORIF of 5th proximal interphalangeal joint and K-Wire fixation done & got discharged.

(vii) Considering the nature of injury, petitioner referred to Regional Medical board as per the directions of the Honourable High Court in the reported decision **Branch Manager, TATA AIG General Insurance Co., Ltd., Coimbatore -Vs- Prabhu & Others 2016 (1) TNMAC 609(DB)** for assessment of disability. The Medical Board opined that the petitioner has suffered 3% Total Locomotor disability(pain). Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(viii) Considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical Board assessing the disability as Total Locomotor disability towards pain. Hence percentage method is adopted.

(ix) Based on the above discussed materials and facts and circumstances of the case, the compensation under both Pecuniary & Non – Pecuniary Heads are awarded as below:

Loss of Income during Medical Treatment:

The petitioner has taken treatment as inpatient from 23.01.2023 to 26.01.2023 i.e., for about 4 days for Crush Injury, Open Dislocation of Left 5th Toe PIP Joint Hematoma Proximal Left Leg and Distal Thigh Prepatellar Hematoma Left Knee @

Rela Hospital, Chennai, Wound Debridement, ORIF and K-Wire fixation done. Hence considering the available medical records and nature of injury sustained by petitioner, it might not taken less than 5 months for treatment and recovery. As we have already discussed his notional income is taken as Rs.17,500/- per month. Hence the loss of income during the period of medical treatment and recovery is arrived at **Rs.87,500/-** (Rs.17,500 x 5 months).

Loss due to Partial Permanent Disability:

In view of the recent judgment of our *Hon'ble High Court of Madras in, C.M.A.No.3018/2024 dated 20.11.2024*

Noori vs. Narendiran and another, in which Hon'ble High Court held “for the accident in the year 2020 **Rs.9,000/-** per percentage to be awarded”.

Hence keeping in mind on the above said decision of our Honourable High court, since the accident was occurred in the year of 2023, this Tribunal comes to the conclusion that the Petitioner has suffered **partial permanent disability** of 3% and the Petitioner is entitled for just compensation for the injuries sustained by him as Rs.9,000/- per percentage is allowed. Hence the Petitioner is entitled for **Rs.27,000/-** (Rs.9000 x 3%) only as just compensation for the injuries sustained by him.

Medical expenses:

The petitioner has taken treatment at Private Hospital and he produced Ex.P12 series of medical bills for **Rs.1,55,901/-**. Since there is no serious objection raised on the side of 2nd respondent and the bills are original bills, the same is awarded as it is.

Transport Charges:

The petitioner taken treatment at Relu Hospital, Chennai as Inpatient for about 4 days. Hence he would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at **Rs.4,000/-**.

Extra-nourishment & Damages to clothing and articles:

Considering the nature of accident and the injuries suffered by the petitioner

and the period of treatment it will be just to grant a sum of **Rs.20,000/-** towards extra nourishment and **Rs.1,000/-** towards damages to clothing and articles.

Compensation for Pain and Sufferings:

The petitioner has suffered Crush Injury, Open Dislocation of Left 5th Toe PIP Joint Hematoma Proximal Left Leg and Distal Thigh Prepatellar Hematoma Left Knee and Wound Debridement, ORIF and K-Wire fixation done and she was treated as inpatient for 4 days at Rela Hospital, Chennai. Hence considering the nature of injury, period of treatment & disablement, trauma & pain undergone by the petitioner it is just and proper to award **Rs.40,000/-** towards pain and sufferings.

Attender Charges:

The petitioner admitted at Rela Hospital, Chennai as an in-patient for about 4 days and Wound Debridement, ORIF and K-Wire fixation done. The mobility of the petitioner is restrained by the injury and he depends on an attender to do his day to day avocations. Hence considering the nature of injuries and period of recovery a sum of **Rs.3,000/-** is awarded towards attender charges.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Crush Injury, Open Dislocation of Left 5th Toe PIP Joint Hematoma Proximal Left Leg and Distal Thigh Prepatellar Hematoma Left Knee suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.30,000/-** towards loss of amenities.

In view of the foregoing discussion this Tribunal fixed the just compensation as follows:

CALCULATION:

1. Loss of income	:	Rs.	87,500/-
2. Disability	:	Rs.	27,000/-
3. Medical Expenses	:	Rs.	1,55,901/-
4. Transportation	:	Rs.	4,000/-

5. Extra Nourishment	:	Rs.	20,000/-
6. Damages to clothing and articles	:	Rs.	1,000/-
7. Pain and Sufferings	:	Rs.	40,000/-
8. Attender Charges	:	Rs.	3,000/-
9. Loss of amenities	:	Rs.	30,000/-
Total Compensation is fixed at	:		<u>Rs. 3,68,401/-</u>
Rounded off to	:	Rs.	3,68,500/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.3,68,500/-** i.e., **three lakhs sixty eight thousand five hundred only** and Point No.2 is answered accordingly.

8. Point No.3:

In view of the above finds, the petitioner is entitled for compensation as above together with interest at 7.5% p.a from the date of petition with cost and none other relief the petitioner is entitled to and point No.3 is answered accordingly.

9. Result:

In the result, this petition is partly allowed and a sum of **Rs.3,68,500/- (Rupees three lakhs sixty eight thousand five hundred only)** is awarded as just compensation to the Petitioner with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e., 28.02.2023 till the realization, payable by the 2nd Respondent. No interest for the default period as per orders if any. The 2nd respondent is directed to deposit the said amount to the credit of the bank account of this claim tribunal directly by NEFT OR RTGS mode within a period of two months from this order, and intimate the said deposit details to this tribunal with a copy of the said Bank advise. Thereafter, the said amount shall be made directly to the credit of the Petitioner bank account.

This Tribunal Account particulars:

Registrar (MACT), Court of Small Causes, Chennai

Account No. 7103261207

IFSC No. IDIB000M157

Indian Bank, Madras High Court Branch, Chennai.

E-mail ID. chnccc.sccrc-tn@indiancourts.nic.in

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The Petitioner name is – Antony Alvinster

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, High Court Branch.	Acc : 8067247807 IFSC : IDIB000M157	5113 5631 7118	AATPW1004

The petitioner has paid a sum of **Rs.372.50/-** towards Court fee. As per this award, the Court fee is **Rs.3,057.50/-**. The Advocate fee is fixed at **Rs.10,370/-**. The deficit court fee of **Rs.2,685/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	28.02.2023
Date of taken up on file	24.03.2023
Compensation claimed in the M.C.O.P.	Rs.25,00,000/-
Compensation awarded in this petition	Rs.3,68,500/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.3,057.50/-
Additional court fee shall be paid	Rs.2,685/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.13,472.50/-** towards the costs of this petition.

Cost List for the petitioner

<u>STATEMENT OF COSTS</u>						
<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	-	3,057	.	50		
Stamp on Vakalat	-	5	.	00		
Stamp for process	-	40	.	00	-- not filed --	
Advocate fees		10,370	.	00		
Costs allowed	-	13,472	.	50		

The direction regarding copy of the Judgment and decretal order prepared under Sub rule 6 of Rule 20 of TNMAC Rules, 1989 and Hon'ble Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 are obediently followed and further it is informed that, as per the direction of the Honourable High Court, as far as this claim Petition is concerned, Decree is not drafted separately and in the award, instead of drafting the decree, necessary details have been incorporated in this claim Petition's order.

This order has been dictated by me to the typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Monday, the 29th day of June 2026.

**Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai**

Petitioner's sides Witness:

P.W.1: Mr. Antony Alvinster

Petitioner's side Exhibits:

- Ex.P-1 : FIR Xerox
- Ex.P-2 : Charge Sheet
- Ex.P-3 : Registration Book Copy of 1st respondent vehicle
- Ex.P-4 : Accused Driving Licence Copy
- Ex.P-5 : Insurance Copy
- Ex.P-6 : Respondent's Vehicle MVI Report
- Ex.P-7 : Petitioner's Vehicle MVI Report
- Ex.P-8 : Rough Sketch Copy
- Ex.P-9 : AR copy
- Ex.P-10 : Wound Certificate
- Ex.P-11 : Discharge Summary
- Ex.P-12 : Medical Bills
- Ex.P-13 : Aadhar Card xerox
- Ex.P-14 : Pan Card xerox
- Ex.P-15 : Bank Pass Book Xerox
- Ex.P-16 : Petitioner Driving Licence Xerox
- Ex.P-17 : Left Lower Limb Doppler Study Report Original

Respondents Side Witness & Exhibits: NIL**Court documents:**

- Ex.C1 : Disability Certificate issued by Medical Board.

**Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai**