BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL

(III COURT OF SMALL CAUSES, CHENNAI)

Present: Shri. M.DHARMAPRABU, M.A., M.L.,

III Judge, Court of Small Causes

Tuesday, the 14th day of July 2026

<u>Motor Accidents Claims Original Petition No.1161 of 2022</u>

CNR NO : TNCH09-003413-2022

1. Selvamathi W/o. Raja @ Bakyaraj,
2. Minor Hariraj rep by his mother Selvamathi,
3. Minor Bamashri rep by his mother Selvamathi.

<u>All are residing at:</u>
No.1/190, Muthaliyar Kuthagai,
Ayyakaran Pulam – II Sethi,
Vedaranyam Tk, Nagapattinam – 614 707. … Petitioners

-Vs-

1. S.Anbazhagan S/o. Baskaran,
Kunniyur Salai, Adhichapurm,
Mannargudi – 614 717.

2. The General Manager,
National Insurance Co. Ltd,
Murugesa Nayacker Street,
Greams Road, Chennai – 600 006. … Respondents

<u>Appearance:</u>

M/s.K.Ravi & R.Samathuvakannan, Counsels appearing for the Petitioners.

1st respondent: Set *exparte* on 07.07.2022.

M/s.S.Vadivel & Others, Counsels appearing for the 2nd respondent.

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Upon perusing the entire records, I passed the following

<u>AWARD</u>

The Claim petition is filed by the Petitioners seeking compensation of Rs.49,00,000/- for the death of Raja @ Bakiyaraj.

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2. Crux of the Petition:

The deceased was Aged about 30 years working as Driver thereby earning Rs. 25,000/- per month. On 23.12.2020 at about 19.00 Hours, when the deceased was travelling as a pillion-rider in a motorcycle bearing registration bearing registration number TN 51 AD 6247 from Aakaranpulam to Voimedu, near Ramaiyan House, a two-wheeler bearing registration number TN 50 AU 6260 in the same direction and hit the petitioner's motorcycle due to which the deceased sustained grievous injuries and multiple injuries all over her body. A criminal case was registered in a crime No. 1118 of 2020 by Voimedu Police Station. The 1st Respondent is the owner and the 2nd Respondent is its insurer. The 2nd Petitioner is the wife and the Petitioners 2 and 3 are the minor children of the deceased. Hence, the Petition.

3. Crux of the Counter of the 2nd Respondent:

Denied the manner of the Accident. Age, income and occupation of the deceased are denied. The accident was due to the negligence of the deceased by himself. Hence, he is not entitled to seek compensation. The FIR was registered against the rider of the motorcycle bearing registration number TN 51 AL 3315 on the basis of the complaint given by the father of the deceased. After completion of investigation, the final report was filed against the deceased that the occurrence was due to the rash and negligence of the deceased and referred the charge-sheet as 'abated'. The deceased was under the influence of alcohol and riding the motorcycle and he dashed against the motorcycle bearing registration number TN 51 AL 3315, TN 50 AU 6260 and TN 51 H 0974. Therefore, the Petitioners are not entitled to any compensation since the deceased himself was a tortfeasor. Hence, the Petitioners cannot make any claim against the owner and insurer of the motorcycle bearing registration No. TN 50 AU 6260. In the final report, it was stated that the deceased was riding TN 51 AD 6724 whereas in the Claim petition it was mentioned as TN 51 AD 6274 and hence the Petitioners shall produce RC book of the motorcycle in which he was riding. Hence, the petition is liable to be dismissed.

4. The points to be decided are as follows:

1. On whose negligence, did the accident occur?
2. Whether the petitioners are entitled to compensation? If so, what Quantum?
3. Which Respondent is liable to pay compensation?

5. On the side of the petitioner, the petitioner was examined as PW1 and Ex.P1 to P15 were marked. An eye witness Iyappan was examined as PW2. On the side of the 2nd respondent, an application was filed under Section 170 of the MV Act. The Sub-Inspector of Police Voimedu Police Station was summoned and examined as RW1 and Ex.R1 and R2 were marked. Official of the RTO, Nagapattinam was summoned and examined as RW2 and Ex.R3 and R4 were marked. Official of the 2nd Respondent was examined as RW3 and Ex.R5 and R6 were marked.

6. Answer to Point No. 1:

(a) In the present case, the pleadings in the claim petition are deficient with regard to the precise manner of the accident. The petitioners have not clearly stated whether the motorcycle bearing registration No. TN 50 AU 6260, carrying a ladder, was proceeding in front of or behind the motorcycle in which the deceased traveled. Likewise, there is no specific pleading as to whether the impact was a head-on collision, a collision from behind, or a lateral collision. Thus, the claim petition does not furnish a complete and clear version of the occurrence.

(b) The PW2 was examined as an eye-witness. Admittedly, PW2 is the own brother of the deceased. Though the testimony of a related witness cannot be discarded solely on the ground of relationship, such evidence has to be scrutinized with greater care and caution. The manner of the accident becomes clearer only from the criminal case records. Ex.R2, the final report, states that a red ribbon was tied to the ladder on the front of the motorcycle bearing registration No. TN 50 AU 6260 and that the deceased attempted to overtake the said vehicle, during which he came into contact with the opposite vehicle bearing registration No. TN 51 AH 0974. The final report further refers the case as “charge abated” against the deceased. Though the criminal records are not binding on this Tribunal, they constitute a relevant piece of evidence for appreciating the surrounding circumstances of the accident.

(c) Ex.P2, the Accident Register, records that the deceased had breath smell of alcohol at the time of admission in the hospital. While the said entry alone may not conclusively prove intoxication in the absence of a chemical analysis report, it is nevertheless a relevant circumstance that cannot be ignored while considering the conduct of the deceased at the time of the occurrence. The evidence available on record would indicate that the deceased attempted to overtake a vehicle carrying a ladder, and in the process came into contact with an oncoming vehicle. Attempting to overtake in such circumstances reflects lack of due care and caution on the part of the deceased as well. At the same time, it would indicate involvement of the motorcycle bearing registration No. TN 50 AU 6260 in the chain of events leading to the accident.

(d) Hence, From the oral and documentary evidence, this Tribunal is of the view that the accident occurred due to the negligence of both the rider of the motorcycle bearing registration No. TN 50 AU 6260 and the deceased. The deceased, by attempting to overtake under unsafe circumstances and in view of the above circumstances, contributed substantially to the occurrence of the accident. Accordingly, this Tribunal holds that the deceased was guilty of contributory negligence to the extent of 50%, and the negligence of the rider of the motorcycle bearing registration No. TN 50 AU 6260 is also fixed at 50%. Thus, the Point No. 1 is answered.

7. <u>Answer to Point No. 2:</u>

(a) The petitioners have claimed that the deceased was employed as a Driver and earning Rs. 25,000/- per month. However, no documentary evidence has been adduced. Considering the nature of avocation pleaded, the year of accident 2020, and the Cost Inflation Index 301 for the financial year 2020–2021, the notional monthly income of the deceased is fixed at Rs. 15,167/-, which is rounded off to **Rs. 15,000/-** per month.

(b) As regards age, Ex.P8 Driving Licence and Ex.P13 Aadhaar Card show the date of birth of the deceased as 25.05.1982. Since the accident occurred on 23.12.2020, the deceased was 38 years old at the time of the accident. Therefore, the appropriate multiplier applicable as per ***Sarla Verma v. Delhi Transport Corporation***, is '15'.

(c) Since the deceased was aged below 40 years and was self-employed/fixed income, an addition of 40% towards future prospects is warranted in terms of ***National Insurance Co. Ltd. v. Pranay Sethi***. The deceased left behind his wife and two minor children; hence, one-third of the income is deducted towards personal and living expenses.

(d) Loss of Dependency Calculation is tabulated as under:

Particulars	Amount (Rs.)
Monthly notional income	15,000/-
Future prospects @ 40%	6,000/-
Monthly income with future prospects	21,000/-
Annual income	2,52,000/-
Deduction towards personal expenses (1/3rd)	84,000/-
Annual contribution to the family	1,68,000/-
Multiplier	15
Loss of dependency	25,20,000/-

(e) The accident occurred in the year 2020. Applying the 10% enhancement for two blocks over the conventional amounts indicated in ***Pranay Sethi's case supra***, the petitioners are entitled to compensation of Rs. 18,150/- each for Loss of estate and Funeral Expenses. Regarding the consortium, the 1st Petitioner being the wife is entitled to spousal consortium, and the Petitioners 2 and 3 being minor children are entitled to parental consortium of Rs. 48,400/- each.

(f) Therefore, the Petitioners are**Rs. 13,51,000/- (Rupees Thirteen Lakhs and Fifty One Thousand Only)** entitled to the following compensation as tabulated below:

Head of compensation	Amount (Rs.)
Loss of dependency	25,20,000/-
Loss of consortium to the wife and Children	1,45,200/-
Loss of estate	18,150/-
Funeral expenses	18,150/-
Total compensation	27,01,500/-
After Deduction 50% contributory Negligence	13,50,750/-
Rounded off	**13,51,000/-**

(g) Accordingly, the Petitioners are entitled to **Rs. 13,51,000/- (Rupees Thirteen Lakhs and Fifty One Thousand Only)** as compensation. Regarding the apportionment, the 1st Petitioner being the wife is entitled to larger share and she is awarded 60% and the Petitioners 2 and 3 are entitled to each 20% share. Accordingly, the point is answered.

8. <u>Answer to Point No. 3:</u>

(a) The 2nd Respondent has contended that the rider of the offending motorcycle bearing registration No. TN 50 AU 6260 was not possessing a valid driving licence at the time of the accident. Ex.P15 = Ex.R4, the Motor Vehicle

Inspection Reports, indicate that the driving licence of the rider was not produced. The petitioners have also not produced any material to establish that the rider possessed a valid and effective driving licence on the date of accident. The 1st Respondent remained *exparte.* Therefore, the adverse inference is drawn against the 1st Respondent.

(b) Non-possession of a valid driving licence constitutes a breach of the policy conditions. Nevertheless, the vehicle was admittedly covered by a valid insurance policy issued by the 2nd Respondent. Accordingly, Point No. 3 is answered holding that the 2nd Respondent shall pay the compensation with interest and costs to the petitioners in the first instance and shall thereafter be entitled to recover the same from the 1st Respondent.

9. <u>Mode of Disbursement:</u>

(a) Insofar as the mode of disbursement of compensation is concerned, it is brought to the notice of this Tribunal that the Hon'ble Supreme Court in ***Parminder Singh v. Honey Goyal & Ors.,*** **2025 INSC 361 : 2025 LiveLaw (SC) 318**, has held that the compensation amount shall be directly transferred to the bank account of the claimant, without requiring deposit before the Tribunal. In the present case, the petitioner has already furnished his bank account particulars before this Tribunal, of which the 2nd Respondent has due notice.

(b) This Tribunal is of the view that insisting upon payment of deficit court fee by the petitioner as a condition precedent for receipt of the compensation may result in avoidable delay in disbursement and consequential accrual of interest. Since the petition is being allowed with costs, and the liability towards court fee is ultimately to be borne by the 2nd Respondent, it is just and proper to direct the 2nd Respondent to pay the deficit court fee separately, preferably by way of e-court fee, if any. After deducting such court fee, the balance compensation amount, together with costs, shall be directly transferred to the bank account of the claimants except the minors, and intimation of such transfer shall be furnished to this Tribunal forthwith.

(c) Insofar as the shares of the minor claimants are concerned, this Tribunal is of the view that since the Tribunal is under an obligation to safeguard the compensation awarded to minors and to ensure its proper investment till they attain majority, directing the Insurance Company to transfer the amount directly to the minors' bank accounts with further directions to the concerned banks would unnecessarily complicate the implementation and monitoring of such directions. Therefore, the proportionate shares of the minor claimants, together with accrued interest, shall be deposited into the Tribunal's Account, from where the same shall be invested in interest-bearing Fixed Deposits until they attain majority, subject to further orders of this Tribunal.

(d) The contingency relating to return, reversal, or unsuccessful electronic transfer of the compensation amount shall be governed by the directions contained in the Result portion infra.

10. <u>Result:</u>

In fine,

(a) The Petition is partly allowed with Costs,

(b) The petitioner is awarded a total compensation of **Rs. 13,51,000/- (Rupees Thirteen Lakhs and Fifty One Thousand Only)** with interest at a rate of 6.5% p.a. from the date of filing of the petition till the date of deposit excluding the period of dismissal for default, if any.

(c) Regarding the apportionment, the 1st Petitioner being the wife is entitled to larger share and she is awarded 60% and the Petitioners 2 and 3 are entitled to each 20% share.

(d) The proportionate shares of the minor Petitioners, together with accrued interest, shall be deposited by the 2nd Respondent into the Tribunal's Account, namely **Registrar (MACT), Court of Small Causes, Chennai, Account No. 7103261207, IFSC: IDIB000M157, Indian Bank, Madras High Court Branch, Chennai**, within the stipulated period. On such deposit, the 2nd Respondent shall furnish the Bank Advice before this Tribunal and serve a copy thereof on the Petitioners. The Tribunal shall thereafter invest the said amounts in interest-bearing Fixed Deposits in accordance with law till the minors attain majority.

(e) The **respondent No.2 / Insurance Company is directed, within a period of 30 Days from this day, to pay/deposit the deficit court fee,** if any, before this Tribunal in accordance with law, and thereafter to transfer the balance award amount, together with accrued interest and costs, directly to the bank account of the 1st petitioner of her due share, whose bank account particulars have been furnished below. In the event of payment after the said period, the rate of interest shall be 7.5 % per annum instead of 6.5% per annum.

(f) The **respondent No. 2 / Insurance Company** shall file before this Tribunal **proof of payment/deposit of the deficit court fee, if any, and proof of electronic transfer of the balance award amount to the Petitioner's bank account(s) immediately after compliance.**

(g) **Only in the event** the electronic transfer is returned, reversed, or remains unsuccessful on account of the bank account being inoperative, closed, incorrect, or for any other reason attributable to the Petitioner, the respondent Insurance Company shall intimate this Tribunal along with proof, if any, and the concerned Petitioner. The Petitioner shall furnish correct and operative bank account particulars before this Tribunal within two weeks from the date of such intimation, and the respondent Insurance Company shall re-transfer the amount to the corrected bank account within the time fixed by this Tribunal. Any delay attributable to such incorrect or inoperative account particulars shall not render the respondent Insurance

Company liable for additional interest for the period of such delay.

(h) Upon such deposit, the 2nd Respondent is **permitted to recover** the same from the 1st Respondent.

(i) The Advocate fees is fixed as **Rs. 20,510/-.**

<u>REQUIRED PARTICULARS</u>

1.	Date of Presentation	11-03-2022	
2.	Date of filing	15-03-2022	
3.	Compensation Claimed	Rs.	49,00,000/-
4.	Court fees paid	Rs.	372.50/-
5.	Compensation Awarded	Rs.	13,51,000/-
6	Court Fees payable on the Award	Rs.	12,882.50/-
7.	**Deficit Court fees Payable (6-4)**	**Rs.**	**12,510/-**
8.	Petitioner's Bank Name and Branch	1st Petitioner – Indian Bank, Voimedu	
9.	Petitioner's Account number and IFSC code	1st Petitioner – 801738118, IDIB000V047.	
10.	Petitioner's Aadhar	1st Petitioner – 8633 8167 3771	
11.	Petitioner's PAN	Not Furnished	
12.	Default period, if any	---	

<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	-	12,882	.	50			
Stamp on Vakalat	-	20	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees	-	20,510	.	00			
Costs allowed	-	33,452	.	50			

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//Dictated to the Steno typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Tuesday, the 14th day of July 2026.//

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III Judge
Court of Small Causes, Chennai.

Petitioner's side Witness:

P.W.1 : Mrs. Selvamthi, Petitioner
P.W.2 : Mr. Iyappan, Eye Witness

Petitioner's side Exhibits:

Ex.P1 : FIR
Ex.P2 : Accident Register
Ex.P3 : Postmortem Certificate
Ex.P4 : Death certificate
Ex.P5 : Legal Heir Certificate
Ex.P6 : Registration copy of the accident made vehicle
Ex.P7 : Insurance copy of the accident made vehicle
Ex.P8 : Driving License of the deceased
Ex.P9 : Aadhar card copy
Ex.P10 : Birth certificate of the 2nd petitioner
Ex.P11 : Birth certificate of the 3rd petitioner
Ex.P12 : Bank Passbook copy
Ex.P13 : Aadhar card of the deceased
Ex.P14 : MVI report
Ex.P15 : MVI report of 1st respondent

2nd Respondent side Witness:

R.W.1 : Mr. Singaravelan
R.W.2 : Mr. Balaji
R.W.3 : Ms. T.Jenitha Jeba Sheeli

2nd Respondent side Exhibits:

Ex.R1 : FIR
Ex.R2 : Charge Sheet
Ex.R3 : Authorisation Letter
Ex.R4 : MVI Report
Ex.R5 : Authorisation Letter
Ex.R6 : Policy copy

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III Judge
Court of Small Causes, Chennai.

Note:

(a) In view of Sub-rule 6 of Rule 20 of TNMAC Rules, 1989 and **M/S.Cholamandalam MS Genl. Ins Co Ltd. v. Mr. Ayyanar & Ors., Tr.CMP. No. 264-281/2020 dt. 11.05.2020**, Drafting of Decree has been dispensed with by direction of the Hon'ble High Court.

(b) Advocate Fees are fixed fixed by the Tamil Nadu State Legal Authority Act Circular dated 17.10.2016 and Rule 20(5) of Tamil Nadu Motor Vehicles Accident Claims Tribunal Rules 1989.

(c) Digitally Signed copy of the Award shall be utilized for all the purposes.