

IN THE COURT OF THE V JUDGE, COURT OF SMALL CAUSES,
CHENNAI

(MOTOR ACCIDENTS CLAIMS TRIBUNAL)

PRESENT: Tmt. M. SHAKKIRA BANU, M.A.M.L.,MHR.,PGDHRM.,PGDIPR.,DLLAL.,

V Judge

Tuesday, this the 04th day of August 2026

MCOP No.1779/2017

CNR No.TNCH09-002267-2017

Prajan (minor),
Aged about 2.5/2017 years,
S/o. Ganesh Murthy,
No.117/15, Kuttியappan street,
Pumping Station Lane,
Kilpauk, Chennai - 600 010.

...Petitioner

(*Minor rep. by his mother next friend and natural guardian Durga Devi)

Vs.

1. M. Amsaveni,
W/o. Mohan,
No.G-9, Sathya Murthy Nagar,
Chennai - 600 035.

2. The United India Insurance Co. Ltd.,
No.134, Greem Road,
IV floor, Anna salai,
Chennai - 600 006.

...Respondents

This claim petition came up on **13.07.2026** for final hearing before me in the presence of **M/s. M. Malar, F. Terry Chella Raja and R. Reena** Counsels for the petitioner and **Mr. G.V.Anjaneya Babu** Counsel for the 2nd respondent and **1st respondent called absent set exparte** and upon hearing petitioner side and on perusing the case records and having stood over for consideration till this date, this court delivered the following.

AWARD

This petition has been filed under Section 166 of Motor Vehicles Act, 1988 claiming a compensation of **Rs.30,00,000/-** with interest and costs.

1. Brief averments in the petitions:

The petitioner submitted that on 11.02.2017 at about 05.30 pm while the minor petitioner was riding as a pillion rider in a motorcycle bearing Reg. No. TN 01 AK 4905 at Kandanchavadi, OMR salai, near IGP company, at that time an auto which belongs to the first respondent bearing Reg. No. TN 09 AD 6633 came on the same road and same direction in a very rash and negligent manner and endangering the public safety dashed behind the motorcycle. Due to which the minor petitioner along with his partents fell down from the vehicle and the other also sustained multiple injuries all over the body. The accident occurred only due to rash and negligent manner the first respondent van driver. The 1st Respondent being owner and 2nd Respondent being insurer of the vehicle and both are liable to pay compensation to the petitioner.

2. Brief averments in the counter of 2nd respondent :

This Respondent submit that the above petition is neither maintainable in law nor on facts. At the outset, the 2nd respondent denied all the averments in the claim petition and puts the petitioner to strict proof of the same. The accident occurred solely due to the negligence of the petitioner. The age, occupation, income of the petitioner is denied. The manner of accident is denied. There was no existence of valid insurance policy and driver of the vehicle bearing Reg. No. TN 09 AD 6633 allegedly involved in the accident had no valid and effective driving license on the date of accident. The minor petitioner father was riding his two wheeler bearing Reg.No. TN 01 AK 4905

in triples three persons Mrs. Durga Devi petitioner in MCOP 1778/2017, Mr.Ganesh Murthy in MCOP 1777/2017 including the minor Prajan petitioner and hence he lost control and caused the accident. The claim made under various heads is denied as highly excessive. Hence prayed for dismissal.

3. Evidence:

The minor petitioner mother Mrs.Durga Devi was examined as PW1 and marked Ex.P1 to Ex.P8. On the 2nd Respondent side, no witness was examined and no documents marked. The disability certificate issued by the medical board is marked as Ex.C1.

4. Points for determination are:

1)	Whether the accident occurred due to the rash and negligent driving of the 1 st respondent auto driver?
2)	Whether the 1 st respondent auto driver was having valid driving license and whether the said vehicle was covered under valid insurance and proper documents, as contemplated under the M.V. Act at the time of accident?
3)	Whether the petitioner is entitled to get compensation? If so, what should be the quantum of compensation, and by whom it is payable?

5. Point No.1:

It is pertinent to note that with regard to the accident, police complaint was lodged before the Guindy Traffic Investigation Wing, based on which Ex.P1 First Information Report was registered in Crime No.103 of 2017 for the offences under Sections 279, 337 IPC against the driver of the offending auto. The 1st respondent remained exparte and did not choose to contest the claim. On the side of the 2nd respondent, no oral or documentary evidence has

been adduced to rebut the petitioner's case. Considering the oral evidence of PW1, the contents of Ex.P1 FIR, and the absence of any rebuttal evidence on the side of the respondents, this Tribunal holds that the accident occurred solely due to the rash and negligent driving of the driver of the Tata Ace Van bearing Registration No. TN 09 AD 6633 belonging to the 1st respondent. Point No.1 is answered accordingly.

6. Point No.2:

In this point it has to be ascertained whether the 1st respondent auto driver had valid driving license and the vehicle had insurance at the time of accident. In evidence the petitioner side did not mark the driving license of the first respondent auto driver, = RC book, insurance policy and MV report of the auto. The insurer has not produced any evidence to establish breach of policy conditions or absence of a valid driving license. Though the petitioners have not produced the driver's license, the burden to prove policy violation lies upon the insurer. Since no evidence has been adduced by the insurer, adverse inference cannot be drawn against the claimants. Accordingly, the Tribunal holds that the insurer has failed to establish any statutory defense under Section 149(2) of the Motor Vehicles Act. Therefore, this Tribunal is of the view that the auto involved in the accident was under the cover of insurance and its driver had valid driving license at the time of accident. The point No.2 is decided accordingly.

7. Point No.3 :

The minor petitioner sustained injuries in the forehead, head injury, right temporal bone fracture, right temporal subdural haemorrhage, right temporal partitel SAH and he was admitted at Dr. Regina Nursing Home as inpatient from 11.02.2017 to 13.02.2017 as per Ex.P3 discharge summary.

When the petitioner was referred to the medical board, after examination the disability was fixed as 10%. The petitioner was minor at the time of accident and no functional disability to him.

i) Partial disability

Since the disability found by the medical board is 10% and in view of *the Hon'ble Supreme Court judgment in Master Mallikarjun vs. Divisional Manager, the National Insurance Company Limited & another case reported in 2013 (2) TNMAC 338 (SC)* has held in para 12 that,

12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. For permanent disability upto 10%, it should be Re.1 lakh, unless there are exceptional circumstances to take different yardstick.

In this petition, the disability of the minor fixed by the medical board is 10%. Hence as per the above judgment a sum of **Rs 1,00,000/-** is awarded under this head.

ii) Pain and suffering

A fracture of the right temporal bone fracture, right temporal subdural haemorrhage, right temporal partitel SAH causing considerable pain, discomfort and restriction of movement. The petitioner would have undergone acute pain at the time of the accident and throughout the period of recovery. Considering these aspects, this Tribunal awards a sum of **Rs.1,00,000/-** towards pain and suffering.

iii) Medical Expenses

The petitioner not produced any medical bills and hence no amount is awarded under this head.

iv) Attendant Charges

The petitioner being a minor would have been assisted by his parents. Hence this Tribunal is inclined to award a sum of **Rs.40,000/-** awarded under this head.

v) Transport Charges

Though the petitioner would have gone to hospital for few times, no transport bills are marked. However considering the treatment period, distance to hospital a sum of **Rs.15,000/-** awarded under this head.

vi) Loss of Income

The petitioner was minor at time of accident being 2.5 years old. Therefore it would have not been possible for his either to work or earn income. Hence no amount awarded under this head.

vii) Loss of Amenities

The petitioner being a minor would have been assisted by his parents and would have loss of amenities and not able to perform his day-to-day work and depending upon her family members. Hence under this head this Tribunal is inclined to award **Rs.25,000/-**.

viii) Extra nourishment

During the period of treatment and the subsequent days he would have to take nutritious food to restore his body to normal condition. Hence under this head this tribunal is inclined to award **Rs.15,000/-**.

The summing up of the award amounts under the various heads are as follows,

Part disability	Rs.1,00,000/-
Pain and Suffering	Rs.1,00,000/-
Loss of Income	Nil
Medical expenses	Nil
Attendant charges	Rs.40,000/-
Transportation	Rs.15,000/-
Loss of Amenities	Rs.25,000/-
Extra Nourishment	Rs.15,000/-
TOTAL	Rs.2,95,000/-

8. In the result, this petition is partly allowed that,

(i)	An award of Rs.2,95,000/- (Rupees Two lakhs and ninety five
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	thousand only) is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition of the 13.03.2017 to till the date of payment payable by the 2 nd respondent with costs.
(ii)	There will be no interest for the default period if any.
(iii)	The compensation amount shall be deposited by mentioning MCOP number into this court Bank Account in the name of Registrar (MACT), Court of Small Causes, Chennai Account No. 7103261207 IFSC No. IDIB000M157 Indian Bank, Madras High Court Branch, Chennai within two months.
(iv)	The award amount shall be deposited till the minor attains majority.
(v)	On petition for payment of the above said initial amount excluding, costs, Advocate fees and bank charges due and payable to the petitioner/claimant which shall be transferred to petitioner/claimant's bank account through RTGS (or) NEFT. The petitioner is directed to furnish the Bank pass book and PAN card details within a month.
(vi)	The petitioner has paid a sum of Rs.373/- towards Court fee. As per this award, the Court fee is Rs.2322.5/-. The Advocate fee is fixed at Rs.8900/-. The Additional Court fee of a sum of Rs.1,949.5/- shall be paid within 10 days.

Dictated by me to the Typist and she directly typed it in the computer after corrections pronounced by me in Open Court, on this the 04th day of August 2026.

(M. SHAKKIRA BANU)
V Judge
COURT OF SMALL CAUSES
CHENNAI

Petitioner side witnesses: -

S.no.	Date	Name of the witnesses	Remarks
PW1	18.06.2018	Durga Devi (minor petitioner Mother)	Ex.P1-Ex.P8

Petitioner side exhibits:-

SI No.	Date	Document Particulars	Document Type
Ex.P1	11.02.2017	First information Report	Photocopy
Ex.P2	--	Prescriptions	Original
Ex.P3	11.02.2017- 13.02.2017	Discharge summary	Original
Ex.P4	--	Scan report dt.12.02.2017	Photocopy
Ex.P5	--	Scan report dt.13.02.2017	Photocopy
Ex.P6	--	Bank details	Photocopy
Ex.P7	--	Aadhar card of the minor petitioner	Photocopy
Ex.P8	--	Scan	Photocopy

Respondent side witness and exhibits: Nil

Court Document:

SI No.	Date	Document Particulars	Document Type
Ex.C1	--	Disability certificate of the petitioner issued by Medical Board	Original

(M.SHAKKIRA BANU)
V JUDGE
COURT OF SMALL CAUSES
CHENNAI

OTHER PARTICULARS

Date of filing of the petition	28.02.2017
Date of Award	04.08.2026
Amount Claimed under Compensation	Rs.30,00,000/-
Amount Awarded as Compensation	Rs.2,95,000/-
Total Court Fees	Rs.2,322.5/-
The Court Fee already paid	Rs.373/-
Balance Court Fee to be paid	Rs.1,949.5/-

Costs List

<u>Cost Particulars</u>	<u>Amount</u>
Stamp duty for Award Amount	Rs. 2,322.5/-
Vakalath	Rs. 5.00/-
Preparation of Summon Batta Charges	Rs. 40.00/-
Advocate Fees	Rs. 8,900/-
TOTAL	Rs.11,267.5/- (rounded off to Rs.11,268/-)

(M. SHAKKIRA BANU)
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