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

Wednesday the 10th day of June 2026

M.C.O.P. 2929 of 2021
CNR No.TNCH09-004318-2021

1. S.Chithra,
W/o.Late Suresh,

2. S.Shanmuga Sundaram,
S/o.Late Suresh,

3. S.Santhosh Kumar,
S/o.Late Suresh,
(All are residing at No.101,
Malleeshwarar Nagar 3rd Street,
Pallikaranai, Chennai-600 100) ....Petitioners

-Vs-

1. S.Parthiban,
No.7/6, Theradi Street,
Pallikaranai,
Chennai – 600 100.

2. IFFCO-TOKIO General Insurance Co.Ltd.,
Iffco Bhavan, 4th Floor,
No.128, Habibullah Road,
T.Nagar, Chennai – 600 017.

3. The New India Assurance Co.Ltd.,
Motor Third Party Claims Office,
No.232, Bombay Mutual Building,
6th Floor, N.S.C.Bose Road,
Chennai – 600 001.
(Impleaded and Amended as per order
in MP.No.3/2025, dated 06.08.2025) ….Respondents

ARUNDHADHI MAGESH
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This petition is came up before me for final hearing on 05.02.2026 in the presence of M/s.K.Ravi Kumar, Counsels appearing for the Petitioner, 1st respondent remained exparte, M/s.R.Rathna Thara, Counsel appearing for the 2nd respondent and 3rd respondent remained exparte 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, Rule 3 of the M.A.C.T., rules, by the dependents of the deceased Suresh, who sustained fatal injuries in a motor accident seeking for compensation of **Rs.49,00,000/-.**

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

The case of the petitioner is that on 21.06.2021 at about 07.00 hrs, when the deceased Suresh was proceeding his bicycle opposite to Pallikaranai Municipality office, at that one Tata Ace bearing Reg.No.TN 07-BL-4570 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner hit against the deceased & courted the accident. In the said accident deceased sustained Grievous injury. He was taken to Rajiv Gandhi Government General Hospital for treatment and died on 25.06.2021 The accident occurred due to rash and negligent driving by the driver of the Tata Ace and prays to allow the petition.

3. First and Third respondent called absent and set exparte.

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

(i) The 2nd respondent denies the age, income and occupation of the deceased. Further denies that the accident occurred due to the negligence of the 1st respondent's Tata Ace and denies the manner of accident.

(ii) Further denies that this respondent is denying the manner of accident and negligence on the part of the Tata Ace bearing Reg.No.TN 07-BL-4570. The accident occurred solely due to the carelessness and negligence of the deceased, and deceased was under influence of alcohol at the time of accident.

(iii) This respondent submits that the accident was not occurred due to rash and negligent driving of the 1st respondent's Tata Ace driver only due to negligence of deceased the accident occurred.

(iv) Further, this respondent claim that the claim amount is highly excessive and arbitrary and craves to leave to contest the claim on all grounds available to the 1st respondent under sec. 170 of MV Act 1988 and he reserves his rights to file additional counter at a later stage and prayed to dismiss the petition.

5. <u>The point for consideration in this petition are as follows:-</u>

(1) Whether this accident has occurred due to the rash and negligent driving by the driver of the Tata Ace bearing Reg.No.TN TN 07-BL-4570 0 ?

(2) Whether the 2nd respondent has proved that the policy is a fake policy and, if not, which of the respondents is liable to satisfy the award?

(3) Whether the Petitioner is entitled to compensation? And if so, what is the quantum?

6**. ON THE POINTS:**

(i) On the side of the petitioner, PW1 Chithra, PW2 Thangamari, PW3 Paulmani examined and Ex.P1 to P22 were marked.

(ii) 1st and 3rd respondents remained exparte. On the side of the 2nd respondent,RW1 Sandhiya Lakshmi, Insurance Official examined on proof affidavit, Ex.R1 to R5 were marked

(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.

7. <u>Point No.1 :</u>

(i) The case of the petitioner is that on 21.06.2021 at about 07.00 hrs, when the deceased Suresh was proceeding his bicycle opposite to Pallikaranai Municipality office, at that one Tata Ace bearing Reg.No.TN TN 07-BL-4570 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner hit against the deceased & courted the accident.

(ii) First and Third respondents remained exparte. Second respondent filed the counter stating that the driver of the Tata ace bearing Reg.No. TN TN 07-BL-4570 driven the Tata Ace in a slow & caution manner it is the deceased who proceed with this Bicycle without following the traffic rules under the influence of alcohol. The accident is not due to rash and negligent driving by the driver of the offending vehicle, so the 2nd respondent is not liable to pay compensation. Hence petition is to be dismissed.

(iii) On the side of the petitioner, PW1 Chithra, PW2 Thangamari, PW3 Paulmani examined and Ex.P1 to P22 were marked. On the side of the 2nd respondent,RW1 Sandhiya Lakshmi, Insurance Official examined on proof affidavit, Ex.R1 to R5 were marked. On perusal of Ex.P1 FIR and Ex.P22 it is clear that criminal prosecution was registered against driver of the Tata Ace bearing Reg.No. TN 07-BL-4570 in Crime No.155/M-3/2021 dated 21.06.2021 u/s. 279, 337 altered to 304(A) IPC. The respondent not let in any contra evidence to disprove the negligent act of 1st respondent. The 1st respondent also remained exparte. Hence this Tribunal felt that the petitioner proved the negligent act of the driver of the Tata Ace bearing Reg.No. TN 07-BL-4570 through oral and documentary evidence. Hence Point No.1 is answered accordingly.

8<u>. Point No.2:</u>

(i). The 2nd respondent/Insurance Company has contended that no policy was issued in respect of the offending Tata Ace vehicle bearing reg no TN 07-BL-4570 and that the policy Ex.P19 marked before the Tribunal is a fake one. To substantiate the said plea, the Insurance Company has relied upon the online status copy Ex.R2 the copy of the policy maintained by it(Ex.R3). Ex.R4 complaint copy dated 02/07/24 and Ex.R5 CSR copy. It is pertinent to note that the accident had occurred in the year 2021. However, the criminal complaint alleging fabrication of the insurance policy came to be lodged only in the year 2024. No explanation whatsoever has been offered by the Insurance Company for such an inordinate delay of nearly three years. Had the policy in question been found to be a fake one immediately upon receipt of the claim petition or during the course of investigation, nothing prevented the Insurance Company from initiating criminal proceedings at the earliest point of time. The unexplained delay casts a serious doubt on the genuineness of the defence put forth by the Insurance Company. The Insurance Company has produced the online status copy Ex.R2 the copy of the policy maintained by it(Ex.R3). A perusal of the said documents reveals that on the date of the accident, a policy issued by the New India Assurance Company Limited was in existence. However, the policy particulars indicate that the policy pertains to a two-wheeler, whereas the offending vehicle involved in the accident is a Tata Ace goods vehicle. Curiously, the registration number, chassis number and engine no found in the policy correspond to those of the offending vehicle. Further, pursuant to the documents produced by the 2nd respondent, New India Assurance Company Limited was impleaded as the 3rd respondent. However, despite service of notice, the 3rd respondent remained ex parte and did not dispute the policy particulars or deny the issuance of the policy. Likewise, the owner of the offending vehicle also remained ex parte.

(ii). It is well settled that the burden to establish fraud or fabrication lies heavily on the party alleging the same. Except the belated criminal complaint and the plea raised in the counter statement, no convincing and acceptable evidence showing that the policy number belongs to another vehicle or another person ,has been adduced by the 2nd respondent to prove that the policy produced before the Tribunal is a forged or fabricated one. Therefore, the contention of the 2nd respondent that the policy is fake cannot be accepted. Accordingly, the defence of the 2nd respondent is rejected and the 2nd respondent insurance company is liable to pay compensation. Hence Point no 2 answered accordingly.

9. <u>Point No.3:</u>

(i) The petitioner filed Ex.P4 Death Report, Ex.P6 Postmortem Certificate and Ex.P7 First Information Report. In Ex.P6 Postmortem certificate, it was mentioned that deceased died due effects of Multiple Injuries sustained in the RTA. From the above documents, the petitioners have proved that the deceased died due to the accident. In the petition, it has been stated that the 1st petitioner is the wife of the deceased Suresh, 2nd and 3rd petitioners are the sons of the deceased. Ex.P5 copy of legal heir certificate has also proved the same. Hence, it is proved that the petitioners are the legal heirs of the deceased and they are entitled to the compensation. As per Ex.P6 Postmortem report of the deceased Suresh the age is mentioned as 52 years. Considering the same the age of the deceased is taken as 52 as on the date of accident (i.e.,21.06.2021).

(ii) As per the judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr, The age of the deceased is decided as 52 years as per Ex.P10 Aadhar card and hence this Tribunal decides the age of the deceased as 52 years.

<u>Monthly & Annual Income of the deceased:</u>

In the petition, it has been stated at the time of the accident, the deceased was a security at Annai Security Service, Chennai and earning Rs.15,000/- per month at the time of accident. To prove the same, no documents filed. Hence considering the age of the deceased and year of the accident, this Tribunal decides to award Rs.15,000/- per month as notional income. Accordingly Rs.15,000/- is fixed as notional monthly income of the deceased.

As per the Judgment of Hon'ble Apex court passed in ***SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others*** the future prospects to be added. As per the direction of the above decision, 10% future prospects would be added and it will come to a sum of Rs.16,500/- (15,000+1,500 =16,500). Thus, the annual income of the deceased fixed as **Rs.1,98,000**/- (16,500x12).

Number of Dependents:

From Ex.P5 legal heir certificate, it is found that 1st petitioner is the wife of the deceased suresh, 2nd and 3rd petitioners are the sons of the deceased are the legal heirs and they are the dependent of the deceased at the time of accident. Therefore, the number of the dependents are 3 in this case.

Loss of dependency per annum:

As per judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997, 1/3th has to be deducted as the personal and living expenses of the deceased, since there are 3 dependents. Therefore, 1/3th amount Rs.66,000/- to be deducted. Hence, the balance (Rs.1,98,000 – Rs.66,000/-) **Rs.1,32,000/-** is considered to be the contribution to the dependent family per annum.

Multiplier and total loss of dependency:

So far as multiplier is concerned, as per the Judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997, the multiplier will be 11, since the age of the deceased was 52 at the time of death. Therefore, the total loss of dependency would be **Rs.14,52,000/-** (Rs.1,32,000 x 11).

Loss of Consortium:

As per the Judgment of Honourable Apex court in New India Assurance company vs Somwati in Civil appeal No:3093/2020 dated 7-9-2020, it has been decided that no compensation can be granted under the head of Love and affection and the dependents of the family are only entitled for the compensation under the head of spousal consortium, parental consortium, filial consortium. As per the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the petitioners 1 to 3 are entitled for **Rs.44,000/-** each towards loss of consortium.

Loss of Estate:

Following the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the Petitioners are entitled to **Rs.16,500**/- under the head of **"Loss of Estate"**.

Funeral Expenses:

Following the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the Petitioners are entitled to **Rs.16,500**/- under the head of **"Funeral expenses".**

Transport Charges:

The petitioners might spend an amount for transporting the body of the deceased to their home. Hence, this Tribunal considering the place of accident and the residence of the deceased to award **Rs.10,000/-** will be just compensation under the head of Transport Charges.

MEDICAL EXPENSES

The petitioner produced ExP2 series of medical bills for **Rs.3000/-** since all the bills are scan bills the same is awarded as it is.

CALCULATION:

1. Total loss of dependency	:	Rs. 14,52,000/-
2. Loss of Consortium	:	Rs. 44,000/-
3. Loss of Estate	:	Rs. 16,500/-
4. Funeral Expenses	:	Rs. 16,500/-
5. Transport charges	:	Rs. 10,000/-
6. Medical Expanses	:	Rs. 3,000/-

Total Compensation is fixed at	**:**	Rs. 15,42,000/-

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From the above-said discussions, this tribunal comes to the conclusion that a total sum of Rs.15,42,000/- would be just and fair compensation to the Petitioners 1 to 3.

10. In the result, this petition is partly allowed and a sum of **Rs.15,42,000/- (Rupees Fifteen lakhs forty two thousand only)** is awarded as just compensation to the Petitioners with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e., 13.07.2021 till the realization, payable by the 2nd Respondent. The 1st petitioner is the wife of the deceased is entitled to Rs.10,42,000/- and the 2nd and 3rd petitioners are entitled for Rs.2,50,000/- each. 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 petitioners 1 to 3 bank account.

<u>This Tribunal Account particulars</u>:

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 1st Petitioner name is – Chitra

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Pallikaranai Branch	Acc : 7135958903 IFSC: IDIB000P165	4152 9385 4529	CTDPC1734R

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The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The 2nd Petitioner name is – Shanmuga Sundaram

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
UCO Bank, Narayabapuram Branch	Acc : 14000110081907 IFSC:UCBA0001400	4483 8566 9349	IVTPS6158D

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The 3rd Petitioner name is – Santhosh Kumar

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Overseas Bank, Pallikaranai	Acc : 227901000015073 IFSC: IOBA0002279	3635 5518 6221	NFVPS6079L

The petitioner has paid a sum of **Rs.372.50/-** towards Court fee. As per this award, the Court fee is **Rs.14,792.50/-.** The Advocate fee is fixed at **Rs.22,420/-.** The deficit court fee of **Rs.14,420/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	13.07.2021
Date of taken up on file	19.07.2021
Compensation claimed in the M.C.O.P.	Rs.49,00,000/-
Compensation awarded in this petition	Rs.15,42,500/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.14,792.50/-
Additional court fee shall be paid	Rs.14,420/-
Additional court fee paid, MPSR.No………………..dated	

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That the 2nd respondent do pay to the petitioner a sum of **Rs.37,257.50/-** towards the costs of this petition.

<u>Cost List for the petitioner</u>

STATEMENT OF COSTS							
For the petitioners						For the Respondents	
		Rs.		P.		Rs.	P.
Stamp on petition	-	14,792	.	50			
Stamp on Vakalat	-	5	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees		22,420	.	00			
Costs allowed	-	37,257	.	50			

The direction regarding copy of the Judgment and decreetal 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 Steno typist, typed by her in the computer directly, corrected and pronounced by me in the open Court, on this Wednesday, the 10th day of June 202

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

Petitioner's sides Witness:

P.W.1: Mrs.Chitra

P.W.2: Mr.Thangamari

P.W.3: Mr.Paulmani

Petitioner's side Exhibits:

Ex.P-1 : Accident Register Xerox

Ex.P-2 : Medical Bills

Ex.P-3 : Death certificate Insurance policy

Ex.P-4 : Death Report

Ex.P-5 : Legal Heirs Certificate Xerox

Ex.P-6 : Postmortem Report

Ex.P-7 : FIR Copy Xerox

Ex.P-8 : Bank Passbook xerox of 1st petitioner

Ex.P-9 : Bank Passbook Xerox of 2nd petitioner

Ex.P-10 : Bank Passbook Xerox of 3rd petitioner

Ex.P-11 : Pan Card Xerox of 1st petitioner

Ex.P-12 : Pan Card Xerox of 2nd petitioner

Ex.P-13 : Pan Card Xerox of 3rd petitioner

Ex.P-14 : Aadhaar Card Xerox of 1st petitioner

Ex.P-15 : Aadhaar Card Xerox of 2nd petitioner

Ex.P-16 : Aadhaar Card Xerox of 3rd petitioner

Ex.P-17 : PW2 Aadhaar Card Xerox

Ex.P-18 : Registration Certificate Xerox of offending vehicle

Ex.P-19 : Insurance policy copy of offending vehicle

Ex.P-20 : Driving Licence of 1st respondent driver

Ex.P-21 : MV report of 1st respondent vehicle

Ex.P-22 : Final Report copy

Respondent's sides Witness:

R.W.1: Miss.Sandhiya Lakshmi

Respondent's side Exhibits:

Ex.R-1 : Identity Card

Ex.R-2 : Policy Status as per Online Portal

Ex.R-3 : New India Policy copy

Ex.R-4 : FIR for Fake Policy Complain Letter

Ex.R-5 : FIR Acknowledgment Letter

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Motor Accident Claims Tribunal,
IV Judge
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