

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

Tuesday the 11th day of August 2026

M.C.O.P. 2411 of 2023

CNR No.TNCH09-004390-2023

Selvaraj,
S/o.Arumugam,
NO.2, Pillaiyar Koil 3rd Cross Street,
Moongil Eri, Pammal,
Chennai-600 075.

....Petitioner

-Vs-

1. E.Kanagarasu,
No.7/28, North Street,
Meenatchipuram,
Aundipatti Taluk,
Theni District-625 531.

2. The New India Assurance Co. Ltd.,
Motor Third party claims office,
No.232, Bombay Mutual Building,
6th Floor, N.S.C. Bose Road,
Chennai-1.

....Respondents

This petition is came up before me for final hearing on 24.06.2026 in the presence of M/s.K.Ravi Kumar, Counsel appearing for the Petitioner, 1st respondent called remained exparte, M/s.C.Rameshbabu, 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.12,00,000/- 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 25.11.2022 at about 16.30 hrs, while the petitioner was travelling in the Maruthi Ambulance Van bearing Reg.No.TN 37-U-9852 at Sempatti Maasaniyamman Mahal Pirivu, at that time the driver of the van driven the vehicle in rash and negligent manner and hit against the bus bearing Reg.No.TN 57-AC-8741 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 Sempatti Police Station, Dindigul and the case was registered in Crime No.385/2022 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the driver of the respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 68 years and he is a Auto driver and earning Rs.30,000/- 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., van bearing Reg.No. TN 37-U-9852 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.12,00,000/- 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 driver and denies the manner of accident.

(ii) Further denies that the driver of the 1st respondent's vehicle possessed valid driving license, fitness certificate and his vehicle was insured with this respondent at the time of accident.

(iii) The respondent submits that the petition is bad for non joinder of necessary parties the driver and the insurer of the bus are to be impleaded as

necessary parties to the proceedings.

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

The respondent submits that the 1st respondent vehicle is insured with this respondent and the said policy is the private car liability policy. Hence this respondent is not liable to pay compensation to the petitioner under the contract of insurance policy. Further submits that the petitioner is not the 3rd party and he is not covered under the liability policy. Therefore, 2nd respondent insurance company is not liable to pay compensation the petitioner.

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

- (1) Whether the accident has occurred due to rash and negligent driving by the driver of the vehicle viz., van bearing Reg.No. TN 37-U-9852 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?

6. ON THE POINTS:

(i) On the side of the petitioner, PW1 Selvaraj examined on proof affidavit and Ex.P1 to P9 & Ex.C1 were marked.

(ii) 1st respondent remained exparte. There is no oral or documentary evidence adduced on the side of contesting 2nd respondent inspite of sufficient chance given.

(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. Point No.1:

(i) The 2nd respondent denies the manner of accident and the negligence upon the driver of the Ambulance van. So the burden of proof is upon the petitioner to establish the manner of accident and negligence is upon the driver of offending vehicle bearing Reg.No.TN 37-U-9852. The petitioner examined himself as PW1 on proof affidavit, he reiterated the petition averments and attributing the total negligence upon the driver of the 1st respondent's vehicle that on 25.11.2022 at about 16.30 hrs, while the petitioner was travelling in the Maruthi Ambulance Van bearing Reg.No.TN 37-U-9852 at Sempatti Maasaniyamman Mahal Pirivu, at that time the driver of the van driven the vehicle in rash and negligent manner and hit against the bus bearing Reg.No.TN 57-AC-8741 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 AR copy, Ex.P2 & P3 Discharge summary & Ex.P6 FIR.

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

(iv) 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 AR copy, Ex.P2 & P3 Discharge summary & Ex.P6 FIR 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, P3 & P6 the petitioner proves the negligence upon the driver of the offending vehicle namely van bearing Reg.No.TN 37-U-9852. Hence Point No.1 answered affirmatively.

8. 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. The 2nd respondent insurance company in his additional counter contended that the policy is the private car liability policy and the petitioner being the 3rd party is not covered under the said policy. But to substantiate the same the 2nd respondent has not adduced any oral and documentary evidence nor filed the policy copy to prove the same. Therefore the mere contention of the 2nd respondent is not sufficient. There is no dispute that the offending vehicle van bearing Reg.No. TN 37-U-9852 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 25.11.2022. As per the medical records in Ex.P2 Discharge summary, the age is given as 68 years as on the date of accident (i.e., 25.11.2022). Ex.P7 Aadhar card of PW1 the date of birth is given as 20.08.1954. Considering the same the age of the petitioner as on the date of accident is fixed as 68 years.

(iv) According to the petitioner he is a Auto driver and earning Rs.30,000/- 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 2022. Hence the notional income of the petitioner is fixed as Rs.16,500/- per month.

(vi) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P1 AR copy, it is noted that the petitioner herein as met with an accident Two times on 24.11.2022 and 25.11.2022. One at Kerala and another one Sembatti Vathalagundu. In the 2nd accident, as per Ex.P1 AR copy, the petitioner sustained Pneumothorax fracture. Ex.P2 Discharge summary, from the History present illness, it is noted that the petitioner has alleged history of fall from height (50 feet) on 24.11.2022 at 8.30 p.m. in Kerala, in the said accident he sustained Head Injury with Muscle contusion and Back pain. Further noted that he has taken treatment at Theni Hospital and decided to get treated at chennai. On the way to chennai, he met with an present accident at Vathalagundu on 25.11.2022, in which the petitioner sustained Chest Injury and got admitted at JIP Multispeciality Hospital for further management. The petitioner has taken treatment for 5 days as inpatient from 26.11.2022 to 30.11.2022. He was treated conservatively for chest injury subsequently the petitioner developed Compressive Myelopathy at C3-C6 and he was treated conservatively and was referred to Higher forum for further management. Ex.P3 Discharge Summary the petitioner got admitted at Rajiv Gandhi Government Hospital, Chennai and taken inpatient for about 20 days from 21.12.2022 to 09.01.2023. He undergone Conservative management & 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 50% Physical Locomotor Disability for Compressive Myelopathy at C3-C6. At this juncture, it is pertinent to note that, the petitioner already met with an accident on 24.11.2022 alleged history of fall from 50 feet height at Kerala. After taking initial treatment at Theni, while the

petitioner was travelling in the Ambulance for taking further treatment at Chennai, again he met with an accident on 25.11.2022. In the said accident, petitioner has sustained only Chest Injury, whereas in the previous accident he sustained Head Injury with Muscle contusion and Back pain. The petitioner has not filed any medical records for the treatment taken at Theni. The medical board has assessed the disability at 50% for the Compressive Myelopathy at C3-C6. There is no records available to show that the cervical injury was due to the accident occurred on 24.11.2022 or 25.11.2022. The 2nd respondent also not produced any evidence challenging the disability. Therefore, the Ex.C1 Disability certificate issued by the Regional Medical Board is accepted as it is.

(viii) Considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical Board, multiplier method is adopted.

The Honourable High Court of Madras has held in a reported decision in ***R.Pushpa Vs. Talari Parvathiah and others reported in 2019 (1) TN MAC 46 (Division Bench)*** that

In Para 5 " Once the Government Hospital assesses the disability and issues a certificate, unless contra evidence is produced to show that the disability assessed by the said Hospital is not correct, the Tribunal cannot reject the same..."

Hence, this Tribunal accepts the disability certificate and fixed that the petitioner affected with 50% of permanent disability.

(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:

Income of the Petitioner:

As already discussed above the notional income of the petitioner is fixed as Rs. 16,500/- per month. 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,

NIL future prospectus, since the age of the petitioner is 68 years. Thus, the annual income of the deceased fixed as **Rs.1,98,000/- (16,500 x 12)**.

Loss of permanent disability:-

On perusal of Disability certificate and photographs that the Petitioner has suffered physical disability of 50% for Chest Injury and Compressive Myelopathy at C3-C6. Hence it definitely result in functional disability which leads to loss in earning capacity. So, 50% is taken as functional disability. The age of the petitioner is 68 as per Ex.P7 Aadhaar card. Hence $1,98,000 \times 5 \times 50/100 = \text{Rs.4,95,000/-}$. Hence this tribunal decides to award **Rs.4,95,000/-** under the heads of loss of permanent disability.

Medical expenses:

The petitioner has taken treatment at Private and Government Hospital. Though he was treated as Government Hospital he might have spent some amount for medicines. Hence considering the same **Rs.5,000/-** is awarded for medical expenses.

Transport Charges:

The petitioner taken treatment at Rajiv Gandhi Government Hospital, Chennai as Inpatient for about 25 days. Hence he would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at **Rs.10,000/-**.

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 Chest injury and Compressive Myelopathy at C3-C6 and he was treated as inpatient for 25 days at Rajiv Gandhi Government 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.50,000/-**

towards pain and sufferings.

Attender Charges:

The petitioner admitted at Rajiv Gandhi Government Hospital, Chennai as an in-patient for about 25 days and taken conservative treatment. 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.5,000/-** is awarded towards attender charges.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Compressive Myelopathy at C3-C6 suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.50,000/-** towards loss of amenities.

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

CALCULATION:

1. Loss of permanent disability	:	Rs. 4,95,000/-
2. Medical Expenses	:	Rs. 5,000/-
3. Transportation	:	Rs. 10,000/-
4. Extra Nourishment	:	Rs. 20,000/-
5. Damages to clothing and articles	:	Rs. 1,000/-
6. Pain and Sufferings	:	Rs. 50,000/-
7. Attender Charges	:	Rs. 5,000/-
8. Loss of amenities	:	Rs. 50,000/-
Total Compensation is fixed at	:	<u>Rs. 6,36,000/-</u>

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.6,36,000/-** i.e., **six lakhs thirty six thousand** and Point No.2 is answered accordingly.

9. 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.

10. In the result this petition is partly allowed and,

(i) An award of **Rs. 6,36,000/- (Rupees six lakhs thirty six thousand only)** is passed in favour of the petitioner with interest at 7.5% p.a. from the date of petition i.e., 06.04.2023 to till the date of payment payable by the 2nd respondent with costs.

(ii) There will be no interest for the default period if any.

(iii) In accordance with the guidelines laid down by the Hon'ble Supreme Court of India in *Parminder Singh Vs. Honey Goyal & others, reported in 2025 (1) TN MAC 533 (SC)*, and directions of Hon'ble High Court, Madras in *Oriental Insurance Co. Ltd. v. D. Salsa in CMA No. 2064 of 2026 judgment dated 08.07.2026*, the 2nd respondent is hereby directed to deposit the award amount as stated above by Direct Bank Transfer (NEFT/RTGS) directly into the bank account of the petitioner within two months. **Petitioner Bank Account No.016401000026479, Indian Overseas Bank, Pammal Branch, IFSC code -IOBA0000164.**

(iv) The petitioner has paid a sum of **Rs.372.50/-** towards Court fee. As per this award, the Court fee is **Rs.5,732.50/-**. The Advocate fee is fixed at **Rs.13,360/-**. The deficit court fee of **Rs.5,360/-** shall be paid within 15 days.

(v) The costs including **Advocate fees for a sum of Rs.19,137.50/-** to be paid by 2nd respondent within 15 days distinct and separately to Tribunal 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.**

(vi) After depositing the amount mentioned in column No.III and V, the 2nd respondent shall intimate the same to this Tribunal along with UTR Number and MCOP Number via **Email ID chnccc.scc4-tn@indiancourts.nic.in** within 48 hours of such deposit followed by physical proof of deposit on proper acknowledgment.

(vii) The costs including Advocate fees shall be paid to Counsel for petitioner

on filing separate payment out application. The deficit court fees deposited to be credited to the State Government.

(viii) Only in the event of the electronic transfer is returned, reversed, or remains unsuccessful on account of the bank account is being inoperative, closed, incorrect, or for any other reason attributable to the Petitioner, the respondent shall intimate to this Tribunal along with proof, if any, and to 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 shall re-transfer the amount to the correct bank account within the time fixed by this Tribunal. Any delay attributable to such incorrect or inoperative account particulars shall not render the respondent liable for additional interest for the period of such delay.

(ix) In the event of non-compliance by the 2nd respondent, the petitioner shall pay the deficit court fees and execute the award.

Other necessary particulars:

Date of Presentation of petition	06.04.2023
Date of taken up on file	02.06.2023
Compensation claimed in the M.C.O.P.	Rs.12,00,000/-
Compensation awarded in this petition	Rs.6,36,000/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.5,732.50/-
Additional court fee shall be paid	Rs.5,360/-
Additional court fee paid, MPSR.No.....dated	

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>		
Stamp on petition	-	5,732	.	50		
Stamp on Vakalat	-	5	.	00		
Stamp for process	-	40	.	00	-- not filed --	
Advocate fees		13,360	.	00		
Costs allowed	-	19,137	.	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 Tuesday, the 11th day of August 2026.

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

Petitioner's sides Witness:

P.W.1: Mr.Selvaraj

Petitioner's side Exhibits:

Ex.P-1 : AR copy

Ex.P-2 : Hospital Discharge summary-I

Ex.P-3 : Hospital Discharge summary-II

Ex.P-4 : OP Chit

Ex.P-5 : Lab Report

Ex.P-6 : FIR Xerox

Ex.P-7 : Aadhar Card xerox

Ex.P-8 : Bank Pass Book Xerox

Ex.P-9 : MRI Scan Report

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**