

**Before the Motor Accidents Claims Tribunal
(II Court of Small Causes, Chennai)**

Present: Thiru.A.B. Naseer Ali., B.A., B.L.,

Friday, the 10th day of July 2026

Motor Accident Claims Original Petition No.3297 of 2019

CNR No.TNCH09-004398-2019

1. A. Altaf,
S/o.Late. Afrose Basha,

2. A. Fayaz,
S/o.Late. Afrose Basha,

Both Residing at No.732/1-A,
Pallikaranai, Sholinganallur,
Chennai – 600 100.

...Petitioners

(Amended as per order in MP.No.4/2025, dated 01.12.2025)

-Vs-

1. Sadam Usean,
S/o. Mohamed Ismail,
No.47, 2nd Cross Street,
Kasi Visvanathar Nagar,
Othiyampattu, Puducherry.

2. Iffco Tokio General Insurance Co., Ltd.,
No.58-A, II Floor, Anjaneya Tower,
Pavazha Nagar, Pondy – Villupuram,
Pondicherry – 605 005.

...Respondents

Counsels on Record:-

For Petitioners	M/s.P. Chandrasekar, M. Subhadra and B. Madhana
1 st Respondent	<i>Exparte</i>
For 2 nd Respondent	Mr.M. Jayaraj

This petition came before this tribunal for final hearing on 09.07.2026. Both sides had been heard already. Upon perusal of records and having stood over for

consideration till this date, this tribunal delivers the following:-

ORDER.

1. This petition has been filed under Section 166 of the Motor Vehicles Act (for short MV Act) claiming compensation of Rs.25,00,000/- for the death caused to the deceased in a road accident.

2. Gist of Amended Petition:-

(a) On 14.05.2018 around 20.00 Hrs near Kovalam Matha Pitha Hospital, the first respondent's Tata Sumo Victa car bearing registration number PY01 AD 0064 which was driven rashly and negligently dashed against the motorcycle driven by the deceased Afroze Basha wherein the deceased Shakeela Begum was a pillion rider and out of the accident both the said duo, who are the parents of the petitioners died.

(b) The above said accident occurred only due to the rash and negligent driving of the driver of the above said car. The first respondent is the owner and the second respondent is the insurer of the above said car and both are liable to pay compensation to the petitioners and hence, this petition.

3. Gist of Counter of 2nd Respondent:-

(a) All the averments in the petition are denied except those which are specifically admitted.

(b) The petition is barred by limitation.

(c) This respondent does not admit that the petitioners are the legal heirs of the

deceased Shakila Begum, which has to be proved by the petitioners.

- (d) It is submitted that the driver of the first respondent had no valid driving license at the time of accident. The first respondent knowing fully well that he had no driving license allowed him to ride vehicle and so, this respondent is not liable to pay compensation.
- (e) It has to be proved that the car was duly insured with the second respondent and policy was in force at the time of accident.
- (f) The rider of the motorcycle bearing registration number TN11 W 5875 rode it in a rash and negligent manner and caused the accident. The deceased did not wear helmet at the time of accident.
- (g) The compensation claimed under various heads is high and the interest claimed is exorbitant. Hence, the petition is liable to be dismissed.

4. Points for Consideration:-

1. Whether the petitioners are entitled to compensation on account of the death of the deceased person? If so, from whom?
2. Whether the first respondent's vehicle's driver had not possessed valid driving license?
3. What is the quantum?

5. On the side of the petitioners, the 1st petitioner was examined as P.W.1 and Ex.P1 to Ex.P15 were marked. On the side of the 2nd respondent, no witness was examined and no document was marked. 1st respondent remained *ex parte*.

6. Point Nos.1 and 2:

- (a) Records were perused. Ex.P1, the certified copy of First Information Report (FIR) reveals that on 14.05.2018 around 8.00 pm., when the deceased Afrose Basha was riding the motorcycle bearing registration number TN11 W 5875 wherein his wife Shakeela Begum was a pillion rider, towards Kovalam and while he was turning the motorcycle near Matha Pitha Hospital, a Tata Sumo Victa car bearing registration number PY01 AD 0064 dashed against the motorcycle and caused the accident, out of which both the riders of motorcycle died.
- (b) While the said details are available, there is no evidence even to suspect whether the husband of the deceased would have ridden the motorcycle in a rash and negligent manner and invited the accident. As per the judgment in *TNSTC Vs Nagamalli and others*, reported in 2015 SCC Online MAD 13441 strict proof is not required in petitions like this. Hence, with the available evidence as pointed above, it is concluded that the accident occurred only due to the rash and negligent driving of the driver of the said car.
- (c) As per Ex.P9, the copy of registration certificate, the first respondent is the owner. As per Ex.P10, copy of insurance policy, the second respondent is the insurer of the said car during the relevant date of accident. Further, the Motor Vehicle Inspection Report copy marked as Ex.P14 reveals that the driver of R1 had valid driving license by that time and it would expire only on 21.06.2035.

Hence, the second respondent cannot escape from its liability.

- (d) Ex.P4, the legal heir certificate copy proves that both the petitioners are the sons of the deceased Shakila Begum. Therefore, they are entitled to get compensation from the second respondent.
- (e) A feeble attempt was made as though the deceased motorcycle rider had no valid driving license. But the same has not been proved by any means. While no evidence is available in the said aspect, the said attempt has to be negated.
- (f) Accordingly, point number 1 is answered in favour of the petitioners and point number 2 is answered against the claim of respondents 1 and 2.

7. Point No.3:-

- (a) Before calculating the compensation, a point raised in the counter has to be paid heed to. It has been stated that the deceased had not worn the protective head gear. Though no direct evidence is available in the said aspect, the said fact could be inferred from the available evidence. Further, there is no positive evidence as though she had worn the helmet.
- (b) The deceased has lost her life in a road accident while going as a pillion rider. It has been time and again insisted by our Honourable High Court that even the pillion rider has to wear helmet. Ex.P2, copy of postmortem report reveals that the deceased suffered injuries on her chin and also on her mandible bone. Had she worn the helmet, she might have got escaped from losing her life. Hence, the tribunal is of the view that the deceased has also contributed to the loss of

life by not wearing helmet. Hence, 10% of the awarded amount is to be deducted on application of contributory negligence principle. Be that as it may.

(c) The deceased is not said to have been working anywhere. It has been stated that she was a homemaker. But even for homemakers, the notional income has to be fixed. As per the recent judgment of our Honourable Supreme Court in *Shishu Pal @ Shish Ram and others vs. Surjeet and others* in SLP (Civil) No.33915 of 2025, the notional income shall be fixed at **Rs.30,000/-** per month for homemakers. The Honourable Apex Court has calculated the said sum under the head of Loss of domestic care/monthly income. Taking guidance from the said judgment, the monthly income of the deceased herein is fixed as such.

(d) As per the Death Certificate copy marked as Ex.P3, the age of the deceased is 45. So, as per the decision of the Honourable Supreme Court in *National Insurance Co., Ltd., vs Pranay Sethi and others*, reported in 2017 (2) TN MAC 601, in case of self employed persons aged between 40 to 50 years, an addition of **25%** is to be given towards **Future Prospects**.

(e) The deceased died leaving two members as her legal heirs cum dependents. Hence, **1/3rd** of the income is to be deducted towards **Personal Expenses**.

(f) As pointed out already, since the deceased was 45 years at the time of accident, as per the judgment in *Sarla Verma & others vs. Delhi Transport Corporation & another*, reported in (2009) 6 SCC 121, the appropriate **Multiplier** is **14**.

(g) Therefore, with the above said factors, the calculation towards loss of dependency would be as follows:

Monthly Income 30,000

Yearly Income 3,60,000

Future Prospects $3,60,000 + 25\% = 4,50,000$

with Multiplier 14 = $4,50,000 \times 14 = 63,00,000/-$

Deduction $1/3 = 1/3$ of 63,00,000 is 21,00,000/-

Result is $63,00,000 - 21,00,000/- = 42,00,000/-$.

(h) Therefore, for **Loss of Dependency Rs.42,00,000/-** is awarded.

(i) As per the verdict in *Pranay Sethi cited supra* read with *Magma General Insurance Co., Ltd vs. Nanu Ram @ Churu Ram*, (2018) 18 SCC 13 the claimants, being two are entitled to **Loss of Consortium** as follows: **2 X Rs.40,000/- = Rs.80,000/-**.

(j) In the same manner, as per **Pranay Sethi case**, for **Loss of Estate Rs.15,000/-** and for **Funeral Expenses Rs.15,000/-**.

(k) The petitioners have not produced any Medical Bills and so, they are not entitled to any amount as Medical Expenses.

Final Calculation:

Loss of Dependency	=	Rs. 42,00,000/-
Loss of Consortium	=	Rs. 80,000/-
Loss of Estate	=	Rs. 15,000/-
Funeral Expenses	=	Rs. 15,000/-

Total = Rs. 43,10,000/-

Less 10% towards Contributory Negligence: 43,00,000/- - 10%

so, the Actual Quantum is Rs.38,79,000/-.

- (l) Apportionment: The first and second petitioners being the sons are each entitled to equal half of the amount with proportionate interest and costs.
- (m) The petitioners have claimed only lesser amount of Rs.25 lakhs. However, it is settled position that the just compensation shall only be awarded though lesser sum has sought for. The deficit court fees shall be paid by the petitioners.
- (n) Accordingly, this point is answered in favour of petitioners.

8. In the result,

- 1) this petition is allowed and a sum of **Rs.38,79,000/- (Rupees Thirty Eight Lakhs Seventy Nine 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., 03-06-2019 till the realization, payable by the 2nd respondent. Out of the compensation, the first and second petitioners being the children are each entitled to equal half of the amount. The petition is dismissed with regard to the rest of the claim amount. There will be no interest for the default period as per orders if any.
- 2) The 2nd respondent is directed to deposit the said amount to the credit of the bank account of this claim tribunal directly (i.e.,) **Registrar (MACT), Court of Small Causes, Chennai, Account No.7103261207, IFSC**

No.IDIB000M157, Indian Bank, Madras High, Court Branch, Chennai

through NEFT or RTGS mode within a period of thirty days from this order, under intimation to this tribunal with the copy of the transaction details.

- 3) Considering the fact that the petitioners are not shown to be illiterates, the petitioners are permitted to withdraw their respective compensation amount on deposit of the same together with proportionate interest and costs and the said amount shall be credited through Electronic Clearing System (ECS) in favour of the petitioners account, the details of which are as given below:-

1st Petitioner's name	Bank name and Branch	Account No. and IFSC code	Aadhar card details	Pan card details
A. Altaf	Not furnished	Not furnished	327775887891	ECEPA3063F

2nd Petitioner's name	Bank name and Branch	Account No. and IFSC code	Aadhar card details	Pan card details
A. Fayaz	Not furnished	Not furnished	905911764822	AGTPF6479R

- 4) In view of the direction issued by the Honourable Division Bench of the High Court of Madras in CMA No. 428/2016 dated 11.03.2016, the petitioners are hereby directed to furnish the self attested copy of Bank pass book to this tribunal within a period of fifteen days from to-day without fail.
- 5) The Court fee paid along with the petition is Rs.5,000/-.
- 6) The Court fee for the award amount is Rs.38,166/-. The deficit court fee of

Rs.33,163/- shall be paid by the Petitioner within two weeks from the date of order.

7) Advocate fee is Rs.45,790/-.

8) The second respondent shall pay to the petitioner a sum of Rs.84,046/- towards the costs of this petition.

Other necessary particulars:

Date of Presentation of petition	-	03-06-2019
Date of taken up on file	-	03-06-2019
Compensation claimed in the M.C.O.P.	-	Rs.25,00,000/-
Compensation awarded in this petition	-	Rs.38,79,000/-
Court fee paid along with the petition	-	Rs.5,000/-
Court fee payable on the award amount	-	Rs.38,166/-
Additional court fee shall be paid	-	Rs.33,163/-
Additional court fee paid, MP SR.No.....; dated		

Cost List for the petitioner

STATEMENT OF COSTS

For the petitioners

For the Respondents

		<u>Rs.</u>	<u>P.</u>		<u>Rs.</u>	<u>P.</u>
Stamp on petition	-	38,166	. 00			
Stamp on Vakalat	-	10	. 00			
Stamp for process	-	80	. 00	-- not filed --		

STATEMENT OF COSTS

Advocate fees 45,790 . 00

Costs allowed - 84,046 . 00

The direction regarding copy of the Judgment and decretal order to be prepared under Sub rule 6 of Rule 20 of TNMAC Rules, 1989, as per Honourable Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 is 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.

This order was party typed by me in laptop and was partly dictated to the stenotypist, transcribed by her, corrected and pronounced by me in the open Court, on this the 10th day of July 2026.

II Judge, MACT
(Court of Small Causes, Chennai)

Petitioners Side Witness:

P.W.1 : Mr.A. Altaf

Petitioners Side Document:-

Ex.P1	FIR	Certified Copy
Ex.P2	Postmortem certificate	True Copy
Ex.P3	Death certificate	Copy
Ex.P4	Legal heir certificate	Copy

Ex.P5	Provisional certificate of 1 st petitioner	Copy
Ex.P6	Provisional certificate of 2 nd petitioner	Copy
Ex.P7	Aadhar card of the 1 st petitioner	Copy
Ex.P8	Aadhar card of the 2 nd petitioner	Copy
Ex.P9	RC of 1 st respondent's vehicle	Copy
Ex.P10	Insurance certificate	Copy
Ex.P11	Driving licence of the 1 st respondent's vehicle driver	Copy
Ex.P12	PAN card of the 1 st petitioner	Copy
Ex.P13	PAN card of the 2 nd petitioner	Copy
Ex.P14	MVI report of the 1 st respondent's vehicle	Copy
Ex.P15	Aadhar card of the deceased	Copy

2nd Respondent Side Witness & Document:- Nil

**II Judge, MACT
(Court of Small Causes, Chennai)**