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 21st day of July 2026

Motor Accidents Claims Original Petition No.2381 of 2023

CNR NO : TNCH09-005318-2023

Mr. Shankar S/o. Kalivarathan,
No.5/17, Magalakshmi Nagar,
Bajanai Kovil Annexe, Ramapuram,
Chennai – 600 089. …Petitioner

-Vs-

1. Shubham Tormbe,
R/o Mudgad Ekuji PO Kokalgoan,
TQ Nilanga, Latur, Maharashtra – 413 521.

2. Cholamandalam MS General Insurance Co. Ltd.,
Motor Third Party Cell, New No.319, Old No.154,
Shaw Wallace Building, 2nd Floor,
Thambu Chetty Street, Chennai – 600 001. …Respondents

Appearance:

M/s.P.Cheralaadhan, Counsels appearing for the Petitioner.

1st Respondent: Set *exparte* on 01.08.2023.

M/s.Elveera Ravindran, Counsel appearing for the 2nd respondent.

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Upon perusing the entire records, I passed the following

AWARD

The Petitioner filed petition seeking compensation of Rs. 46,00,000/- for the injuries sustained by him in a motor accident.

2. Crux of the Petitioner's case:

The petitioner was aged about 47 years, working as a mason, thereby earning

Rs. 25,000/- per month. On 02.02.2023 at about 21.20 hours, near Mettukulam Junction on Koyambedu Market B Road, when the petitioner was riding motorcycle bearing Reg.No. TN 09 AS 9858 from north to south, a lorry bearing Reg.No. MH 24 AB 9457, which was driven by its driver in a rash and negligent manner and dashed behind the petitioner due to which he sustained distal 3rd left leg both bone open fracture with crush injury, left foot Lisfranc fracture, left proximal 3rd fibula fracture and multiple injuries all over his body. A criminal case was registered in crime number 15/KM3 of 2023 by TIW Koyambedu. The 1st respondent is the owner of the lorry, and the 2nd respondent is the insurer. Hence, the petition.

3. Crux of the 2nd Respondent:

Denied the averments contained in the petition. Manner of the accident, age, income and occupation of the petitioner are denied. The accident was due to the gross negligence of the petitioner who was riding the motorcycle and therefore, the petitioner is not entitled to compensation. The claim of the petitioner is highly excessive. The driver of the lorry was not holding valid driving license, FC and permit at the relevant time of the accident. Hence, the petition is liable to be dismissed.

4. The Points for consideration:

1. On whose negligence, the accident occur?
2. Whether the Petitioner is entitled to Compensation? If so, to what quantum?
3. Which Respondent is liable to pay Compensation?

5. On the side of the petitioner, the petitioner was examined as the PW1 and Ex.P1 to P22 were marked. On the side of the 2nd respondent, an application under Section 170 of the MV Act was filed and allowed. Its official was examined as the RW1 and Ex.R1 to R6 were marked. The petitioner was referred to the medical board and his disability was assessed at 39% and marked as Ex.C1.

6. Answer to Point No. 1:

The petitioner produced the Ex.P1 to P25. According to the petitioner, the accident was due to the rash and negligence of the driver of the lorry. The PW2, Rajesh Annamalai was examined to show that the petitioner was working as a mason along with him and due to the accident, he could not continue the avocation. The Ex.P1 is the copy of the FIR registered against the driver of the lorry, Ex.P2 is the accident register copy, Ex.P3 is the copy of the final report filed against the driver of the lorry. Though the 2^{nd} respondent objected the manner of the accident, he adduced evidence primarily disputing the liability. As such, there is no contra evidence insofar as the rash and negligence of the driver of the lorry is concerned. Accordingly, the point is answered.

7. Answer to Point No. 2:

(a) The petitioner produced the Ex.P2. Accident register. The Ex.P4 is the discharge summary which indicates that the petitioner was admitted on 09.02.2023 and discharged on 20.03.2023. He sustained distal third left leg both bone open fracture with left ankle spanning external fixation, left foot Lisfranc fracture fixed with K wire and left proximal third fibula fracture. The Ex.P5 is the discharge summary which indicates that the petitioner was admitted on 20.03.2023 and discharged on 28.03.2023 and split skin graft of left lower limb was done. Ex.P6 is the discharge summary from 28.03.2023 to 11.05.2023 during which left ankle spanning external fixator exit and left leg Ilizarov, ring fixator application and left fibula osteotomy was done. Ex.P7 is the discharge summary from 08.06.2023 to 12.06.2023, where conservative management was done. The Ex.P8 is the discharge summary from 05.10.2023 to 21.10.2023, where bone grafting was done. Ex.P9 is the discharge summary from 28.07.2024 to 04.08.2024, where conservative management was done and Ilizarov ring fixator construct was removed. The Ex.P10 is the scan report, the Ex.P11 is the photographs showing the injuries and Ex.P17 is the photographs showing the injuries and scar. The Ex.C1 is the disability certificate assessing the disability at 39%. Considering all these facts and evidence, this Tribunal is of the view that the petitioner sustained multiple fractures on the left leg and availed treatment for a long time, as seen from the discharge summaries as stated above. Therefore, this Tribunal holds that the petitioner is entitled to compensation under various heads.

(b) Considering the nature of the injuries and the prolonged treatment, hospitalization and also the surgeries, this Tribunal awards **Rs. 2,00,000/-** towards **pain and suffering**. As seen from the above injuries would have definitely deprived of the amenities of the petitioner at this age and therefore, towards **loss of amenities**, the sum of **Rs. 2,00,000/-** is awarded.

(c) Regarding the medical expenses, the petitioner produced the Ex.P11 medical bills for Rs.1,57,664/-, Ex.P12 medical bills for Rs. 48,372/-, Ex.P13 medical bills for Rs.2,827/-, Medical bills Ex.P14 for Rs. 13,762 and pharmacy bills of Rs. 33,484/- as per the Ex.P15. Though the learned counsel for the 2nd respondent disputed the Ex.P15 as duplication of the above medical bills Ex.P11 to P14, the learned counsel for the petitioner submitted that the documents were not duplication of the bills and prayed for awarding of the entire medical expenses incurred by the petitioner. Considering the above evidence and the objections of the other side, this Tribunal is of the view that there is no material to discard the Ex.P15 and accordingly a sum of **Rs. 2,56,109/-** is awarded towards the **medical expenses.**

(d) As per Ex.C1, physical disability was assessed at 39%. As per the Ex.C1, the petitioner sustained 39% disability. The avocation pleaded by the petitioner is mason, thereby earning Rs. 25,000/-per month. The evidence of the PW2 is to the effect that due to the above injuries, the petitioner could not do the mason works in handling cement, sand and water. Therefore, this Tribunal is of the view that the above injuries on the lower limb (left leg), would have caused impact on the earning capacity of the petitioner.

(e) It is well settled by the Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar,*** **(2011) 1 SCC 343**, that the percentage of permanent physical disability cannot automatically be treated as the percentage of loss of earning capacity. The Tribunal has to assess the functional disability with reference to the nature of the avocation of the injured and the impact of the injuries on his earning capacity.

(f) In the present case, the petitioner was working as a mason, which is a profession involving strenuous manual labour requiring prolonged standing, walking, climbing, squatting, balancing and carrying heavy construction materials. The injuries sustained by him are to the left leg and foot, which are the principal weight-bearing parts of the body. The petitioner underwent prolonged treatment which would show the gravity of the injuries. Considering the nature of avocation pleaded, the Tribunal cannot ignore the practical impact of the injuries on the earning capacity of a manual labourer.

(g) At the same time, there is no material to conclude that the petitioner has suffered total loss of earning capacity. Therefore, considering the nature of injuries, prolonged treatment, occupation of the petitioner and the permanent disability certified by the Medical Board, this Tribunal is of the considered view that the functional disability can reasonably be fixed at **45%** for the purpose of computing the loss of future earning capacity.

(h) In view of the above discussion, this Tribunal is of the view that it is a fit case for adopting multiplier method. The accident occurred on 02.02.2023. In the absence of any proof for the income, it is necessary to determine the notional income for the period from 2022-23. The cost inflation index is 331, which would approximately work out to Rs.16,678/- for an unskilled labourer and therefore, it is rounded off to **Rs. 17,000/- per month.**

(i) The petitioner was aged about 47 years at the time of the accident. As per the Ex.P24, the date of birth of the petitioner is 28.08.1976 and Ex.P23 Aadhar also supports the same. The Future prospects for the above age group is 25% and the multiplier is ‘13’. Hence, the loss of earning capacity for 45% functional disability is determined in the following manner.

Monthly income	:	17,000/-
Annual income	:	2,04,000/-
Future Prospects 25%	:	51,000/-
Total Income	:	2,55,000/-
Multiplier	:	13
Disability %	:	45.00%
Loss of Earning Capacity	:	14,91,750/-

(j) Considering the nature of the injuries and the period of treatment and the prolonged hospitalization as seen from the Ex.P4 to P9, towards **transportation, extra nourishment and attendance charges**, it is just and necessary to award **Rs. 1,00,000/-** under the said head. A further sum of **Rs. 5,000/-** is awarded towards **damage to clothes and articles.**

(k) Accordingly, the petitioner is awarded compensation under the following heads:

Sl. No.	Heads	Amount (Rs.)
1.	Pain and Suffering	2,00,000/-
2.	Loss of Amenities	2,00,000/-
3.	Loss of Earning Capacity	14,91,750/-
4.	Medical Expenses	2,56,109/-
5.	Transportation, Attendant's Charges and Extra Nourishment	1,00,000/-
6.	Damage to Clothes and Articles	5,000/-

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Sl. No.	Heads	Amount (Rs.)
	Total	**22,52,859/-**
	Rounded off	**22,53,000/-**

(l) Thus, the petitioner is entitled to a total compensation of **Rs.22,53,000/- (Rupees Twenty-Two Lakhs and Fifty-Three Thousand Only).**

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

The 2nd respondent has strongly objected its liability on the ground that the driver of the lorry was not having a valid driving license at the time of the accident. Thereby, the owner of the vehicle had violated the terms and conditions. The Ex.R2 is the copy of the insurance policy. The Ex.R3 is the copy of the registration certificate, Ex.R4 is the permit, Ex.R5 is the fitness certificate, Ex.R6 is the copy of the driving license of the lorry according to which the driver of the 1st respondent was possessing LMB driving license and as per the Ex.R3 RC book, the unladen weight is 10520 kgs and therefore, I am of the view that the driver of the lorry was not possessing a valid driving license at the time of the accident. Thereby, there is a violation of policy conditions. The 1st Respondent remained *exparte* before this Tribunal. Therefore, the 2nd respondent being the insurer is liable to pay the compensation at the first instance and thereafter it shall recover the same from the 1st respondent, owner of the vehicle. Accordingly, the point is answered.

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 claimant, and intimation of such transfer shall be furnished to this Tribunal forthwith.

(c) 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.22,53,000/- (Rupees Twenty-Two Lakhs and Fifty-Three 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) **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 petitioner, 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.

(d) 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.**

(e) **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.

(f) In the event of non-compliance by the 2nd Respondent, the Petitioner shall pay the deficit Court-fees and execute the Award.

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

(h) The Advocate fees is fixed as **Rs. 29,530/-.**

REQUIRED PARTICULARS

1.	Date of Presentation	24-04-2023	
2.	Date of filing	02-06-2023	
3.	Compensation Claimed	Rs.	46,00,000/-
4.	Court fees paid	Rs.	375/-
5.	Compensation Awarded	Rs.	22,53,000/-

6	Court Fees payable on the Award	Rs.	21,902.50/-
7.	**Deficit Court fees Payable (6-4)**	**Rs.**	**21,527.50/-**
8.	Petitioner’s Bank Name and Branch	Indian Bank, Madras High Court.	
9.	Petitioner’s Account number and IFSC code	7659669619, IDIB000M157.	
10.	Petitioner’s Aadhar	6005 0600 2688	
11.	Petitioner’s PAN	OERPK6844D	
12.	Default period, if any	---	

Additional court fee paid, MP SR.No......……………......; dated

STATEMENT OF COSTS

For the petitioners						For the Respondents	
		Rs.		P.		Rs.	**P.**
Stamp on petition	-	21,902	.	50			
Stamp on Vakalat	-	20	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees	-	29,530	.	00			
Costs allowed	-	51,492	.	50			

//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 21st day of July 2026.//

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III Judge
Court of Small Causes, Chennai.

Petitioner's side Witness:

P.W.1 : Mr. Shankar, Petitioner
P.W.2 : Mr. Rajesh

Petitioner's side Exhibits:

Ex.P1 : FIR
Ex.P2 : AR Copy
Ex.P3 : Final Report
Ex.P4 : Discharge Summary

Ex.P5 : Discharge Summary
Ex.P6 : Discharge Summary
Ex.P7 : Discharge Summary
Ex.P8 : Discharge Summary
Ex.P9 : Discharge Summary
Ex.P10 : Scan report
Ex.P11 : Inpatient Bill Rs. 1,57,664/-
Ex.P12 : Inpatient Bill Rs. 48,372/-
Ex.P13 : Inpatient Bill Rs. 2,827/-
Ex.P14 : Inpatient Bill Rs. 13,762/-
Ex.P15 : Pharmacy Bills Rs. 33,484/-
Ex.P16 : Photos 3 Nos. with CD
Ex.P17 : Photos 2 Nos. with CD
Ex.P18 : X-Rays 2 Nos.
Ex.P19 : X-Rays 2 Nos.
Ex.P20 : X-Rays
Ex.P21 : MVI report
Ex.P22 : Insurance Policy copy
Ex.P23 : Aadhar card
Ex.P24 : PAN card
Ex.P25 : Bank Passbook
Ex.P26 : Aadhar card of the PW2
Ex.P27 : Employer ID card

2nd Respondent side Witness:

R.W.1 : Mr. Kamalakkannan

2nd Respondent side Exhibits:

Ex.R1 : Authorization Letter
Ex.R2 : Insurance Policy copy
Ex.R3 : Registration Certificate
Ex.R4 : Permit copy
Ex.R5 : Fitness Certificate
Ex.R6 : Driving License of the owner cum driver

Court Document:

Ex.C1 : Disability certificate

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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.