

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

Thursday, the 9th day of July 2026

M.C.O.P. 1448 of 2021

CNR No.TNCH09-002130-2021

G.Babu,
S/o.Govindan,
No.71, Mettu Street,
Chinnapuliyur, Sirupuzhal Pettai,
Gummudipoondi Taluk,
Tiruvallur – 601 201.

....Petitioner

-Vs-

1. Atul Kumar Saxena,
No.C-3/149, Sector – 31, Gautam Buddha Nagar,
Noida – District,
Uttar Pradesh – 201 301.

2. M/s. National Insurance Company Limited.,
Zenith House, Opp to Kuralgam,
Chennai – 600 108.

....Respondents

This petition is came up before me for final hearing on 17.06.2026 in the presence of M/s.M.Sankar Ganesh, A.Moorthy, Counsels appearing for the Petitioner, M/s.J.Poorna Chandran, C.Sathis Kumar, Counsel appearing for the 1st respondent and 1st respondent called absent and set ex parte for non filing of counter, M/s.G.Sudhakar, 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.7,00,000/- 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 03.06.2020 at about 01.30 p.m., while the petitioner was riding his Motorcycle bearing Registration No. TN 20-AU-6554 at Kavarpettai to Sathiyavedu Road, opposite to S.V.K.Complex, at that time one car bearing Reg.No.UP 16-AJ-3834 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner and hit against the petitioner 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 Kavarapettai Police Police Station, Thiruvallur and the case was registered in Crime No.1025/2020 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the driver of the 1st respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 45 years and he is a Sales Representative at Private Company and earning Rs.15,000/- 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., Car bearing Reg.No. UP 16-AJ-3834 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.7,00,000/- 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 submits that the 1st respondent is not responsible for the accident,

the accident occurred only due to the negligence of the petitioner, who rode the motorcycle without valid driving licence and valid insurance, thereby petitioner has violated the statutory provisions of MV Act. Hence the 2nd respondent is not liable to pay compensation to the petitioner.

(iii) 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.

(iv) The 1st respondent remained exparte.

4. 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., car bearing Reg.No. UP 16-AJ-3834 which is owned by 1st respondent and insured with 2nd respondent?
- (2) Whether delay in lodging the FIR without explanation is fatal to the claim application?
- (3) Whether the Petitioner is entitled for any compensation? If yes, what is the quantum of compensation and from which respondent?
- (4) To what relief the petitioner is entitled to?

5. ON THE POINTS:

(i) On the side of the petitioner, PW1 Babu examined on proof affidavit and Ex.P1 to P21 & Ex.C1 were marked.

(ii) 1st respondent remained exparte. There is no oral or documentary evidence let in on the side of contesting 2nd respondent.

(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.

6. Point No.1:

(i) The 2nd respondent denies the manner of accident and the negligence upon the driver of respondent's car and the petitioner alone is contributed towards the accident 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. UP 16-AJ-3834. 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 03.06.2020 at about 01.30 p.m., while the petitioner was riding his Motorcycle bearing Registration No. TN 20-AU-6554 at, Kavarpettai to Sathiyavedu Road, opposite to S.V.K.Complex, at that time one car bearing Reg.No.UP 16-AJ-3834 which belongs to the 1st respondent, driven by its driver in a rash and negligent manner and hit against the petitioner 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 Wound Certificate, Ex.P3 FIR, Ex.P10 Section Alteration Report, Ex.P11 Final Report & Ex.P14 Discharge summary.

(iii) On the other hand, the 1st respondent remained exparte for non filing counter.

(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 Wound Certificate, Ex.P3 FIR, Ex.P10 Section Alteration Report, Ex.P11 Final Report & Ex.P14 Discharge summary 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, P3, P10 P11 & P14 the petitioner proves the negligence upon the driver of the offending vehicle namely Car bearing Reg.No. UP 16-AJ-3834. Hence Point No.1 answered

affirmatively.

7. Point No.2 :-

In the present case the accident occurred on 03.06.2020 whereas FIR came to be registered on 07.06.2020 after delay of 4 days. On perusal of Ex.P3 FIR there is specific reason stated by the wife of the petitioner for delay in lodging the complaint. However it is well settled that in Motor Accident Claim cases delay in lodging FIR is not fatal particularly when the occurrence is otherwise supported by contemporaneous medical records and other evidence. On perusal of Ex.P1 Wound Certificate, Ex.P14 Discharge Summary it is clearly mentioned that the petitioner has sustained injury in the Road Traffic Accident 2 wheeler vs 4 wheeler at Kavarapettai at 01.30 p.m., which clearly shows that the petitioner sustained injury in the Road traffic accident on 03.06.2020, which corresponds to the date of accident. Ex.P14 leads to strong corroboration to the petitioners case. Further in the claim petition strict proof of evidence as required in criminal proceedings is not required and it is based only on preponderance of probabilities. The Honourable Supreme Court in Ravi -vs- Badrinath as held that in delay in lodging FIR cannot be a ground to reject the claim when the accident is otherwise established. In the present case respondent as not adduced any evidence to dispute the manner of accident or to show any contributory negligence on the part of the petitioner. The Ex.P3 FIR, Ex.P14 Discharge Summary remains unrebutted hence the delay in lodging the FIR does not discredit the claim. Therefore this tribunal comes to a conclusion the accident occurred only due to rash and negligent driving by the 1st respondent and petitioner sustained injury in the said occurrence. Hence Point No.2 answered negatively.

8. Point No.3 :-

(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. There is no dispute that the offending vehicle Car bearing Reg.No. UP 16-AJ-3834 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 03.06.2020. As per the medical records in Ex.P14 Discharge summary, the age is given as 45 years as on the date of accident (i.e., 03.06.2020). Ex.P20 Aadhar card of PW1 the date of birth is given as 14.03.1980. Considering the same the age of the petitioner as on the date of accident is fixed as 40 years.

(iv) According to the petitioner he is a Sales Representative and earning Rs.15,000/- 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 2020. Hence the notional income of the petitioner is fixed as Rs.15,000/- per month.

(vi) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P14 Discharge Summary, the petitioner has taken treatment at Vanaja Hospital, Chennai for 7 days as inpatient from 03.06.2020 to 09.06.2020 there he was diagnosed with Comminuted Left Proximal Tibia Fracture, Left Clavicle Fracture. He underwent surgery on 05.06.2020, ORIF with LCP done and got discharged on 09.06.2020. The petitioner has produced Ex.P19 Discharge Summary for the treatment taken at Bharathiraja Hospital and Research Centre. A perusal of the said documents, the treatment is taken for Mitral Valve Replacement(Cardio

Diseases). It is noted from Ex.P14, Discharge Summary, the petitioner has already undergone Valve replacement in the year 1998. Ex.P19 Discharge Summary is not pertaining to the treatment taken for the Road Traffic Accident held 03.06.2020. So Ex.P19 is not taken for consideration.

(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 18% Locomotor Partial Permanent disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(viii) PW1 except Ex.P14 has not produced any medical records for the Road Traffic Accident and no material documents produced to show that he suffered loss of earning capacity due to the injury sustained by him in the Road Traffic accident. Hence considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical Board, percentage method is adopted.

(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:

Loss of Income during Medical Treatment:

The petitioner has taken treatment as inpatient from 03.06.2020 to 09.06.2020 i.e., for about 7 days for Comminuted Left Proximal Tibia Fracture, Left Clavicle Fracture @ Vanaja Hospital, Chennai, ORIF done. Hence considering the available medical records and nature of injury sustained by petitioner, it might not taken less than 6 months for treatment and recovery. As we have already discussed his notional income is taken as Rs.15,000/- per month. Hence the loss of income during the period of medical treatment and recovery is arrived at **Rs.90,000/-** (Rs.15,000 x 6 months).

Loss due to Partial Permanent Disability:

In the recent judgment of our Honourable High court of madras in **Future Generali India Insurance Company Limited Vs Manivannan and another dated 15.06.2022** Honorable High Court held that

"This Court by Judgment, dated 9.1.2020 made in C.M.A. No.4870 of 2020 in the case of IFFCO TOKIO General Insurance Co. Ltd. v. Venkatesh and another, fixed a sum of Rs.4,000 per percentage of disability for the accident occurred in the year 2014 & 2015 and a sum of Rs.5,000 per percentage of disability for the accident occurred from the year 2016 onwards, due to raise in cost of living. In the present case, the accident is of the year 2017. In view of the same, a sum of Rs.7,000/- is awarded per percentage of disability, due to raise in cost of living."

Hence keeping in mind on the above said decision of our Honourable High court, since the accident was occurred in the year of 2020, this Tribunal comes to the conclusion that the Petitioner has suffered **partial permanent disability** of 18% and the Petitioner is entitled for just compensation for the injuries sustained by him as Rs.7,000/- per percentage is allowed. Hence the Petitioner is entitled for **Rs.1,26,000/-** (Rs.7000 x 18%) only as just compensation for the injuries sustained by him.

Medical expenses:

The petitioner has taken treatment at Private Hospital and he produced Ex.P13 inpatient medical bills for the period 03.06.2020 to 09.06.2020 for Rs.1,71,208/-. Ex.P15, Ex.P16 & Ex.P18 are the bills pertaining to the Valve replacement, so Ex.P15, Ex.P16 & Ex.P18 are not taken into consideration. **Rs.1,71,208/-** is awarded towards medical expenses.

Transport Charges:

The petitioner taken treatment at Vanaja Hospital, Chennai as Inpatient for about 7 days. Hence he would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at

Rs.5,000/-.

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.25,000/-** towards extra nourishment and **Rs.1,000/-** towards damages to clothing and articles.

Compensation for Pain and Sufferings:

The petitioner has suffered Comminuted Left Proximal Tibia Fracture, Left Clavicle Fracture and ORIF done and he was treated as inpatient for 7 days at Vanaja 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 Vanaja Hospital, Chennai as an in-patient for about 7 days and ORIF done. 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 Comminuted Left Proximal Tibia Fracture, Left Clavicle Fracture suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.80,000/-** towards loss of amenities.

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

CALCULATION:

1. Loss of income	:	Rs. 90,000/-
2. Disability	:	Rs. 1,20,000/-
3. Medical Expenses	:	Rs. 1,71,208/-

4. Transportation	:	Rs.	5,000/-
5. Extra Nourishment	:	Rs.	25,000/-
6. Damages to clothing and articles	:	Rs.	1,000/-
7. Pain and Sufferings	:	Rs.	50,000/-
8. Attender Charges	:	Rs.	5,000/-
9. Loss of amenities	:	Rs.	80,000/-
Total Compensation is fixed at	:	Rs.	<u>5,47,208/-</u>
Rounded off to	:	Rs.	5,47,300/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.5,47,300/-** i.e., **five lakhs forty seven thousand three hundred** and Point No.3 is answered accordingly.

9. Point No.4:

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.4 is answered accordingly.

10. Result:

In the result, this petition is partly allowed and a sum of **Rs.5,47,300/- (Rupees five lakhs forty seven thousand three hundred only)** is awarded as just compensation to the Petitioner with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e., 23.03.2021 till the realization, payable by the 2nd Respondent. No interest for the default period as per orders if any. 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 Petitioner bank account.

This Tribunal Account particulars:

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 Petitioner name is – Babu

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Union Bank, Gummidipoondi Branch.	Acc : 520101064347009 IFSC : UBIN0822388	2706 3805 0503	Not furnished

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 petitioner is hereby directed to furnish the self attested copy of Pan card to this Tribunal within a period of one month from to-day without fail. The petitioner has paid a sum of **Rs.375/-** towards Court fee. As per this award, the Court fee is **Rs.4,845.50/-**. The Advocate fee is fixed at **Rs.12,473/-**. The deficit court fee of **Rs.4,470.50/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	23.03.2021
Date of taken up on file	23.03.2021
Compensation claimed in the M.C.O.P.	Rs.7,00,000/-
Compensation awarded in this petition	Rs.5,47,300/-
Court fee paid along with the petition	Rs.375/-
Court fee payable on the award amount	Rs.4,845.50/-

Additional court fee shall be paid	Rs.4,470.50/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.17,363.50/-** towards the costs of this petition.

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>	<u>Rs.</u>	<u>P.</u>
Stamp on petition	-	4,845	.	50		
Stamp on Vakalat	-	5	.	00		
Stamp for process	-	40	.	00	-- not filed --	
Advocate fees		12,473	.	00		
Costs allowed	-	17,363	.	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 typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Thursday, the 9th day of July 2026.

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

Petitioner's sides Witness:

P.W.1: Mr.Babu

Petitioner's side Exhibits:

Ex.P-1 : Wound Certificate

Ex.P-2 : Copy of the Complaint

Ex.P-3 : FIR Xerox

Ex.P-4 : Registration Book Xerox of Petitioner's Vehicle TN 20-AU-6554

Ex.P-5 : MV Report of Petitioner's Vehicle TN 20-AU-6554

Ex.P-6 : Registration Book Xerox of Respondent's Vehicle TN 20-AU-6554

Ex.P-7 : Driving Licence of 1st respondent's vehicle driver

Ex.P-8 : Insurance Policy copy of 1st respondent vehicle

Ex.P-9 : MV Report of the 1st respondent vehicle

Ex.P-10 : Second Alteration Report

Ex.P-11 : Final Report filed by the Inspector of Police, Kavaraipettai

Ex.P-12 : Medical Bills issued by Vanaja Hospital

Ex.P-13 : Receipt for payment of Sum of Rs.1,71,208/-

Ex.P-14 : Discharge Summary issued by Vanaja Hospital

Ex.P-15 : Medical Bill Series for Treatment issued by Vanaja Hospital

Ex.P-16 : Medical Bills for Treatment at Dr.R.K.Diabetic and Podiatry Institute

Ex.P-17 : Scan Report and Check Up records at Vanaja Hospital

Ex.P-18 : Receipt for payment to Bharathhirajaa Hospital

Ex.P-19 : Records for Heart Valve Change and Discharge Summary Issued
by Bharathirajaa Hospital

Ex.P-20 : Aadhar Card xerox

Ex.P-21 : Bank Pass Book Xerox

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**