

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

Friday, the 24th day of July 2026

M.C.O.P. 4131 of 2021

CNR No.TNCH09-006998-2021

M.Dinesh Kumar,
S/o.Muthukumar,
No.1/119,
Lakshmi Amman Kovil Street,
Jaganathapuram,
Chennai – 600 067.

....Petitioner

-Vs-

1. D.Duraimurugan,
S/o.V.K.Durai,
No.52, Srinivasa Nagar,
2nd cross street, Kolathur,
Chennai – 600 099.

2. United India Insurance Company Limited.,
3rd Party Cell, Regional Office,
Motor Third Party Cell,
Silingi Buildings,
New No.134, Old No.40-42,
Greams Road, Chennai – 600 006.

....Respondents

This petition is came up before me for final hearing on 02.07.2026 in the presence of M/s.A.Babu, T.R.Kathiravan, Counsels appearing for the Petitioner, Mr.S.M.Meera Mohideen, Counsel appearing for the 1st respondent and set exparte for non filing of counter, M/s.R.Sreedhar, P.Malarvan, E.Kanmani, S.Suresh, R.Hemalatha, Counsels 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.25,30,000/- 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 15.12.2019 at about 04.00 p.m, while the petitioner was riding his Motorcycle bearing Reg.No. TN 18-D-3225 near Jeganthapuram, Venkatachalpathy Paper Mills, at that time another Motorcycle bearing Reg.No. TN 05-BJ-7743 which belongs to the 1st respondent, driven by its rider 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 Solavaram Police Station, Thiruvallur and the case was registered in Crime No.73/2020 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the rider of the 1st respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 34 years and he is a Senior Quality Controller Specialist at Le trim Intelligence Services Private Limited, Chennai – 600 052 and earning Rs.59,000/- 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., two wheeler bearing Reg.No. TN 05-BJ-7743 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.25,30,000/- 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 rider and denies the manner of accident.

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

(iii) The respondent submits that at the time of accident the petitioner was riding his Motorcycle in a rash and negligent manner and hit against the 1st respondent's two wheeler bearing Reg.No. TN 05-BJ-7743 and thus invites the accident. The rider of the 1st respondent's vehicle not responsible for the accident. Hence 2nd respondent is not liable to pay compensation to the petitioner. Further states that the FIR is lodged with the delay of more than 40 days.

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

- (1) Whether the accident has occurred due to rash and negligent riding by the rider of the viz., Two wheeler bearing Reg.No. TN 05-BJ-7743 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 Dinesh Kumar examined on proof affidavit and Ex.P1 to P22 & 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 rider of respondent's two wheeler and on the petitioner also contributed towards the accident so the burden of proof is upon the petitioner to establish the manner of accident and negligence is upon the rider of offending vehicle bearing Reg.No.TN 05-BJ-7743. The petitioner examined himself as PW1 on proof affidavit, he reiterated the petition averments and attributing the total negligence upon the rider of the 1st respondent's vehicle that on 15.12.2019 at about 04.00 p.m, while the petitioner was riding his Motorcycle bearing Reg.No. TN 18-D-3225 near Jeganthapuram, Venkatachalpathy Paper Mills, at that time another Motorcycle bearing Reg.No. TN 05-BJ-7743 which belongs to the 1st respondent, driven by its rider 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 FIR, Ex.P2 Rough Sketch, Ex.P3 Observation Mahazar, Ex.P4 & P5 MV Report, Ex.P6 AR copy.

(iii) On the other hand, the 1st respondent remained exparte.

(iv) The 2nd respondent/Insurance Company filed counter denies all the petition averments as false. The 2nd respondent further contended that the accident occurred only due to the rash and negligent riding by the petitioner / rider of Motorcycle bearing Reg.No.TN 18-D-3225. The 1st respondent vehicle rider not responsible for the accident. So the 2nd respondent is not liable to pay compensation to the petitioner.

(v) Though the 2nd respondent denies the negligence & manner of accident upon the rider of 1st respondent's vehicle but fails to substantiate the same with oral

and documentary evidence. Whereas the petitioner through TN 18-D-3225 clearly establishes that criminal Prosecution is lodged against the rider 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, P4, P5 & P6 the petitioner proves the negligence upon the rider of the offending vehicle namely Two wheeler bearing Reg.No.TN 05-BJ-7743. Hence Point No.1 answered affirmatively.

7. Point No.2 :-

(I) The 2nd respondent insurance company contended that the accident occurred on 15.12.2019 whereas FIR came to be registered on 26.01.2020 after delay of 42 days. On perusal of Ex.P1 FIR, the petitioner has stated. The reason for the delay is that since he was under treatment he was not able to give complaint on time. 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.P6 AR copy, the petitioner was immediately taken to Sundaram Medical Foundation on 15.12.2019, it is noticed as follows:-

(ii) "Alleged H/O RTA-2 wheeler vs 2 wheeler" which clearly shows that the petitioner sustained injury in the Road traffic accident which corresponds to the date of accident. Ex.P6 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.P1 FIR, Ex.P6 AR copy, Ex.P14 & Ex.P15 Discharge Summaries 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 & 2 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 Two wheeler bearing Reg.No. TN 05-BJ-7743 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 15.12.2019. As per the medical records in Ex.P14 Discharge summary, the age is given as 32 years as on the date of accident (i.e.,15.12.2019). Ex.P20 Aadhar card of PW1 the date of birth is given as 22.09.1987. Considering the same the age of the petitioner as on the date of accident is fixed as 32 years.

(iv) According to the petitioner he is a Senior Quality Controller Specialist at Letrim Intelligence Services Private Limited, Chennai and earning Rs.59,000/- per month, at the time of accident. To substantiate the same, Ex.P18 ID card produced. On perusal of the said ID card, the name of the company is mentioned as Merit Data and Technology Private Limited, whereas in the petition it is mentioned as Le trim Intelligence Services Private Limited, so there is no clear evidence to show in which company the petitioner was working at the time of accident. No documents produced to prove his income. So considering his age, ability and economic condition in the

year of 2019. Hence the notional income of the petitioner is fixed as Rs.15,000/- per month.

(v) Next coming to the nature of injury sustained by the petitioner in the road traffic accident, as per Ex.P6 Accident Register, the petitioner was taken to Sundaram Medical Foundation Hospital, immediately after accident, and continued to take inpatient treatment for about 2 days from 15.12.2019 to 16.12.2019. He was diagnosed with LE FORT 2 Fracture and after first aid, he got discharged against medical advice. On the same day, the petitioner got admitted at Apollo Spectra Hospital and taken inpatient treatment for about 8 days from 16.12.2019 to 23.12.2019 there he diagnosed with above said injuries. He underwent surgery on 19.12.2019, ORIF done and got discharged. Ex.P16 dated 14.07.2021, it is noted that the petitioner undergone root canal treatment due to the injuries sustained in the RTA.

(vi) 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 15% Total disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(vii) PW1 in his evidence has deposed that he suffered loss of income for 3 months due to the Road Traffic Accident. So it is clear that the petitioner continues his job after the accident and there is no loss of earning capacity due to the injuries sustained by him in the RTA. So considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical Board, percentage method is adopted.

(viii) 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 15.12.2019 to 16.12.2019 & 16.12.2019 to 23.12.2019 i.e., for totally about 10 days for LE FORT 2 Fracture @ Sundaram Medical Foundation Hospital and Apollo Spectra Hospitals, ORIF done. Hence considering the available medical records and nature of injury sustained by petitioner, it might not taken less than 3 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.45,000/-** (Rs.15,000 x 3 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 2019, this Tribunal comes to the conclusion that the Petitioner has suffered **partial permanent disability** of 15% 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.1,05,000/-** (Rs.7000 x 15%) only as just compensation for the injuries sustained by him.

Medical expenses:

The petitioner has taken treatment at Private Hospitals and he produced Ex.P17 & Ex.P22 series of medical bills for Rs.2,60,480/- & Rs.15,377/-. On perusal of Ex.P17 Inpatient Medical Bills for the treatment taken at Apollo Spectrum Hospital, the total bill was Rs.2,60,480/- out of which Rs.2,00,000/- has been paid by 3rd party insurance. As per the Judgment of the Honourable Supreme Court in New India Assurance Company Limited vs Dolly Sathish Gandhi and anr., reported in 2026 INSC 498, the Lordships has held that the amount received as part of mediclaim or medical insurance is not deductible from the compensation amount under MV Act. These two stand on different footing, one is statutory while the another is contractual and the Latter is only a Sequitur of premiums have been paid in the past, while the other is an entitlement as a consequence of an accident or death in motor vehicle accident. So from the Judgment it is clear that even though the petitioner/claimant has claimed mediclaim, he is entitled for compensation under the head of medical expenses. In the present case, eventhough the petitioner already claimed Rs.2,00,000/- towards medical expenses through 3rd party insurance, he is entitled for the same amount in the Motor Vehicle Accident compensation. Therefore the petitioner is entitled for **Rs.2,75,857/-** (Rs. 2,60,480/- +Rs.15,377/-) towards medical expenses.

Transport Charges:

The petitioner taken treatment at Sundaram Medical Foundation Hospital and Apollo Spectra Hospitals at Inpatient for totally about 10 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.20,000/-** towards extra

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

Compensation for Pain and Sufferings:

The petitioner has suffered LE FORT 2 Fracture and ORIF done and she was treated as inpatient for totally about 10 days at Sundaram Medical Foundation Hospital and Apollo Spectra Hospitals. Hence considering the nature of injury, period of treatment & disablement, trauma & pain undergone by the petitioner it is just and proper to award **Rs.45,000/-** towards pain and sufferings.

Attender Charges:

The petitioner admitted at Sundaram Medical Foundation Hospital and Apollo Spectra Hospitals as an in-patient for totally about 10 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 LE FORT 2 Fracture suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.60,000/-** towards loss of amenities.

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

CALCULATION:

1. Loss of income	:	Rs. 45,000/-
2. Disability	:	Rs. 1,05,000/-
3. Medical Expenses	:	Rs. 2,75,857/-
4. Transportation	:	Rs. 5,000/-
5. Extra Nourishment	:	Rs. 20,000/-
6. Damages to clothing and articles	:	Rs. 1,000/-
7. Pain and Sufferings	:	Rs. 45,000/-
8. Attender Charges	:	Rs. 5,000/-

9. Loss of amenities	:	Rs. 60,000/-

Total Compensation is fixed at	:	<u>Rs. 5,61,857/-</u>
Rounded off to	:	Rs. 5,61,900/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.5,61,900/-** i.e., **five lakhs sixty one thousand nine 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. In the result, this petition is partly allowed with cost as follows:-

(i) An award for **Rs.5,61,900/- (Rupees five lakhs sixty one thousand nine hundred only)** including interim award passed if any – is passed in favour of the petitioner, and the 2nd respondent is directed to pay the sum of **Rs.5,61,900/- (Rupees five lakhs sixty one thousand nine hundred only)** to the petitioner together with an interest at 7.5 percentage per annum from the date of presentation of petition i.e., 14.09.2021, till the date of realization, excluding the default period if any. The 2nd respondent is directed to pay the award amount with cost and interest within 2 months from the date of this award.

Mode of Disbursement :

(i) As per the Judgment of the Hon'ble Supreme Court in **PARMINDER SINGH VS HONEY GOYAL AND OTHER (S.L.P.No..4884 OF 2020)** Dated 18.03.2025, the tribunals are directed to pass an award by ordering the insurance company to transfer the award amount into the Bank account of the claimant(s) with intimation to the Tribunals. Accordingly, the respondent is directed to transfer the award amount to the Claimant(s) Bank Account. The petitioner's Account Number and IFSC Code, Aadhaar Card & Pan Card details are given as follows

Name of the Petitioner	Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Dinesh Kumar	RBL Bank, R A Puram Branch	Acc : 309005118155 IFSC: RATN0000245	4084 7735 8913	Not furnished

(ii) Further as stated above the Insurance Company shall pay the award amount directly to the Claimant(s) Bank Account. Further, if the claimant is directly receiving the award amount from the Insurance Company/Respondent, there is a possibility of evading deficit court fees, which are payable by the petitioner in this case. Therefore, the Claimant(s) is directed to remit the deficit court fees **within 2 weeks from the date of this order**. If the petitioner fails to pay additional court fee within the stipulated time, the petitioner is not entitled for interest on the award amount from the date of award till the date additional court is paid. Further the Claimant is directed to pay the deficit court fee in the following E-Court fees link pay.ecourts.gov.in.

(iii) If transfer fails due to the inoperative account or for any reason attributable to the petitioner, the respondent insurance company shall inform this tribunal and the petitioner. The petitioner shall furnish correct bank account particulars within 10 days. On receipt of the correct particulars the respondent insurance company shall transfer the award amount immediately.

(iv) After making of court fee by the Claimant(s), the Claimant(s) is directed to produce two copies of Court fee paid receipt to this Tribunal. After verification and getting seal from this Court, one such copy of court fee paid receipt to be handed over to the Insurance/Respondent's Advocate. Further, after obtaining receipt of court fee paid from the claimant alone, the Insurance Company shall transfer the award amount to the Claimant. If any award transferred by the Insurance Company to the claimant without receiving court fees paid receipt, it is the responsibility upon the Insurance Company to remit the Court fees to this Tribunal later. Therefore the parties are directed to adhere the above conditions strictly without any deviation.

(v) The Respondent shall directed to furnish intimation of Compliance to this Tribunal after transferring the award amount to the Claimant(s).

(vi) 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.

(vii) The petitioner has paid a sum of **Rs.24,674/-** towards Court fee. As per this award, the Court fee is **Rs.4,991.50/-**. The Advocate fee is fixed at **Rs.12,619/-**. The Excess Court fee of **Rs.19,682.50/-** shall be refunded to the petitioner after the expiry of the appeal time.

Other necessary particulars:

Date of Presentation of petition	14.09.2021
Date of taken up on file	20.09.2021
Compensation claimed in the M.C.O.P.	Rs.25,30,000/-
Compensation awarded in this petition	Rs.5,61,900/-
Court fee paid along with the petition	Rs.24,674/-
Court fee payable on the award amount	Rs.4,991.50/-
Excess court fee shall be refunded	Rs.19,682/-

That the 2nd respondent do pay to the petitioner a sum of **Rs.17,655.50/-** 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	-	4,991	.	50		
Stamp on Vakalat	-	5	.	00		

<u>STATEMENT OF COSTS</u>						
Stamp for process	-	40	.	00		-- not filed --
Advocate fees		12,619	.	00		
Costs allowed	-	17,655	.	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 Friday, the 24th day of July 2026.

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

Petitioner's sides Witness:

P.W.1: Mr.Dinesh Kumar

Petitioner's side Exhibits:

Ex.P-1 : FIR Xerox

Ex.P-2 : Rough Sketch

Ex.P-3 : Observation Mahazar

Ex.P-4 : Motor Vehicle Inspection Report of petitioner vehicle

Ex.P-5 : Motor Vehicle Inspection Report of 1st respondent vehicle

Ex.P-6 : Accident Register Copy

Ex.P-7 : Wound Certificate

- Ex.P-8 : Registration Book Xerox of petitioner vehicle
Ex.P-9 : Registration Book Xerox of 1st respondent vehicle
Ex.P-10 : 1st respondent driving licence
Ex.P-11 : 1st respondent vehicle Insurance copy
Ex.P-12 : Petitioner Driving Licence
Ex.P-13 : Degree Certificate of the petitioner
Ex.P-14 : Sundaram Foundation Hospital Discharge Summary
Ex.P-15 : Apollo Spectra Hospital Discharge Summary
Ex.P-16 : Impression Hospital – Medical Certificate
Ex.P-17 : Medical Bills
Ex.P-18 : Employee Identity card
Ex.P-19 : Letter from Impression Hospital
Ex.P-20 : Aadhar Card xerox
Ex.P-21 : Bank Passbook Xerox
Ex.P-22 : Medical Bills

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**