



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

Monday, the 29th day of June 2026

Motor Accidents Claims Original Petition No.5289 of 2018

CNR NO : TNCH09-007136-2022

1. K.Mary

...Petitioner

-Vs-

1. M. Kanniyappan,
No.25, Gangaiyamman Koil Street,
8/2 cross street, Asthinapuram,
Kanchipuram – 600 064.

2. The Manager,
IFFCO Tokio General Insurance Co. Ltd.,
IFFCO Bhavan, 4th Floor,
128, Habibullah Road, Opp. To Karnataka Shanga School,
T.Nagar, Chennai – 17.

3. S.Ravishaninan,
No.20, 2nd Street Chambers Colony,
Chrompet, Kanchipuram – 600 044.

...Respondents

Appearance:

M/s.G.Thulasiraman & another, Counsels appearing for the Petitioner.

1st & 3rd Respondent: Set *exparte* 25.09.2019 & 23.08.2023.

M/s.A.Jeganathan, Counsel appearing for the 2nd respondent.

Upon perusing the entire records, I passed the following

AWARD

The Petitioners filed Petition under Section 166 of the MV Act seeking for compensation of Rs. 50,00,000/- for the death of Vijaparakash who died in a motor accident.



2. Crux of the Petition:

The deceased was aged about 17 years working as a Part-time Salesboy in MC Agencies Petrol Bunk thereby earning Rs. 15,000/- per month (Rs. 9,000/- + 200/- daily batta). On 31.08.2018 at about 10.15 Hours, when the deceased was traveling as pillion-rider in Two-wheeler bearing chasis number MD2A36FY2JD48164 on the GSR Road, MIT Bridge Top of Bridge from South to North, the rider of the two-wheeler rode the vehicle in a rash and negligent manner and lost its control and went left extreme side of the bridge and dashed against the side wall due to which the deceased was thrown away and sustained fatal injuries and died on the spot. The 1st Respondent is the owner and the 2nd Respondent is its insurer. Hence, the petition.

3. Crux of the Counter of 2nd Respondent:

Denied the averments contained in the petition. The 1st Respondent's vehicle was used for illegal activities for purchase and sale of 'ganja' in violation of policy conditions and law and hence the 2nd Respondent is not liable to pay compensation. The rider of the two-wheeler was not having valid driving license. The rider of the two-wheeler was K.Mathivanan son of the 1st Respondent and hence the 1st Respondent having allowed his minor son to ride the two-wheeler is not entitled to be indemnified. Hence, the Petition is liable to be dismissed. In any event, the claim of the Petitioners is highly excessive.

4. Points for Consideration:

1. On whose negligence the accident occurred?
2. Whether the Petitioner is entitled to compensation, and 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 PW1 and Ex.P1 to P8 were marked. The eyewitness was examined as PW2 and Ex.P9 was marked. On the side of the 2nd respondent, an application under Section 170 of the



Motor Vehicles Act was filed. The official of the 2nd respondent was examined as RW1 and Ex.R1 to R8 were marked.

6. Arguments of the Petitioner:

(a) The learned Counsel for the Petitioner submitted that the deceased died due to the accident and the defence of the 2nd Respondent is unacceptable and hence the petitioner is entitled to compensation under various heads.

(b) On the other hand, the learned Counsel for the 2nd Respondent submitted that the deceased was indulged in illegal activities and the rider of the two-wheeler and the deceased were minors and having known that they are not entitled to travel, they invited the accident and therefore the Petitioner is not entitled to claim compensation. He further submitted that the deceased had been involved in possession of *ganja* and criminal case was registered in Crime No. 549 of 2018 culminated into C.C. No. 137 of 2018 before the Principal Special Judge, Special Court under EC & NDPS Act, Chennai. He further submitted that the 2nd Respondent that the 2nd Respondent has taken all efforts to establish their defence and that quoted the legal maxim, *ex turpi causa non oritur actio* i.e. no action arises from an immoral or illegal cause. Reference was made to the cross examination of the PW1 where the presence of the deceased and his brother at the time of accident and the criminal case was registered against the brother of the Accused and sought for dismissal of the petition against the 2nd Respondent.

7. Answer to Point No. 1:

(a) It is the specific case of the Petitioners that on 31.08.2018 at about 10.15 hours, the deceased Vijaparakash was traveling as a pillion rider in the motorcycle bearing Chassis No. MD2A36FY2JD48164 on the G.S.T. Road, MIT Bridge, from South to North, and that the rider of the motorcycle rode the vehicle in a rash and negligent manner, lost control over it and dashed against the side wall of the bridge, resulting in the deceased being thrown away, sustaining fatal injuries and dying on



the spot. In order to substantiate the above case, the 1st Petitioner was examined as PW1 and an eyewitness to the occurrence was examined as PW2. Ex.P1 to Ex.P9 were marked. The PW2 claims to have witnessed the occurrence.

(b) The Rough Sketch and the Motor Vehicle Inspector's Report also support the case that the motorcycle hit the side wall of the bridge and there was no involvement of any other vehicle in the occurrence. Nothing substantial has been elicited in the cross-examination of PW2 to discredit his testimony regarding the manner of occurrence. This Tribunal is satisfied that the accident occurred solely due to the rash and negligent riding of the motorcycle by its rider.

(c) The principal defence of the 2nd Respondent is that the deceased and the rider were allegedly transporting *ganja* at the time of the accident and that the deceased, being engaged in an illegal activity, is not entitled to claim compensation. In support of the said contention, reliance has been placed on Ex.R3, copy of the FIR in Crime No.549 of 2018, Ex.R4 series, being newspaper reports, and Ex.R8, the certified copy of the judgment in C.C. No.137 of 2018. This contention cannot be accepted. Ex.R3 merely evidences the registration of a criminal case and is not substantive proof of the allegations contained therein. Ex.R4 series comprises newspaper reports, which by themselves are not proof of the facts stated therein unless supported by independent admissible evidence. Significantly, Ex.R8 reveals that the criminal case ultimately ended in acquittal.

(d) Apart from producing the above documents, the 2nd Respondent has not examined the Investigating Officer or any independent witness connected with the alleged NDPS case, nor has it produced any seizure mahazar or other convincing evidence to establish that the alleged illegal activity had any direct nexus with the occurrence of the accident.

(e) Even assuming for the sake of argument that the deceased was travelling along with the rider in connection with an illegal activity, such circumstance by itself



would not establish that the accident occurred because of such activity. The evidence on record does not disclose that the rider was attempting to flee from the police or that the accident was the consequence of chasing.

(f) It cannot be lost sight of the fact that the immediate and proximate cause of the accident was the rider losing control over the motorcycle and dashing against the side wall of the bridge. Therefore, the alleged involvement of the deceased in an illegal activity has no causal connection with the occurrence of the accident and cannot absolve the tortfeasor of his negligence.

(g) However, the materials on record disclose that the deceased was traveling as a pillion rider without wearing a protective helmet. The Post-Mortem Certificate shows that the deceased sustained comminuted fracture of the skull, fracture of the base of the skull, etc., and the Doctor has opined that the deceased died due to severe head injuries.

(h) Thus, while the failure to wear a helmet did not contribute to the occurrence of the accident, it had a direct bearing on the gravity of the injuries sustained by the deceased. The omission to wear a helmet amounts to failure to take reasonable care for his own safety and has contributed to the fatal consequences of the accident. In the considered opinion of this Tribunal, the said omission warrants attributing **10% contributory negligence** to the deceased. The effect of such finding will be considered while determining the quantum of compensation *infra*. Accordingly, this Tribunal holds that the accident occurred due to the rash and negligent riding of the motorcycle by its rider with the above stipulation. This point is answered accordingly.

8. Answer to Point No. 2:

(a) Having answered Point No.1 in favour of the Petitioner by holding that the accident occurred due to the rash and negligent riding of the motorcycle and that the deceased contributed to the fatal consequences of the accident to the extent of



10% by traveling without wearing a protective helmet, this Tribunal proceeds to determine the just compensation payable to the Petitioner.

(b) The age of the deceased has been established as 17 years and the same has not been seriously disputed by the Respondents. Hence, the appropriate multiplier applicable is '18'.

(c) It is necessary to determine the income of the deceased. The Petitioner has pleaded that the deceased was employed as a part-time Sales Boy in M.C. Agencies Petrol Bunk and was earning a sum of Rs. 15,000/- per month. However, no independent evidence has been adduced to substantiate the same. In the absence of any evidence, it is necessary to determine the notional income.

(d) It is pertinent to note that the Petition itself proceeds on the footing that the deceased was working as a part-time Sales Boy. However, the materials available before this Tribunal do not establish that the deceased was pursuing regular education. Equally, no evidence has been let in regarding his educational qualification or any technical or vocational skill possessed by him. The 2nd Respondent, though seriously disputing the income claimed by the Petitioner, has also not elicited any material particulars in the cross examination of PW1 regarding the educational qualification of the deceased, the nature of his alleged employment or his earning capacity. Thus, the Tribunal is left only with the pleadings and the limited oral evidence available on record for assessing the earning capacity of the deceased.

(e) The learned counsel for the 2nd Respondent placed considerable reliance upon the alleged criminal antecedents of the deceased and his brother. PW1 also admitted during cross-examination that criminal cases had been registered against them in various police stations. However, I am of the considered opinion that the mere registration of criminal cases, in the absence of any conviction, cannot constitute a relevant factor for reducing the earning capacity of the deceased

(f) It is pertinent to note that the Hon'ble High Court in *Sabura v. The*



Managing Director, MTC Ltd., C.M.A. No.1581 of 2025 dated 20.06.2025, wherein the notional income of a 10-year-old school-going child was fixed at ₹10,000/- per month and 40% was added towards future prospects. This Tribunal has carefully considered the said decision. However, the facts of the present case stand on a different footing. In the said case, the Hon'ble High Court took into consideration the educational background of the child and the future educational and earning prospects while fixing the notional income.

(g) In the present case, the deceased was admittedly aged about 17 years and the Petition itself proceeds on the basis that he was working as a part-time Sales Boy. There is no evidence to establish that he was pursuing his education or that he possessed any educational or vocational qualification warranting fixation of a higher notional income on the basis of future educational prospects. The determination of notional income is essentially a question of fact depending upon the evidence available in each case and no uniform figure can be mechanically adopted irrespective of the factual matrix.

(h) Considering all these facts and evidence, I hold that the notional income of the deceased is fixed at **Rs.8,000/-**. Since the deceased was below 40 years of age, an addition of 40% towards future prospects is liable to be made. Accordingly, the monthly income works out to **Rs. 11,200/-** (Rs.8,000 + 40%). The annual income comes to **Rs. 1,34,400/-**.

(i) The deceased was an unmarried bachelor. Therefore, 50% is deducted towards his personal and living expenses. Thus, the annual contribution to the family works out to **Rs. 67,200/-**. Applying the multiplier of '18', the loss of dependency is **Rs. 12,09,600/-** ($67,200 \times 18$).

(j) Applying the principle enunciated in **National Insurance Co. Ltd. v. Pranay Sethi and Ors., AIR 2017 SC 5157**), under the conventional heads viz., Loss of Estate, Consortium and Funeral Expenses, Rs.15,000/-, Rs.40,000/- and



Rs.15,000/- respectively are liable for 10% enhancement once in every three years from the date of the said judgment. Considering that two blocks of three years have elapsed after the judgment in Pranay Sethi, this Tribunal awards Rs.18,150/- towards Loss of Estate and Rs.18,150/- towards Funeral Expenses. The Petitioner being the mother of the deceased is entitled to **filial consortium of Rs.48,400/-**.

(k) To sum up, under all the headings, the Petitioner is entitled to the following compensation:

S. No.	Head of Compensation	Amount (Rs.)
1.	Loss of Dependency	12,09,600/-
2.	Filial Consortium	48,400/-
3.	Loss of Estate	18,150/-
4.	Funeral Expenses	18,150/-
	Total	12,94,300/-
	10% Deduction (less)	1,29,430/-
	Balance	11,64,870/-
	Rounded Off	11,65,000/-

(l) Thus, the Petitioner is entitled to a total compensation of **Rs. 11,65,000/- (Rupees Eleven Lakhs Sixty Five Thousand only) as compensation**

(m) The 3rd Respondent is the father of the deceased who is said to have abandoned the family. The said averment has remained uncontroverted. Though the 3rd Respondent was arrayed as one of the legal representatives of the deceased, he remained *exparte* and has neither chosen to contest the proceedings nor claimed any share in the compensation. There is also no material to show that he was dependent upon the earnings of the deceased or that he has suffered any pecuniary loss on account of his death. Therefore, while recognizing the 3rd Respondent as one of the legal representatives of the deceased, this Tribunal is of the considered view that the entire compensation shall be apportioned in favour of the Petitioner/mother, who alone has established her dependency on the deceased. Accordingly, the point is answered.



9. Answer to Point No. 3:

(a) The 2nd Respondent has contended that the rider of the offending motorcycle was a minor and was not holding a valid and effective driving licence at the time of the accident and that the 1st Respondent, being the owner of the vehicle, had consciously permitted his minor son to ride the motorcycle in violation of the policy conditions. In support of the said contention, reliance has been placed upon Ex.R2, the Insurance Policy, Ex.R7, the notice issued by the insurer to the owner and the rider calling upon them to explain the policy violation.

(b) From the materials available on record, it stands established that the motorcycle was being ridden by the minor son of the 1st Respondent, who admittedly did not possess a valid driving license. The 1st Respondent remained *exparte*. Thus, this Tribunal is satisfied that there has been a breach of the policy condition on the part of the insured by permitting a person who was not duly licensed to ride the insured vehicle. Therefore, I hold that the 2nd Respondent shall initially pay the compensation and recover it from the 1st Respondent. Accordingly, the point is answered.

10. Result :

In fine,

(a) The Petition is partly allowed;

(b) The Petitioner is awarded a compensation of **Rs. 11,65,000/- (Rupees Eleven Lakhs Sixty Five 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 2nd Respondent is directed to deposit the said compensation amount in the **Tribunal's Account "Registrar (MACT), Court of Small Causes, Chennai Account No. 7103261207 IFSC No. IDIB000M157 Indian Bank, Madras High Court Branch, Chennai" within two months;** In default, the interest shall be at the



rate of 7.5% instead of 6.5.% p.a.,

(d) Upon such deposit, the 2nd Respondent is directed to send a copy of **Bank Advice** to this Tribunal and a copy of the same to be sent to the Petitioner;

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

(f) On petitions for withdrawal of the amount, excluding the proportionate Costs, Advocate Fees, etc., the rest of the amount shall be transferred to the Petitioners'/claimants' bank account details of which are furnished below through RTGS/NEFT.

(g) The petitioners are directed to deposit the **deficit court fees** for the award amount **within two weeks** from the date of this order, if not already paid and only on such deposit, the Petitioner is entitled for disbursement;

(h) The Advocate fees is fixed as **Rs. 18,650/-**.

REQUIRED PARTICULARS

1.	Date of Presentation	10-09-2018
2.	Date of filing	11-09-2018
3.	Compensation Claimed	Rs. 50,00,000/-
4.	Court fees paid	Rs. 372.50/-
5.	Compensation Awarded	Rs. 11,65,000/-
6.	Court Fees payable on the Award	Rs. 11,022.50/-
7.	Deficit Court fees Payable (6-4)	Rs. 10,650/-
8.	Petitioner's Bank Name and Branch	Punjab National Bank, Madras.
9.	Petitioner's Account number and IFSC code	0286200100001534, PUNB0028620.
10.	Petitioner's Aadhar	9537 2452 0076
11.	Petitioner's PAN	FKIPM8795P
12.	Default period, if any	---

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



STATEMENT OF COSTS

<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	-	11,022	.	50		
Stamp on Vakalat	-	20	.	00		
Stamp for process	-	40	.	00	-- not filed --	
Advocate fees	-	18,650	.	00		
Costs allowed	-	29,732	.	50		

//Dictated to the Steno typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Monday, the 29th day of June 2026.//

III Judge
Court of Small Causes, Chennai.

Petitioner's side Witness:

P.W.1 : Mr. Mary, Petitioner

P.W.2 : Mr. V.Vinoth, Eye Witness

Petitioner's side Exhibits:

Ex.P1 : First Information Report

Ex.P2 : Post-Mortem Certificate

Ex.P3 : Death Report

Ex.P4 : Death Certificate

Ex.P5 : Legal Heirship Certificate

Ex.P6 : Bank Passbook

Ex.P7 : Aadhar Card

Ex.P8 : PAN Card

Ex.P9 : Aadhar Card of eye witness

2nd Respondent side Witness:

R.W.1 : Mrs. Sandhiya Lakshmi

2nd Respondent side Exhibits:

Ex.R1 : Authorization Letter

Ex.R2 : True Copy of Policy

Ex.R3 : FIR



- Ex.R4 : E-Newspaper cutting
Ex.R5 : MVI Report
Ex.R6 : Sketch
Ex.R7 : Notice to 1st respondent and driver
Ex.R8 : E-court download copy of judgment

**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.