



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 23rd day of June 2026

Motor Accidents Claims Original Petition No.4967 of 2017

CNR NO : TNCH09-007272-2017

1. L.Gandhimathi,
 2. Sivanandha Sekar (Died),
 3. Sivaganesh,
 4. Sathya (Died),
 5. Saranya,
 6. B.Rajan,
 7. R.Dharshini (minor),
 8. R.Madhumitha (minor)
- (minor 7 & 8 represented by their father Rajan)

All are residing at:

No.2/114, Ragava Nagar, 2nd Main Road,
Moovarasampet, Chennai – 91.

...Petitioners

-Vs-

1. Krishna Chittudi, S/o. Adinarayana,
1/79/1, Main Road, Kapavarm,
Iragavaram, West Godavari,
Andhra Pradesh – 534 217.

2. National Insurance Company,
Motor TP Hub, Regina Manson, 3rd Floor,
No.46, Moore Street, Chennai – 01.

...Respondents

Appearance:

M/s.K.Chandrakala & K.Jagadishkumar, Counsels appearing for the Petitioners

1st respondent: Set *ex parte* on 26.10.2017.

M/s.R.Sree Vidhya, Counsel appearing for the 2nd respondent.

Upon perusing the entire records, I passed the following



AWARD

The Petition was filed by the Petitioners seeking for compensation of Rs. 50,00,000/- for the death of Lingadurai in a motor accident.

2. Crux of the Petition:

The deceased Linga Durai was aged about 63 years working as Watch Sales and Services-Self employment thereby earning Rs. 25,000/- per month. On 26.06.2017, at about 13.45 Hours, when the deceased was traveling in his two-wheeler bearing registration number TN 23 CM 7573 from Pallavaram to Thirusulam, Eicher Lorry belonging to the 1st respondent bearing registration number AP 37 TA 4535 driven by its driver in a rash and negligent manner and dashed against the two-wheeler of the deceased due to which the deceased was thrown away and sustained head injuries and multiple injuries all over his body. He was admitted in the Parvathy Hospital and Mercury Hospital from 26.06.2017 to 05.07.2017 and he succumbed due to the injuries. A Criminal case was registered in Crime No. 406/2017 by S13 Chrompet Traffic Investigation. The accident was due to the rash and negligence of the 1st Respondent's Lorry Driver. The 2nd Respondent is its insurer. The Petitioners are the legal heirs of the deceased. Hence, the petition.

3. Crux of the Counter:

The Owner/1st Respondent did not communicate the 2nd Respondent about the accident. The accident was only due to the negligent driving of the deceased rider of the two-wheeler. His vehicle was not duly insured. In the event of finding contributory negligence, greater percentage has to be apportioned. The averments of the petition are exaggerated. The claim of the petition is highly excessive. Hence, the petition is liable to be dismissed.

4. Points taken for consideration:

1. On whose negligence, did the accident occur?
2. Whether the petitioners are entitled to compensation? If so, to



what extent? And from whom?

3. Which respondent is liable to pay compensation?

5. The 3rd Petitioner was examined as PW1 and Ex.P1 to P14 were marked. One G.Srinivasan was examined as PW2 and Ex.P15 was marked. The 1st Respondent remained *exparte*. The 2nd Respondent did not adduce any oral and documentary evidence.

6. **Answer to Point No. 1:**

(a) On the side of the petitioners, the 3rd Petitioner was examined as PW1. Ex.1 is the accident Register. Ex.P3 is the FIR copy. In the FIR, it is stated that the deceased was hit by Lorry in a rash and negligent manner. Though the 2nd Respondent pleaded no knowledge about the accident, the manner of accident was not disputed as required under Law. The PW2 was said to be an eye witness and he deposed that he saw the accident. He was cross examined by the 2nd Respondent disputing his trustworthy.

(b) However, considering the scope of the petition, the point of rash and negligence has to be proved based on preponderance of probability and not by strict proof. In the instant case, there are no contra evidence against the testimony of the PW1 and PW2. Therefore, I hold that the accident was due to the rash and negligence of the 1st Respondent's Driver.

7. **Answer to Point No. 2:**

(a) Under this point, it is necessary to decide as to whether the Petitioners are entitled to compensation. The 1st Petitioner is the wife of the deceased. The Petitioners 2 to 5 are the children of the deceased. The 1st Petitioner is the wife of the deceased. The Petitioners 2 to 5 are the children of the deceased. During the pendency of the claim petition, the 2nd Petitioner died unmarried(as seen from his death certificate Ex.P8). The 4th Petitioner also died during the pendency of the proceedings. Ex.P9 is the Death Certificate of the deceased 4th Petitioner. Ex.P10 is



the Legal Heirship Certificate relating to the deceased 4th Petitioner. On the strength of Ex.P9 and P10, the Petitioners 6 to 8, being the husband and children of the deceased 4th Petitioner, were brought on record as her legal representatives.

(b) The defence of the 2nd Respondent is that the Petitioners 6 to 8 are not dependants of the deceased Linga Durai and therefore are not entitled to claim compensation. This contention cannot be accepted. The 4th Petitioner was already on record as one of the legal representatives of the deceased and had acquired a right to prosecute the claim petition. Upon her death during the pendency of the proceedings, such right devolved upon her legal representatives. The Petitioners 6 to 8 do not claim compensation in their independent capacity as dependents of the deceased Linga Durai. They are entitled only to represent the estate of the deceased 4th Petitioner and receive the share that would have fallen to her. Therefore, the objection raised by the 2nd Respondent is liable to be rejected.

Determination of Loss of Dependency

Age of the Deceased

(c) As regards the age of the deceased, according to the petitioner, it was 63 years. In Ex.P4-Postmortem Certificate. However, in other medical records such as Ex.P1 and P2 disclose that the deceased was aged about 63 years at the time of the accident. The same has been disputed by the respondents. In the above context, it is necessary to decide the age of the deceased. The age of the deceased plays a role in fixation of future prospects and adoption of multiplier.

(d) The age of the deceased noted in the postmortem certificate cannot be accepted when the other medical records indicate the age as 63 years. Hence, the age of the deceased is fixed as **63 years**.

Income of the Deceased:

(e) As regards income, the Petitioners have pleaded that the deceased was carrying on Watch Sales and Service business and earning a sum of Rs.25,000/- per



month. In support of the said contention, Ex.P11-Bill Book relating to the watch shop has been produced. Ex.P11 probabilises the case of the Petitioners that the deceased was carrying on an independent business in watch sales and service. However, no account books, income tax returns, bank statements or other satisfactory documentary evidence have been produced to establish the exact income of the deceased. Therefore, the monthly income claimed by the Petitioners cannot be accepted in its entirety.

(f) At the same time, considering the nature of avocation of the deceased, the fact that he was engaged in a skilled self-employment, the year of accident being 2017, and the age of the deceased, this Tribunal deems it appropriate to fix the notional monthly income of the deceased at **Rs.15,000/-**. **Annual income would be Rs. 1,80,000/-**

Future Prospects:

(g) Therefore, it is necessary to determine **Future Prospects** of the deceased as per the Judgment of the Hon'ble Supreme Court in *National Insurance Co.ltd v. Pranay Sethi and Ors.* AIR 2017 SC 5157. Since the deceased was aged 63 years and was self-employed, no addition towards future prospects is made.

(h) For the deduction towards **Personal living expenses**, the 1st Petitioner is the wife of the deceased. Though the children of the deceased are majors, they are legal representatives entitled to maintain the claim petition. Considering the facts and circumstances of the case, 1/3rd of the income is deducted towards the personal and living expenses of the deceased. Therefore, 1/3 has to be deducted as per the pronouncement of the Hon'ble Supreme Court in *Sarala Verma v. Delhi Transport Corporation Anr.* 2009 (6) Scale 129 : 2009 (6) SCC 121, 2009 (2) TNMAC 1. After the deduction, it would be **Rs.1,20,000/-** (1,80,000 – 60,000)

(i) As per the above decision, for the age of 63 years years, the multiplier to be adopted is 7. With the above factss, the **Loss of Dependency** would be **Rs.**



8,40,000/- (1,20,000/- x 7).

Medical Expenses:

(j) It is further seen from Ex.P12 series that the Petitioners have incurred medical expenses to the tune of Rs.5,37,244/-. The said bills have not been seriously disputed by the respondents. There is no evidence to discredit the genuineness of the bills. Therefore, the Petitioners are entitled to a sum of **Rs.5,37,244/-** towards **medical expenses**.

Conventional Heads:

(k) Applying the principle enunciated in *National Insurance Company Limited v. Pranay Sethi and Ors. supra*, under the conventional heads viz. **Loss Estate, Consortium and Funeral Expenses, Rs. 15,000/-, Rs.40,000/-, Rs.15,000/- respectively** are liable for 10% enhancement once in every three years from 2017. Thus, considering the passage of two blocks of three years after the said judgment, this Court awards **Rs.18,150/- towards loss of estate and Rs.18,150/- towards funeral expenses**. The 1st Petitioner being the wife of the deceased is entitled to **spousal consortium of Rs.48,000/-**.

Deduction:

(l) It is seen from Ex.P4-Postmortem Certificate that the deceased sustained severe head injuries in the accident. The Postmortem Doctor has opined that the deceased would appear to have died of head injuries and its complications, namely haemorrhage and shock. The deceased was initially admitted in Parvathy Hospital and thereafter treated at Mercury Hospital from 26.06.2017 till 05.07.2017 and ultimately succumbed to the injuries sustained in the accident.

(m) Though the Petitioners have established that the accident occurred due to the rash and negligent driving of the driver of the offending lorry, there is no material available on record to show that the deceased was wearing a protective helmet at the time of the accident. Considering that the deceased sustained fatal head injuries and



died due to haemorrhage and shock arising out of such head injuries, this Tribunal is of the view that though it is not a ground to show that the petitioner contributed to the accident, non-wearing of helmet could have avoided the head injuries or at least death. Therefore, to that extent, 10% deduction is made for not wearing the helmet following the decision of the Hon'ble Division Bench of the High Court in ***Cholamandalam Insurance Co. v. Nagarathinamma, 2022 (1) TNMAC 794.***

(n) To sum up, under all the Headings, the Petitioners are entitled to the following compensation:

1.	Loss of Dependency	Rs.	8,40,000
2.	Medical Expenses	Rs.	5,37,244
3.	Loss of Estate	Rs.	18,150
4.	Loss of Spousal Consortium to 1 st Petitioner	Rs.	48,000
5	Funeral Expenses	Rs.	18,150
	Total	Rs.	14,61,544
	10% deduction for not wearing Helmet		1,46,154
	Total after deduction	Rs.	13,15,389
	Rounded Off to the nearest Thousand	Rs.	13,15,000

(o) Therefore, the Petitioners are entitled to a total sum of **Rs. 13,15,000/- (Rupees Thirteen Lakhs and Fifteen Thousand only)** as compensation with interest at the rate of 7.5% from the date of filing of the Petition till the date of deposit.

Apportionment:

(p) As regards apportionment, the 1st Petitioner is the widow of the



deceased and the principal dependant. **Further, the compensation awarded under the head of spousal consortium is exclusively payable to her.** Therefore, she is entitled to a larger share in the award amount.

(q) The 2nd Petitioner died unmarried during the pendency of the proceedings and no legal representatives have been brought on record to represent his estate. In the absence of any separate claim on behalf of the estate of the deceased 2nd Petitioner, no separate allotment is made in his favour and the award amount is apportioned among the remaining claimants as above.

(r) The 4th Petitioner also died during the pendency of the proceedings and her legal representatives, namely Petitioners 6 to 8, have been brought on record. Petitioners 6 to 8 are entitled only to represent the estate of the deceased 4th Petitioner and receive the share that would have fallen to her.

(s) Considering the nature of dependency, the relationship of the parties with the deceased, the award of spousal consortium exclusively in favour of the 1st Petitioner, and the facts and circumstances of the case, this Tribunal deems it appropriate to apportion the compensation, **excluding the consortium awarded to the 1st Petitioner**, as follows:

- (i) 1st Petitioner (wife) – 55%
- (ii) 3rd Petitioner – 15%
- (iii) 5th Petitioner – 15%
- (iv) Petitioners 6 to 8 jointly – 15%

The share allotted to Petitioners 6 to 8 shall be divided equally among them. Accordingly, this point is answered in favour of the Petitioners.

8. Answer to Point No. 3:

The offending lorry bearing admittedly belonged to the 1st Respondent and stood insured with the 2nd Respondent under a valid policy of insurance on the date of the accident. There is also no material to show violation of any policy condition.



Therefore, the 2nd Respondent, being its insurer, is liable to pay the compensation. Accordingly, the point is answered.

9. Result :

In fine,

- (a) The Petition is partly allowed;
- (b) The Petitioner is awarded a compensation of **Rs. 13,15,000/- (Rupees Thirteen Lakhs and Fifteen 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) Regarding disbursement, **excluding the consortium awarded to the 1st Petitioner**, 1st Petitioner is entitled to 55%, 3rd and 5th Petitioners are entitled to 15% each, the Petitioners 6 to 8 are jointly entitled to 15%.
- (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. 20,150/-**.



REQUIRED PARTICULARS

1.	Date of Presentation	02-08-2017
2.	Date of filing	28-08-2017
3.	Compensation Claimed	Rs. 50,00,000/-
4.	Court fees paid	Rs. 375/-
5.	Compensation Awarded	Rs. 13,15,000/-
6.	Court Fees payable on the Award	Rs. 12,522.50/-
7.	Deficit Court fees Payable (6-4)	Rs. 12,147.50/-
8.	Petitioner's Bank Name and Branch	1 st petitioner – HDFC Bank 3 rd Petitioner – HDFC Bank 5 th Petitioner – Union Bank Ltd. 6 th Petitioner – Indian Overseas Bank, Anakaputhur.
9.	Petitioner's Account number and IFSC code	1 st Petitioner – 50100379845351, HDFC0002770. 3 rd Petitioner – 00041040026573, HDFC0000004. 5 th Petitioner – 500101013620973, CIUB0000218. 6 th Petitioner – 227801000014183, IOBA0002278.
10.	Petitioner's Aadhar	1 st Petitioner – 5807 5958 2182 3 rd Petitioner – 9742 8621 3998 5 th Petitioner – 8698 3585 9179 6 th Petitioner – 6112 7090 2640 7 th Petitioner – 8971 1672 4998 8 th Petitioner – 4424 6461 3123
11.	Petitioner's PAN	Not Furnished
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	-	12,522	.	50		
Stamp on Vakalat	-	20	.	00		



For the Petitioners					For the Respondents	
Stamp for process	-	40	.	00	-- not filed --	
Advocate fees	-	20,150	.	00		
Costs allowed	-	32,732	.	50		

//Dictated to the Steno typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Tuesday, the 23rd day of June 2026.//

III Judge
Court of Small Causes, Chennai.

Petitioner's side Witness:

P.W.1 : Mr. Sivaganesh, Petitioner
P.W.2 : Mr. Srinivasan, Eye Witness

Petitioner's side Exhibits:

Ex.P1 : Parvathy Hospital Accident Register
Ex.P2 : Mercury Hospital Report
Ex.P3 : FIR Copy
Ex.P4 : Postmortem certificate
Ex.P5 : Death Report
Ex.P6 : Death Certificate
Ex.P7 : Legal Heirship Certificate of deceased
Ex.P8 : Death Certificate of Sivanandha sekar
Ex.P9 : Death Certificate of Sathya
Ex.P10 : Lega; Heir of Sathya
Ex.P11 : Bill books of the Watch Co
Ex.P12 : Medical Bills of Parvathy Hospital & Mercury Hospital
Ex.P13 : Aadhar Card of the petitioners
Ex.P14 : Bank Pass book of the Petitioners
Ex.P15 : ID card of the eye witness

2nd Respondent side Witness: Nil

2nd Respondent side Exhibits: Nil

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.