

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 4th day of June 2026

M.C.O.P. 4610 of 2022
CNR No.TNCH09-009286-2022

Sekar,
S/o.Perumal,
No.59, E.V.R.Periyar Street,
Manali, Chennai - 600 0068.

....Petitioner

-Vs-

1. Babu,
S/o. Basha,
No.43 B, Ellan Cottage Hospital Road,
Ooty, Nilgiris - 643 001.

2. The Oriental Insurance Company Limited.,]
No.115/116, Second Floor,
Oriental House, Prakasam Salai,
Broadway, Chennai - 600 108.

....Respondents

This petition is came up before me for final hearing on 10.04.2026 in the presence of M/s.S.Senthamil Selvi, M.Sonia, Counsels appearing for the Petitioner, 1st respondent remained exparte, M/s.B.Narendran, 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.30,00,000/- 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 14.04.2022 at about 16.30 hours, while the petitioner was driving the car bearing Reg.No.TN 22-CD-5943 proceeding from coonor to ooty, at that time a Lorry bearing Registration No. TN 43-F-0311 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 Ketti, Niliris Police Station, Chennai and the case was registered in Crime No.14/2022 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the driver of the respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 50 years and he is a Tourist Driver and earning Rs.30,000/- 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., Lorry bearing Reg.No. TN 43-F-0311 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.30,00,000/- 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 denies that the driver 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 car in a rash and negligent manner and hit against the 1st respondent's lorry bearing Reg.No. TN 43-F-0311 and thus invites the accident. The driver of the 1st

respondent's vehicle not responsible for the accident.

(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 driving by the driver of the vehicle viz., Lorry bearing Reg.No. TN 43-F-0311 which is owned by 1st respondent and insured with 2nd respondent?
- (2) Whether the Petitioner is entitled for any compensation? If yes, what is the quantum of compensation and from which respondent?
- (3) To what relief the petitioner is entitled to?

5. ON THE POINTS:

(i) On the side of the petitioner, PW1 Sekar examined on proof affidavit and Ex.P1 to P11 & 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 1st respondent's lorry. 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.TN 43-F-0311. 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 14.04.2022 at about 16.30 hours, while the petitioner was driving the car bearing TN 22-CD-5943 proceeding from Coonor to Ooty, at that time a Lorry bearing Registration No. TN 43-F-0311 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 FIR, Ex.P4 Discharge summary & Ex.P5 AR copy

(iii) On the other hand, the 1st respondent remained exparte, inspite of service of summons.

(iv) The learned counsel for 2nd respondent submits that the Discharge Summary (Ex.P4) which creates the doubt regarding the treatment taken by the petitioner because there is no seal or sign of the Hospital found in the Discharge summary. The Respondent counsel as not taken the defense in the counter only for the first time the same is mentioned at the time of arguments. On perusal of Ex.P1 FIR it is clear that the FIR is lodged against the driver of the 1st respondent offending vehicle & Ex.P5 AR copy, reveals that the petitioner got treated immediately after the accident, the involvement of the vehicle is mentioned therein. Further the petitioner has sustained injury in the Right Shoulder. So this clearly establish the accident & the treatment taken by the petitioner. Therefore the submission made by 2nd Respondent /Insurance counsel is not acceptable and the 2nd Respondent fails to substantiate the same with oral and documentary evidence. Whereas the petitioner through Ex.P1 FIR, Ex.P4 Discharge summary & Ex.P5 AR copy 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, P4 & P5 the petitioner proves the negligence upon the driver of the offending vehicle namely Lorry bearing Reg.No.TN 43-F-0311. Hence Point No.1 answered affirmatively.

7. Point No.2 :-

(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 Lorry bearing Reg.No. TN 43-F-0311 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 14.04.2022. As per the medical records in Ex.P4 Discharge summary, the age is given as 49 years as on the date of accident (i.e., 14.04.2022). Ex.P9 Aadhar card of PW1 the date of birth is given as 15.04.1972. Considering the same the age of the petitioner as on the date of accident is fixed as 50 years.

(iv) According to the petitioner he is a tourist driver and earning Rs.30,000/- per month, at the time of accident. To substantiate the same the petitioner produced EX.P7 driving license to prove is avocation but no documents produced to establish his income. So the tribunal as to fix the notional income the petitioner on the date of accident.

(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 2022. Hence the notional income of the petitioner is fixed as Rs.16,500/- per month.

(vi) Next coming to the nature of injury sustained by the petitioner in the road

traffic accident, as per Ex.P5 AR copy, the petitioner was taken to Nilgiris Government Hospital, immediately after accident and continued to take treatment for 7 days as inpatient from 14.04.2022 to 20.04.2022 there he was diagnosed with Lateral Clavicle Fracture, Grade III AC Joint Dislocation. He was treated conservatively and got discharged.

(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 13% permanent disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(viii) PW1 as not produced any continuous treatment records to show the nature of injury and the treatment taken for the injury and the loss suffered due to the said injury sustained by the petitioner in the road traffic accident. So considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical Board, hence 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 14.04.2022 to 20.04.2022 i.e., for about 7 days for Lateral Clavicle Fracture, Grade III AC Joint Dislocation @ Nilgiris Government Hospital. Hence considering the available medical records and nature of injury sustained by petitioner, it might not taken less than 4 months for treatment and recovery. As we have already discussed his notional income is taken as Rs.16,500/- per month. Hence the loss of income during the period of medical treatment and recovery is arrived at **Rs.66,000/-** (Rs.16,500 x 4 months).

Loss due to Partial Permanent Disability:

In view of the recent judgment of our *Hon'ble High Court of Madras in, C.M.A.No.1026/2024 dated 10.07.2024*

K.Mariappan vs. Muthukumaran.V and another, in which Hon'ble High Court held “ for the accident in the year **2022 Rs.8000/-** per percentage to be awarded”.

In the above OP, the accident is in the year **2021**. Considering the year of accident, this tribunal took disability per percentage as **Rs.8,000/-**.

Hence keeping in mind on the above said decision of our Honourable High court, since the accident was occurred in the year of 2022, this Tribunal comes to the conclusion that the Petitioner has suffered **partial permanent disability** of 13% and the Petitioner is entitled for just compensation for the injuries sustained by him as Rs.8,000/- per percentage is allowed. Hence the Petitioner is entitled for **Rs.1,04,000/-** (Rs.8000 x 13%) only as just compensation for the injuries sustained by him.

Medical expenses:

The petitioner has taken treatment at Government Hospital. Though he was treated at Government Hospital he might have spent some amount for medicines. Hence considering the same **Rs.5,000/-** is awarded for medical expenses.

Transport Charges:

The petitioner taken treatment at Niligir s Government Hospital 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.20,000/-** towards extra

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

Compensation for Pain and Sufferings:

The petitioner has suffered Lateral Clavicle Fracture, Grade III AC Joint Dislocation and he was treated as inpatient for 7 days at Niligiris Government Hospital. 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 Niligiris Government Hospital, Chennai as an inpatient for about 7 days. 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.4,000/-** is awarded towards attender charges.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Lateral Clavicle Fracture, Grade III AC Joint Dislocation suffered by him. Hence considering this facts, it would be just and proper to grant a sum of **Rs.50,000/-** towards loss of amenities.

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

CALCULATION:

1. Loss of income	:	Rs. 66,000/-
2. Disability	:	Rs. 1,04,000/-
3. Medical Expenses	:	Rs. 5,000/-
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. 4,000/-
9. Loss of amenities	:	Rs. 50,000/-

Total Compensation is fixed at	:	<u>Rs. 2,06,400/-</u>

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.2,06,400/-** i.e., **Two lakh six thousand four hundred** and Point No.2 is answered accordingly.

8. Point No.3:

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.3 is answered accordingly.

9. Result:

In the result, this petition is partly allowed and a sum of **Rs.2,06,400/- (Rupees Two lakh six thousand four 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.,05.01.2021 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. chncce.sccrc-tn@indiancourts.nic.in

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The Petitioner name is – Sekar

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Overseas Bank, Manali Branch	Acc :277401000002684 IFSC : IOBA0002774	6765 3535 0553	MHCPS0746N

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.372.50/-** towards Court fee. As per this award, the Court fee is **Rs.1436.50/-**. The Advocate fee is fixed at **Rs.7128/-**. The deficit court fee of **Rs.1064/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	23.08.2022
Date of taken up on file	20.10.2022
Compensation claimed in the M.C.O.P.	Rs.30,00,000/-
Compensation awarded in this petition	Rs.2,06,400/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.1436.50/-
Additional court fee shall be paid	Rs.1064/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.6,809.50/-** 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>		
Stamp on petition	-	1436	.	50		
Stamp on Vakalat	-	5	.	00		
Stamp for process	-	40	.	00	-- not filed --	
Advocate fees		7,128	.	00		
Costs allowed	-	8,609	.	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 Steno typist, typed by her in the computer directly, corrected and pronounced by me in the open Court, on this Thursday, the 4th day of June 2026.

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

Petitioner's sides Witness:

P.W.1: Mr.Sekar

Petitioner's side Exhibits:

Ex.P-1 : FIR Xerox

Ex.P-2 : 1st respondent vehicle's Registration Certificate

Ex.P-3 : 1st respondent vehicle's Insurance Copy

Ex.P-4 : Discharge Summary from Niligiris Government Hospital

Ex.P-5 : Accident Register Copy

Ex.P-6 : Docotors Refer Slip

Ex.P-7 : Driving Licence Xerox

Ex.P-8 : Bank Pass Book Xerox

Ex.P-9 : Aadhar Card xerox

Ex.P-10 : Pan Card xerox

Ex.P-11 : X-Ray

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**