

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

Tuesday, the 7th day of July 2026

M.C.O.P. 2196 of 2024

CNR No.TNCH09-014222-2024

K.Jayapalan
No.7/692, Kuniyil Karuvassery,
Vanderi, Kozhikode,
Kerala.

....Petitioner

-Vs-

1. Sankar
No.19.A, Annaporani Street,
Alamathi, Thiruvallur T.K,
Thiruvallur District.
2. United India Insurance Co.Ltd.,
R.O. Legal Department, No.134,
Silingai Buildings, Greams Road,
Chennai – 600 006.
3. Malar Mohan
No.35,12th Main Road,
New Colony, Anna Nagar,
Chennai – 600 040.

....Respondents

This petition is came up before me for final hearing on 05.01.2026 in the presence of M/s.P.D.Selvam, Counsels appearing for the Petitioner, 1st respondent remained exparte, M/s.T.Surya Kala, Counsel appearing for the 2nd respondent and 3rd respondent remained exparte 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.20,00,000/- 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 16.12.2023 at about 15.20 hrs, when the petitioner was riding his Motorcycle bearing Registration No. TN 06-L-4136 at Shanthi Colony Main road, Anna Nagar, at that time another Motorcycle bearing Registration No. TN 20-X-5513, which belongs to the 1st respondent driven by its rider in a rash and negligent manner came from the same direction 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 Tirumangalam Traffic Investigation wing, Chennai and the case was registered in Crime No.294/TM2/2023 U/s 279, 337 IPC. The accident occurred only due to the rash and negligent driving by the rider of the respondent's vehicle.

(ii) As mentioned in the petition, the petitioner was aged 72 years and he is a doing business and earning Rs.25,000/- 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., Motorcycle bearing Reg.No. TN 20-X-5513 both are jointly and severally, vicariously and statutorily liable to pay compensation for a sum of Rs.20,00,000/- 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 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 not road conscious while riding his Motorcycle without following traffic rules and without helmet has rode the vehicle in a rash and negligent manner and hit against the 1st respondent's Motorcycle bearing Reg.No. TN 20-X-5513 and thus invites the accident. The rider of the 1st respondent's vehicle not responsible for the accident. So the 2nd respondent is not liable to pay compensation to the petitioner.

(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 therefore prayed to dismiss the petition.

(v) The 1st and 3rd respondents 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 vehicle viz., Motorcycle bearing Reg.No. TN 20-X-5513 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 Jayapal examined on proof affidavit and Ex.P1 to P10 & Ex.C1 were marked.

(ii) 1st and 3rd respondents remained exparte. The 2nd respondent filed a petition u/s 170 MV Act in M.P.2/2025 viz. Order dated 19.12.2025, the same was allowed and the 2nd respondent is permitted to contest the case on all grounds that are available to the insured. 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 20-X-5513. 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 16.12.2023 at about 15.20 hrs, when the petitioner was riding his Motorcycle bearing Registration No. TN 06-L-4136 at Shanthi Colony Main road, Anna Nagar, at that time another Motorcycle bearing Registration No. TN 20-X-5513, 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 and P7 Discharge summary.

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

(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 06-L-4136. The petitioner doesn't possess valid driving license at the time of accident and hence the contributed towards the accident. 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 Ex.P1 FIR & Ex.P2 and P7 Discharge summary 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 and P7 the petitioner proves the negligence upon the rider of the offending vehicle namely Motorcycle bearing Reg.No.TN 20-X-5513. 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 Motorcycle bearing Reg.No. TN 20-X-5513 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 16.12.2023. As per the medical records in Ex.P2 Discharge summary, the age is given as 72 years as on the date of accident (i.e., 16.12.2023). Ex.P3 Driving Licence of PW1 the date of birth is given as 20.10.1951. Considering the same the age of the petitioner as on the date of accident is fixed as 72 years.

(iv) According to the petitioner he is doing a business and earning Rs.25,000/-

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 2023. 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.P2 Discharge Summary, the petitioner was immediately taken to KMCH Hospital and taken treatment for 4 days as inpatient from 16.12.2023 to 19.12.2023. He was diagnosed with FTP acute thin SDH, Right Temporal Contusion, Multiple facial bone fracture and 8th 9th and 10th rib fracture. He was treated conservatively & got discharged. As per Ex.P7, Again the petitioner got admitted at Meitra Hospital, Kozhikode and taken treatment as inpatient for 2 days from 25.12.2023 to 26.12.2023 for above said injuries and he was treated conservatively. Ex.P10 is the Outpatient Treatment Record for the above injuries.

(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 16% Partial Permanent disability. Ex.C1 is the Disability certificate issued by Regional Medical Board and the same is accepted as it is.

(viii) Considering the nature of injury and Disability certificate Ex.C1 issued by the Regional Medical Board assessing the disability as Partial Permanent Physical disability. 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 for Two spells from 16.12.2023 to 19.12.2023 and from 25.12.2023 to 26.12.2023 i.e., for totally about 6 days for Head Injury @ Kilpauk Medical College Government Hospital, Chennai and Meitra Hospital, Kozhikode, treated conservatively. 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.15,000/- per month. Hence the loss of income during the period of medical treatment and recovery is arrived at **Rs.60,000/-** (Rs.15,000 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.3018/2024 dated 20.11.2024*

Noori vs. Narendiran and another, in which Hon'ble High Court held “for the accident in the year 2020 **Rs.9,000/-** per percentage to be awarded”.

Hence keeping in mind on the above said decision of our Honourable High court, since the accident was occurred in the year of 2023, this Tribunal comes to the conclusion that the Petitioner has suffered **partial permanent disability** of 16% and the Petitioner is entitled for just compensation for the injuries sustained by him as Rs.9,000/- per percentage is allowed. Hence the Petitioner is entitled for **Rs.1,44,000/-** (Rs.9000 x 16%) only as just compensation for the injuries sustained by him.

Medical expenses:

The petitioner has taken treatment at Government and Private Hospital. He produced Ex.P4 Medical Bills for Rs.664/- Hence considering the same **Rs.664/-** is awarded for medical expenses.

Transport Charges:

The petitioner taken treatment at Kilpauk Medical College Government Hospital, Chennai and Meitra Hospital, Kozhikode as Inpatient for about 6 days.

Hence she would have incurred transportation expenses for going for the treatment. Hence considering those facts transportation charges is arrived at **Rs.10,000/-**.

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 Head Injury and he was treated conservatively as inpatient for totally about 6 days at Kilpauk Medical College Government Hospital, Chennai and Meitra Hospital, Kozhikode. Hence considering the nature of injury, period of treatment & disablement, trauma & pain undergone by the petitioner it is just and proper to award **Rs.1,00,000/-** towards pain and sufferings.

Attender Charges:

The petitioner admitted at Kilpauk Medical College Government Hospital, Chennai and Meitra Hospital, Kozhikode, treated conservatively as an in-patient for about 6 days and treated conservatively. 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.7,000/-** is awarded towards attender charges.

Loss of amenities:

The petitioner definitely would not act as before the accident due to the Head Injury 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. 60,000/-
2. Disability	:	Rs. 1,44,000/-

3. Medical Expenses	:	Rs.	664/-
4. Transportation	:	Rs.	10,000/-
5. Extra Nourishment	:	Rs.	25,000/-
6. Damages to clothing and articles	:	Rs.	1,000/-
7. Pain and Sufferings	:	Rs.	1,00,000/-
8. Attender Charges	:	Rs.	7,000/-
9. Loss of amenities	:	Rs.	80,000/-
Total Compensation is fixed at	:	Rs.	<u>4,17,664/-</u>
Rounded off to	:	Rs.	4,17,700/-

In the light of the above assessment, the petitioner/Claimant is entitled for a just compensation of the above said amount of **Rs.4,17,700/-** i.e., **four lakhs seventeen thousand seven 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.4,17,700/- (Rupees four lakhs seventeen thousand seven 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., 28.12.2023 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 – Jayapal

Bank name and Branch	Account No. and IFSC code	Aadhaar card details	Pan card details
Canara Bank, Mylapore Branch.	Acc : 60152250002441 IFSC : CNRB00016015	Not furnished	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 and Aadhaar 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.3,549.50/-**. The Advocate fee is fixed at **Rs.11,177/-**. The deficit court fee of **Rs.3,177/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	28.12.2023
Date of taken up on file	25.04.2024
Compensation claimed in the M.C.O.P.	Rs.20,00,000/-
Compensation awarded in this petition	Rs.4,17,700/-

Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.3,549.50/-
Additional court fee shall be paid	Rs.3,177/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.14,771.50/-** 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	-	3,549	. 50			
Stamp on Vakalat	-	5	. 00			
Stamp for process	-	40	. 00		-- not filed --	
Advocate fees		11,177	. 00			
Costs allowed	-	14,771	. 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 Tuesday, the 7th day of July 2026.

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

Petitioner's sides Witness:

P.W.1: Mr.Jayapal

Petitioner's side Exhibits:

Ex.P-1 : FIR Xerox

Ex.P-2 : Discharge summary Kilpauk Medical College and Hospital

Ex.P-3 : Petitioner's Driving Licence

Ex.P-4 : Medical Bills

Ex.P-5 : Aadhar Card xerox

Ex.P-6 : Bank Pass Book Xerox

Ex.P-7 : Discharge Summary of Meithra Hospital

Ex.P-8 : CT Scan Report

Ex.P-9 : Treatment Advice Report

Ex.P-10 : Outpatient records of Meithra Hospital

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**