

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL /
PRINCIPAL SUB COURT, PALANI**

**Present : Tmt.K.Renugadevi, LL.M.,
Principal Sub Judge, Palani.**

Dated 12th day of March 2026, Thursday

M.C.O.P.No. 301/2023

(CNR. No.TNDG07-001060-2023)

V. Thirumaye Ammal

--- Petitioner

/Vs/

1. R.Bharathi

2. The Branch Manager,
The New India Assurance Company Limited,
Palani.

--- Respondents

Thiru. N.Durai, Advocate for the Petitioner

Thiru. A.M.Abdul Kareem, Advocate for the 2nd Respondent

R1 was set exparte on 18.12.2023.

This petition came before me for final hearing on 12.01.2026 and upon hearing both side arguments, and upon perusal of records, and having stood over for consideration till this day this Court doth delivers the following:

ORDER

This petition is filed by the petitioner under Section 166 of the Motor Vehicle Act, claiming compensation of Rs.15,00,000/- from the respondents.

2. The case of the petitioner in brief as follows:

On 01.09.2023 at about 08.50 p.m. when the petitioner was walking on the Palani Bus Stand to return to home after finishing her work from Balasamuthiram, a Mini

Bus bearing Reg.No.TN57-AZ-9570 driven by its driver in a rash and negligent manner without giving any signal, horn, hit the petitioner and caused the accident near Amma Unavagam. The driver of the Mini Bus is fully responsible for the accident. Due to the accident the petitioner sustained hemorrhage and blood clots in his head, fractures in left shoulder and rib bones and damaged the lungs and sustained and muscle tears in left hand fingers and deep cut injuries in her left legs, left hand fingers, back, fact and stomach and sustained injuries in several parts of the body. Immediately the petitioner was given first aid at Government Hospital, Palani and thereafter he was taken to Audhithya Hospital, Palani for further treatment and took treatment as inpatient for 10 days and spent Rs.1,50,000/- for medical expenses. Still the petitioner is taking treatment as inpatient and as outpatient then and there and future treatment has to be done and for that it will cost more than Rs.1,00,000/-. Due to the grievous injuries the petitioner sustained permanent disability. At the time of accident the petitioner was hale and healthy and was aged about 85 years. She was earning Rs.20,000/- per month by selling onion. She is unable to do any work and earn as before. Hence her income is completely affected. The FIR was registered against the driver of the Mini Bus which caused the accident, in Cr.No.401/2023 for the offences under Sections 279, 337 and 338 of IPC in Palani Town Police Station. The 1st respondent is the owner of the Mini Bus which caused the accident and the 2nd respondent is its insurer. Hence the respondents are jointly liable to pay the compensation to the petitioner. The petitioner claims Rs.15,00,000/- (Rupees Fifteen

Lakhs Only) as compensation and the respondents are liable to pay it to the petitioner.

3. The averments in the counter statement filed by the 2nd respondent in brief as follows:

The manner of the accident as detailed in the petition is not correct and the petitioner is put to strict proof of the same. The petitioner has suppressed the material facts with a view to shift the liability upon this respondent. The respondent does not admit the age, occupation and monthly income of the alleged injured and the petitioner is put to strict proof of the same by documentary evidence. The petitioner is put to strict proof that the accident was the proximate cause for the injuries. According to this respondent, the petitioner was solely responsible for the accident. The first respondent's driver giving horn drove the Mini Bus slowly and carefully by observing the road traffic rules strictly and keeping left side of the road. At that time the petitioner suddenly tried to cross the road in front of the Mini Bus without seeing the Mini Bus and voluntarily met with the accident. The above circumstances would clearly reveal that the accident was happened only due to the mistake of the petitioner. The first respondent's driver is no way responsible for the accident. Hence this respondent is not liable to pay any compensation to the petitioner. The averments regarding the treatment, medical expenses and other expenses stated by the petitioner are all denied as false and the petitioner is put to strict proof of the same. The averments regarding the income and the alleged disability are all nothing but

falsehood and also cock and bull story. The First respondent has not informed the accident and not submitted the vehicle records for verification. Hence this respondent is not liable to pay any compensation to the petitioner. The amount of Rs.15,00,000/- claimed by the petitioner is high and arbitrary out of all proportions. Hence this respondent is not liable to pay any compensation to the petitioner. The petition is highly speculative and fully devoid of merits. Hence this petition is liable to be dismissed.

4. The points for consideration in this case are:-

1. Whether the accident was occurred due to the rash and negligent driving of the driver of first respondent's vehicle ?
2. Whether the petitioner is entitled to get compensation from the respondents? If so what is the quantum of compensation?

5. On the side of the petitioner, the petitioner was examined as PW1 and Ex.P1 to P13 were marked. On the side of the 2nd respondent, Mr. Vijay, driver of the offending vehicle was examined as DW1, one Mr.Hariharan, Junior Assistant, Regional Transport Office, Palani was examined as RW2 and through him Ex.X1 was marked and one Mr.Pannerselvam was examined as RW3 and through him Ex.R1 to Ex.R3 were marked. The disability certificate of the petitioner is marked as Ex.C1. The 1st respondent remained exparte.

6. Point No.1:-

The petitioner in support of his case to fix the liability on the driver of the first respondent's vehicle has produced Ex.P1, copy of FIR and Ex.P10, copy of charge sheet which was laid only as against the driver of the first respondent's vehicle for the offence under Sections 279 and 337 IPC. Moreover the driver of the first respondent's vehicle who was examined as DW1 had admitted during his cross examination that he admitted the offence and paid the fine amount before the Judicial Magistrate Court, Palani. And therefore even though the second respondent denied the negligence on the part of the driver of the first respondent vehicle as the person who drove the vehicle himself admitted his negligent act and paid fine to that effect before the Magistrate Court, Palani and there is no contrary evidence to disprove the liability fastened on the driver of the first respondent's vehicle. Hence this court has come to the conclusion from the available materials that the accident was happened only due to the rash and negligent driving of the driver of the first respondent's vehicle and accordingly this point is answered.

7. Point No.2:-

Admittedly the first respondent is the owner of the offending vehicle involved in the accident and in point No.1 this court has decided that the accident was happened only due to the rash and negligent act of the driver of the first respondent's vehicle. There is no quarrel between the parties that the first respondent's vehicle was insured with the second respondent and the insurance was in force at the time of the accident. The copy of the insurance policy of the vehicle which is marked as Ex.P3 and Ex.R1 on

the side of the petitioner and second respondent respectively also elucidates that on the date of accident the offending vehicle that stands in the name of the first respondent was insured with the second respondent. Moreover the said fact is not denied by the second respondent.

8. However the second respondent would contend that the driver of the first respondent does not possess driving license at the time of the accident and so violated the policy condition. And the RTO officials who was examined as RW1 has deposed that the driver of the offending vehicle does not possess driving license at the time of accident and the driver who was examined as DW1 himself admitted that he does not possess driving license. And so it is proved that the driver of the offending vehicle has violated the policy conditions. Hence in the above circumstances, the second respondent being the insurer of the first respondent's vehicle, and the petitioner being the third party to the offending vehicle, the second respondent is liable to pay compensation to the petitioner and thereafter recover it from the first respondent. Though the learned Counsel for the 2nd respondent argued that in view of deletion of Section 149(4) in the Act, the concept of pay and recovery was abolished and accordingly as the 1st respondent's vehicle does not possess valid permit, thereby violated the conditions and the Act, the 2nd respondent is not liable to pay any compensation. However considering the Judgment of the Hon'ble High Court of Allahabad in *Icici Lombard General Insurance Co Ltd /Vs/ Smt.Arati Devi and 8 others dated 31.01.2025, which held as follows:*

“ the court, therefore holds that mere omission of proviso attached to subsection (4) of Section 149 of Motor Vehicles Act, 1988 after its replacement by Section 150 of Motor Vehicles (Amendment) Act, 2019 (32 of 2019), neither takes away the liability of the insurer to pay the claimants nor its right to recover the said amount from the owner. The law to this effect remains intact and unaffected by Amendment Act,2019 and, hence , insurer shall continue to indemnify the owner’s risk in relation to accidents taking place after 01.04.2022 and “PAY and RECOVER” principle will still continue to govern the field advancing social object of the Statute protecting third party interest. Principle of law laid down by the Supreme Court in National Insurance Company Limited /Vs/ Swaran Singh and others, JT 2004 (1) SC 109 has not lost its significance and binding effect despite omission of proviso”.

This court inclined to hold that the 2nd respondent is liable to pay the compensation to the petitioner and thereafter recover it from the 1st respondent.

9. Now let us see the quantum of compensation. As per Ex.P4 to Ex.P8 it is seen that the petitioner had taken treatment as inpatient in Audhithya Ortho Hospital from 01.09.2023 to 04.09.2023. It is seen that the petitioner sustained fracture on his left clavicle and multiple rib fracture both sides as seen from Ex.P7 Wound Certificate. Ex.C1 disability certificate issued by Medical Board shows that the petitioner has suffered 40% disability.

10. Our Hon'ble High Court in *Future Generali India Insurance Company Limited /Vs/ Manivannan reported in 2024 (1) TNMAC 598 (DB)* has fixed a sum of Rs.7,000/- per percentage of disability for the accident happened in the year 2017, due to the raise in cost of living, and also the fact that accident was happened in the year 2023, this court inclined to fix the same Rs.9,000/- per percentage of disability.

11. The petitioner has alleged that she was earning Rs.20,000/- per month by selling onion without producing any document to substantiate the income. Moreover she was aged 85 years at the time of accident and therefore it is unbelievable that she earns Rs.20,000/- per month. However this court inclined to fix a nominal income of Rs.9,000/- per month (Rs.300/- per day) as her plea of doing onion selling business is not discredited. Due to the injuries sustained by the petitioner she would not have attended his work atleast for a period of four months. And therefore this court inclined to grant compensation under the head of loss of income for the period four months.

12. Further the petitioner has claimed medical bills for a sum of Rs. 45,232/-. And therefore this court inclined to accept the medical bills of Rs.45,232/- under the head of medical expenses.

13. Hence considering the above facts and circumstance of this case and also the injury sustained by the petitioner this court inclined to grant compensation under the following heads :

Particulars	:	Rs.
For pain and sufferings	:	Rs. 50,000/-
For disability (Rs.9,000/- X 40%)	:	Rs. 3,60,000/-
For damages to clothings and articles	:	Rs. 1,000/-
Loss of income due to the accident for 4 months (9,000/- x 4)	:	Rs. 36,000/-
Extra nourishment	:	Rs. 10,000/-
Medical expenses (as per Ex.P10)	:	Rs. 45,232/-
Transport Charges	:	Rs. 1,000/-
Loss of Amenities	:	Rs. 10,000/-
Attendant Charges (Rs.1,000/- X 8 days)	:	Rs 8,000/-
Total	:	Rs. 5,21,232/-

14. Hence, I found that the petitioner is entitled to get compensation of **Rs. 5,21,232/-** from the Second Respondent and thereafter the Second Respondent is entitled to recover the same from the First respondent and accordingly, this point is answered.

In the result, this petition is partly allowed directing the Second Respondent to pay a sum of **Rs.5,21,232/-** as compensation with interest at the rate of 7.5% p.a. from the date of this petition i.e.06.10.2023 till the date of realization and costs to the petitioner and thereafter the Second Respondent is entitled to recover the same from the First Respondent. The Second Respondent is directed to deposit the above amount within one month to the credit of the **MACT Account No. 43562037419** in State Bank of India, Main Branch (**IFSC Code No: SBIN0000894**), **Palani** and on

such deposit the Second Respondent is directed to intimate the same to this court in the prescribed format.

The petitioner is directed to pay the deficit Court Fee of **Rs. 4,212/-** for the award amount within two weeks. Only on such payment of deficit court fee the petitioner is entitled to withdraw the compensation amount. Advocate fee of Rs.12,212/-.

Directly dictated to the Steno-typist, typed by her in the Computer directly, corrected and pronounced by me in the open court on this the 12th day of March 2026.

**Motor Accident Claim Tribunal Judge,
Principal Sub Judge
Palani.**

Annexure:

Petitioner Side Witnesses :

PW1. : Mrs.Thirumaye Ammal (Petitioner)

Petitioners Side Exhibits :

Ex.P1 : 02.09.2023 Copy of First Information Report

Ex.P2 : ... Copy of Registration Certificate of the vehicle bearing registration No. TN57-AZ-9570.

Ex.P3 : 12.05.2023 Copy of Insurance Policy of the vehicle bearing Regn.No. TN57-AZ-9570.

Ex.P4. : 01.09.2023 Copy of Accident Register.

Ex.P5 : Copy of Wound Certificate of the petitioner.

Ex.P6 : 02.09.2023 Scan reports of the petitioner (2 numbers)

Ex.P7 : ... Discharge Summaries. (2 numbers).

Ex.P8 : ... Medicine prescriptions and medial bills (3 numbers)

- Ex.P9 : 03.09.2023 Copy of Rough Sketch.
 Ex.P10 : 11.10.2023 Copy of Final Report.
 Ex.P11 : 19.04.2013 Copy of Aadhar Card of the petitioner.
 Ex.P12 : ... Copy of first page of Passbook of the petitioner.
 Ex.P13 : ... Copy of PAN Card of the petitioner.

Court Exhibits:

- Ex.C1 : ... Disability Certificate of the petitioner [Original]

Respondents Side Witnesses:

- RW1 : Mr. Vijay (Driver)
 RW2 : Mr. S.Hariharan (Junior Assistant, Regional Transport Office, Palani)
 RW3 : Mr. Paneerselvam, Senior Assistant, 2nd Respondent's Insurance Company Limited, Madurai)

Respondents Side Exhibits:

- Ex.R1 : ... Copy of Insurance policy of the vehicle bearing Regn.No.TN57-AZ-9570.
 Ex.R2 : 26.08.2025 Office copy of legal notice issued by the second respondent's company to one Vijay and Bharathi with postal receipts.
 Ex.R3 : ... Returned Postal Covers (2 numbers).

Witness side Documents :

- Ex.X1. : 19.09.2025 Authorisation Letter issued by the Regional Transport Officer, Palani.

**Motor Accident Claim Tribunal Judge,
 Principal Sub Judge,
 Palani.**

Principal Sub Court, Palani.
MCOP.No.301/2023
Fair/Draft Order
Dated : 12.03.2026.

