

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, ERODE

**PRESENT:- Tmt. K. KRISHNA PRIYA, M.L,
Chief Judicial Magistrate,
Erode.**

Dated this the 16th day of March 2026 Monday
(Thiruvalluvar Aandu 2057, Visuvavasu Year, Panguni Month 02nd day)

MCOP.No. 169 of 2025
(CNR.No.TNED04-007165-2025)

Name and address of the Claimant(s)	:	M. Periyasamy, S/o. Mathesh, aged about 31 years, residing at No.72, Thiruvalluvar Nagar, Velapagounden Valasu Pirivu, Villarasampatti, Erode – 638 107.
Name and address of respondent(s)	:	1. N. Sudhakar, S/o. Nachimuthu, age not known, No.3-264, Sanarpalayam, Karunkallur, Kaveripuram, Mettur, Salem – 636 303. (Owner cum Driver) (D/L.No. TN 93 20190003331) 2. Magma HDI General Insurance Co., Ltd., Rep by its Manager, having office, 2nd Floor, No. 4/454, Ram Complex, Chinnery Viladdu, Near New Bus Stand (West), Pallapatty Post, Salem – 636 009. 3.MAGMA HDI General Insurance Co., Ltd., Rep by its Manager, having its office at 1st Floor, Krishna Plaza, No.1, Nachiappa Road, Behind Bus Stand, Erode Fort, Erode – 638 001. (Policy No. P0020300025/4113/111908 valid from 08.08.2019 to 07.08.2024)
Date of filing	:	14.06.2024

Amount of Award	:	Rs.3,11,000/-
Interest payable	:	7.5% per annum from the date of petition till the date of deposit
Cost	:	Total = Rs.10,163/- (Proportionate cost)
1.Stamp on petition – 750.00 (balance to be paid) -- 2.Stamp on vakalath - 10.00 3.Stamp on documents – 20.00 4.Preparation of batta memo- 13.50 5.Stamp for Batta Memo - 150.00 6.Advocate fees- 9220.00		
Court fee paid	:	Rs.750.00/-
Balance court fee to be paid	:	Rs.1,733/-
Court Fee to be paid on or before	:	Within 10 days from the date of order
Default period	:	–
Pan Card No	:	EBNPP4886B
To be deposited at the petitioner's Savings Bank Account Number vide	:	Savings Bank Account No. 182501000030935, IFSC : IOBA0001825 Bank Name & Branch : Indian Overseas Bank, District Court Branch.

This petition came up for final hearing before me on 12.03.2026 in the presence of Mr.R.Rathinavelu, Advocate for the petitioner and Mr.R.K.Gopalakrishnan, Advocate for the 2nd and 3rd respondents and 1st Respondent having remained exparte and on hearing petitioner and 2nd and 3rd Respondents side arguments and upon perusing the documents and having stood over till this day for consideration and this court passed the following :

Order

This petition filed by the petitioners under section 166 of the Motor Vehicles Act against the respondents claiming compensation of Rs.10,00,000/- with 12% interest and costs for the injuries sustained by the petitioner in the Motor Vehicle accident occurred on 10.07.2023.

1. The case of petitioner in brief:

The case of the petitioner is that on 10.07.2023 at 11:00 AM, when the petitioner along with one Panneerselvam travelled as pillion rider on motorcycle bearing Registration No. TN 76 AY 6433 rode by one Selvakumar from South to North along Villarasampatti to Kaniravutharkulam Road, near Thindal Murugan Chicken Shop, the 1st respondent came riding the motorcycle bearing Registration No. TN 93 B 9556, in the same direction in rash and negligent and in a careless manner without following traffic rules and hit against the petitioner's vehicle. Resultantly, the petitioner fell down on the road and sustained injuries on right leg, knee and lacerations injuries all over the body. Soon after the accident, the petitioner was brought to the Government Hospital, Erode, after taking first aid he was shifted to Manian Hospital, Erode, where he was admitted as inpatient for two weeks.

At the time of accident, the petitioner was 31 years old, hale and healthy and was working as labour and was earning ₹20,000 per month. Due to the accidental injuries, the petitioner unable to move out of the bed, and is now unable to do his day-to-day work and unable to sit, squat or lift weight.

The 1st respondent is the driver cum owner of TN 93 B 9556, and he is solely responsible for the accident. The 2nd and 3rd respondents are the insurance company of the said vehicle.

Erode North police have registered a criminal case against the 1st respondent in FIR No. 310/2023, under section 279 and 337 IPC.

The petitioner has claimed a compensation of ₹10,00,000/- with interest at the rate of 12 % per annum from the date of petition till the date of payment with the cost.

2. The 1st respondent was set exparte.

3. The case of 2nd and 3rd Respondents in brief:-

The 2nd and 3rd respondent have contended that, this application is not maintainable and the accident happened only due to the carelessness of the petitioner. The 1st Respondent drove vehicle bearing Registration No. 93 B 9556, in a slow and steady manner by following all traffic rules and regulations, it is the petitioner who drove the vehicle in rash and negligent manner with high speed and failed to notice vehicle and suddenly crossed the road turned his vehicle and came into the line of motion of the 1st respondent vehicle and dashed against the vehicle. It is further contended that, the petitioner is not entitled to claim any compensation from this respondent. The respondent has disputed the age, income, occupation and genuineness of the medical bills of the petitioner. It is further contended that, the 1st respondent had violated the policy conditions, hence this respondent is not liable to pay any amount to the petitioner.

The application u/s.170 of M.V.Act filed by 2nd and 3rd respondent was allowed in I.A.No.1/2026 dated 12.03.2026.

4. The points for consideration are:

- I. Whether the accident was caused by the 1st respondent by rashly and negligently driving the Splendor Plus motorcycle bearing Reg no: TN 93 B 9556?
 - II. Whether the petitioner is entitled for compensation? If so, who is liable to pay the compensation? What is the quantum of compensation payable to the claimant?
 - III. What other relief, the claimant is entitled for?
5. In support of the petitioner's claim PW1 was examined. Ex. P1 to Ex.P9 were marked. On behalf of the 2nd and 3rd respondents no witnesses were examined and no exhibits were marked. Disability Certificate issued by Medical Board, Erode was exhibited as Ex.C1.

6. Point No:I

In order to substantiate the case of the petitioner, the petitioner who was examined as PW1 had deposed that, on 10.07.2023 at 11:00 AM, when the petitioner along with one Panneerselvam travelled as pillion rider on motorcycle bearing Registration No. TN 76 AY 6433 rode by one Selvakumar from South to North along Villarasampatti to Kaniravutharkulam Road, near Thindal Murugan Chicken Shop, the 1st respondent came riding the motorcycle bearing Registration No. TN 93 B 9556, in the same direction in rash and negligent and in a careless manner without following traffic rules and hit against the petitioner's vehicle.

The petitioner has produced the copy of Ex.P1 First Information Report, Ex.P2 Observation Mahazar, ExP3 Rough sketch and Ex.P7 FIR status report. These documents would reveal that 1st respondent had been convicted for the offence u/s. 279, 337, 338 IPC and a fine of ₹4000 was imposed.

The 2nd and 3rd respondents have denied the manner of accident. However, it is understood from Ex.P7 that, 1st respondent has been convicted and a sentence to pay a fine of ₹4000 was passed against 1st Respondent. In such circumstances, 1st respondent is the best person to dispute the manner of accident alleged by the petitioner but he remained exparte. The 2nd and 3rd respondents have not examined any independent witness to disprove the manner of accident. Whereas, the evidence of PW1 that the accident happened due to the negligence of 1st respondent, is corroborated by Ex.P6 final report, Ex.P7 FIR status report and other documents. However admittedly the petitioner was riding the two wheeler along with two other fully grown adults, which constitutes triple riding and it amounts to contributory negligence as it affects the balance and safe control of the vehicle. Such conduct constitutes contributory negligence. In the facts and circumstances, this tribunal fixes 10% contributory negligence on the part of the petitioner and 10% shall be deducted from the total compensation.

7. Point No:II

Quantum of compensation payable to the petitioner:

Compensation for Disability

The petitioner has produced ExP.9 discharge summary, which reveals that the petitioner had sustained right knee ligament tear, right knee subluxation, Grade I sprain of medial collateral and soft tissue injuries. He had undergone knee subluxation reduction and wound debridement procedures. He was admitted as inpatient for 6 days from 10.07.2023 to 15.07.2023. The medical board has assessed his Physical disability to be 15%.

(i) Disability

The accident happened on 10.07.2023. In the judgment reported in ***Gowri Vs. 1.Dinesh Kumar 2. United India Insurance Co., Ltd., (CMA No.***

1772/2025 dated 30.07.2025) our Hon'ble High Court had fixed the reasonable quantum for 1% of disability as Rs.10,000/- for the accidents happened in the year 2023. In view of Ex.C1, it is noted that the petitioner had sustained 15% Physical disability. So, this tribunal holds that the petitioner is entitled for Rs.1,50,000/-(Rs.10,000 X 15) as compensation for the disability arising out of accidental injury.

(ii) Loss of income:

The claimant is 31 years old. Though the petitioner claims to have earned Rs.20,000/- by working as labour, he has not produced any documents to prove his income. Therefore, the notional income of the petitioner has to be fixed.

This Court relies upon the formula evolved by the Hon'ble High Court of Madras in **"Aandal and 2 others Vs. Avinav Kannan and another reported in 2019 (1) TNMAC 54 (DB)** for fixing notional income using the Cost of Inflation Index issued by Central Board of Direct Taxes; and the notional income of a vegetable vendor fixed for the year 2007-2008 by Hon'ble Supreme Court of India, in **Syed Sadiq Vs. United India Insurance Company**. The cost of inflation for the year 2007-2008 is 129. Since the date of accident was on 10.07.2023, the cost of Inflation Index for the year 2023-2024 is taken into consideration and the same is 348. Now, the Notional Income of the injured is to be calculated in the manner stated below.

The Notional income fixed by the

*Hon'ble Supreme Court of India
for Vegetable Vendor*

*X Cost of Inflation
Index during the year 2023-2024*

Cost of Inflation Index for the year 2007-2008

Therefore, the Income of the petitioner is $\frac{6500 \times 348}{129} = 17534/-$

Rs.17,534/- rounded of Rs.17,000/-. The monthly Notional Income of the petitioner after applying Inflation Index will be a sum of Rs. 17,000/-. Considering the nature of injury, the petitioner could not have resumed work until the injury has been completely healed and it would have taken at least 3 months for the petitioner to resume regular work. Hence, the loss of income is arrived as Rs.51,000/- (17,000x 3 months). Therefore, this Tribunal awards a sum of Rs. 51,000/- towards loss of income.

(iii) Pain and Suffering :

Considering the fact that the petitioner has sustained right knee ligament tear, right knee subluxation, Grade I sprain of medial collateral and soft tissue injuries, and he had undergone procedure for knee subluxation reduction and wound debridement and he was admitted on 10.07.2023 and discharged on 15.07.2023 and he was hospitalized as inpatient for 6 days, this tribunal is of the view that Rs.30,000/- would be just a compensation towards pain and sufferings.

(iv) Loss of Amenities:

The petitioner was hospitalized for 6 days and due to the right knee ligament tear, right knee subluxation, Grade I sprain of medial collateral and soft tissue injuries has regular and routine activities would have been disturbed and he would have been deprived of using his right leg for a while. Considering the age and injuries suffered by the petitioner, ₹ 25,000/- is awarded as compensation towards the loss of amenities.

(v) Medical Bills :

The petitioner by producing Ex.P8 medical bills for the tune of Rs.65,300/- established that he has incurred an expenditure of Rs.65,300/- towards medical treatment. This tribunal does not find any reason to disbelieve these medical bills, and therefore, the petitioner is entitled for reimbursement of Rs. 65,300/-.

(vi) Extra Nourishment :

Considering the age and injury suffered by the petitioner, this tribunal is of the view that Rs.10,000/- would be just compensation towards extra nourishment.

(vii) Attender Charges :

The petitioner had a sustained "right knee ligament tear, right knee subluxation, Grade I sprain of medial collateral and soft tissue injuries". He was hospitalized for 6 days. Therefore, this tribunal awards a compensation of Rs.6,000/- towards attender charges.

(viii) Transport Charges :

Considering the distance between the residence of the petitioner and the hospital, Rs.6,000/- is awarded as compensation, towards transportation charges.

(ix) Damages to Clothes and Belongings :

Rs.2000/- is awarded as compensation towards damages to clothes and belongings. To sum up

Sl.No.	Head	Amount (Rs)
1.	Disability (10000 x 15)	1,50,000/-
2.	Loss of income	51,000/-
3.	Pain and sufferings	30,000/-
4.	Loss of amenities	25,000/-
5.	Medical bills	65,300/-
6.	Extra nourishment	10,000/-

7.	Attender charges	6,000/-
8.	Transportation charges	6,000/-
9.	Damages to clothes	2,000/-
Total		3,45,300/-

Rs.3,45,300/-. After deducting 10% (Rs.34,530/-) for contributory negligence the claimant is entitled for compensation of Rs.3,10,770/- rounded off to Rs.3,11,000/- and the said compensation is payable by 2nd and 3rd Respondents. Accordingly point No.II is answered.

8. Point No.III:

The petitioner is entitled to get proportionate interest and costs from the 2nd and 3rd respondents at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit, less the period of default, if any. Point No.III is answered accordingly.

9. In the result, it is ordered

- (1) That this petition is allowed in part with proportionate cost.
- (2) That the 2nd and 3rd respondents shall pay a total compensation of **Rs. 3,11,000/- (Rupees three lakhs eleven thousand only)** along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of entire award amount along with proportionate cost.
- (3) That the 2nd and 3rd respondents shall directly deposit the said amount **within one month** into the petitioner's **Savings Bank Account No. 182501000030935, IFSC : IOBA0001825, Bank Name & Branch : Indian Overseas Bank, District Court Branch, Pan No. EBNPP4886B** through RTGS.

- (4) That the petitioner's Advocate fee is fixed at Rs.9,220/-, payable simultaneously with the payment to the petitioner by the 2nd and 3rd respondents into the petitioner's **Advocate Savings Bank Account No. 182501000026637, IFSC IOBA0001825, Indian Overseas Bank, District Court Branch.**
- (5) Court fee for the award amount is Rs.2,483/-. The deficit court fee of **Rs.1,733/-** shall be paid by the petitioner **within 10 days** from the date of order.
- (6) The deposit of award amount as above shall be intimated to this Court by the concerned respondent Counsel by filing a **compliance memo into Court within 7 days** of deposit.

//Dictated to the Steno Typist, typed by her directly in computer, corrected and pronounced by me in the open court this the 16th day of March 2026//

**MOTOR ACCIDENT CLAIMS TRIBUNAL
CHIEF JUDICIAL MAGISTRATE, ERODE.**

Petitioner side witnesses:-

PW1 - Periyasamy

Petitioner side documents:-

Sl.No.	Exhibits	List of documents	
1.	Ex.P1	FIR in Cr.No.310/2023	Online Copy
2.	Ex.P2	Observation Magazar	Online Copy
3.	Ex.P3	Rough Sketch	Online Copy
4.	Ex.P4	MVI Report of TN 76 AY 6433	Online Copy
5.	Ex.P5	MVI Report of TN 93 B 9556	Online Copy

6.	Ex.P6	Final Report	Online Copy
7.	Ex.P7	FIR Status Report	Online Copy
8.	Ex.P8	Medical Bill	Original
9.	Ex.P9	Discharge Summary	Original

Respondent side witnesses: NIL

Respondents side exhibits: NIL

Court side document:-

1. Ex.C1 - Disability Certificate of Petitioner

**MOTOR ACCIDENT CLAIMS TRIBUNAL
CHIEF JUDICIAL MAGISTRATE, ERODE.**