

IN THE COURT OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(SUBORDINATE JUDGES COURT), SATHYAMANGALAM

**PRESENT: Tmt.K.S.Shabeena, M.L.,
Subordinate Judge, Sathyamangalam.**

Tuesday, the 24th day of March 2026
(2056 Thiruvalluvarandu Visuvavasuv varudam Panguni Thingal 10th day)

M.C.O.P. No.413/2018
CNR.No.TNED050009492018

<p>(a) Name and address of the claimant/petitioner (s)</p>	<p>1. D.Surya, aged about 31 years, W/o.deceased Devendran, residing at D.No.32, Soriyampatti, Mobiripatti, Harur Taluk, Dharmapuri District.</p> <p>2. Minor.D.Varshini, aged about 14 years, D/o.deceased Devendran, residing at D.No.32, Soriyampatti, Mobiripatti, Harur Taluk, Dharmapuri District.</p> <p>3. Minor.D.Maanisha, aged about 7 years, D/o.deceased Devendran, residing at D.No.32, Soriyampatti, Mobiripatti, Harur Taluk, Dharmapuri District. (Both minors are Rep, by their Guardian and next friend, Mother D.Surya).</p> <p>4. Muniyammaal, aged about 66 years, W/o.Nathan, M/o.Deceased Devendran, residing at D.No.3/124, Soriyampatti, Mobiripatti, Harur Taluk, Dharmapuri District.</p> <p>5. Nathan, aged about 74 years, S/o.Late.Raman, F/o.Deceased Devendran, residing at D.No.3/124, Soriyampatti, Mobiripatti, Harur Taluk, Dharmapuri District.</p>
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(b)	Name and address of the respondents	: The New India Assurance Company Limited, Divisional Office, Amman Complex, 1 st floor, 159A, EVN road, Erode having its Micro Office at 94/4, V.M.Complex, Athani Road, Sathyamangalam.
(c)	Name and address of the Insurance company	: The New India Assurance Company Limited, Erode having its Micro Office at 94/4, V.M.Complex, Athani Road, Sathyamangalam.
(d)	Name and address of the Transport Corporation or such other respondents who are held liable to pay	: Not applicable
(e)	Date of filing of the petition	: 19.11.2018
(f)	Date of award	: 24.03.2026
(g)	Amount of Award	: Rs.30,97,000/-
(h)	Interest rate applicable	: 7.5% per annum
(i)	Interest payable from	: 19.11.2018
(j)	Costs, if any	: <ul style="list-style-type: none"> 1. Stamp of Vakalath Rs. 10/- 2. Stamp for documents Rs. 70/- 3. Stamp for Batta Memo Rs. 10/- 4. Court fee Rs. 30,343/- 5. Advocate fee <u>Rs. 37,970/-</u> <p style="text-align: right;">Total = Rs. 68,403/-</p>
(k)	In cases where the Compensation, interests and costs are directed to be paid proportionately, the award should also specify who shall pay which portion of award, interest and costs.	: The respondent is directed to deposit the award amount of Rs.30,97,000/- with interest at the rate of 7.5.% p.a. from the date of presentation of the petition till the date of realization, with costs, within 30 days from the date of order.
(l)	In cases where there are several claimants, the shares and amounts payable to each of them shall be specified.	: The petitioners are entitled to Rs.30,97,000/- with proportionate interest and cost. The 1 st petitioner shall be entitled to Rs.6,97,000/- , the 2 nd and 3 rd petitioners shall be entitled to Rs.10,00,000/-(each) , the

		4 th and 5 th petitioners shall be entitled to Rs.2,00,000/- (each) with proportionate interest and cost.
(m)	The mode and manner of deposit of compensation	The respondent is directed to deposit the award amount with interest and cost to the credit of the “MACT” Subordinate Judge, which is the Bank Account of this claim Tribunal specially being maintained for this purpose at MAC Tribunal, (Subordinate Judge) Sathyamangalam, SBI Current Account No: 42886033150 IFSC Code No: SBI N0001498 directly by NEFT (or) RTGS mode. The petitioner is not entitled for any interest for the default period if any.
(n)	Period of default to which the petitioner are not entitled for interest, if any.	Nil
(o)	Balance of Court fee	The petitioners are directed to pay the balance court fee of Rs.29,343/- within 2 weeks from the date of this order. The petitioner shall not be entitled to withdraw the sum deposited as per the award until the balance of court fee is deposited.

1. D.Surya
2. Minor.D.Varshini
3. Minor.D.Maanisha
(Both minors are Rep, by their Guardian and next friend, Mother D.Surya)
4. Muniyammaal
5. Nathan

.... Petitioners.

//Vs//

The New India Assurance Company Limited, Erode
Having its Micro Office at Sathyamangalam.

.... Respondent.

This petition came up for final hearing before me on 24.03.2026 in the presence of Thiru.L.Bhuvaneshwaran, Advocate and Tmt.Malarselvi, Advocate for the Petitioners and Thiru.B.P.Sundararajan, Advocate for the respondent and upon perusing the entire case records, on hearing the arguments of both sides, and having stood over for consideration till this date, this court delivered the following:

AWARD

The original petition was filed by the petitioner under section 166 of the Motor vehicles Act to direct the respondents are such of the who found liable to pay the petitioners the sum of Rs.40,00,000/- towards compensation together with subsequent interest there are at 12% per annum from the date of this claim petition till realization in full.

1) The brief averments of the petition is as follows:

1. The petitioners are wife, daughters, mother and father of the deceased Devendran. That on 26.05.2018 at about 8.00 PM the deceased was driving his PIAGGIO Passenger Auto bearing registration No.TN 39 BM 6935 at Perumanallur to Malaiyapalayam Road near Ozhala Temple Bus Stop Bend, from the direction of South to North with rash and negligent manner with high speed and in an uncontrollable manner in the turning, the said Auto had upside down at the right side of the road and had fell down on the body of the deceased Devendran who caught under the Auto which caused serious head injury and also blood came from the Eyes, Ear and Nose. Immediately he was taken to Mayura Hospital, Perumanallur where

first aid and he was taken to Coimbatore Medical College Hospital, Coimbatore the doctor examined and reported he was succumbed. The Post Mortem was done at Coimbatore Medical College Hospital, Coimbatore. The accident was happened solely due to the rash and negligent driving of the 1st respondent. Regarding the accident the Varapalayam Police registered a case in Cr.No.119/2018 U/s 279, 304A of IPC.

2. At the time of accident the age of the deceased was 39 years only and he was hale and healthy and he was a Professional driver having a valid Badge and through which he earned a monthly income of Rs.15,000/-. His children are minors and they had lost their father in their young age. The respondent is the Insurer of the PIAGGIO Passenger Auto bearing registration No.TN 39 BM 6935. Hence the respondent is liable to pay the compensation to the petitioners.

2. The brief averments of the Counter statement by the respondent is as follows;

The petition is false, frivolous and not maintainable in law and on facts. Except the averments that are specifically admitted herein by this respondent, the petitioners are put to strict proof of the rest of the averments in the petition. At the time of accident the Auto driver following the road rules and regulations, all of a sudden one vehicle was turned the road at the time of accident the deceased suddenly applied the brake the Auto was fell down. The above said accident was unavoidable one. The Auto driver (deceased) himself being the owner of the said vehicle had submitted act of negligence that lead to the accident. He cannot claim as he is the tort faesor. Hence this petition is not maintainable and is liable to be dismiss on this ground alone. More

over from enquiry it was found that the deceased Devendran had purchased the vehicle to one A.Vijayakumar prior to the accident. The deceased Devendran had changed the owners name on 23.03.2018, but the deceased Devendran had not changed the owners name in the Insurance, as per policy conditions within the stipulated time. Since the vehicle owner was not insured on the date of alleged accident. There is no contract between the vehicle owner and this respondent. The vehicle was taken only Act Policy alone. The deceased was not a third party at the time of alleged accident. There is no extra premium was not paid. The compensation amount is highly excessive. Therefore this respondent is not liable to pay compensation to the petitioners. Therefore this petition should be dismissed with cost.

4) Evidences:

On the side of the Petitioner, the 1st petitioner Tmt.Surya was examined as PW1 and Ex.P1 to Ex.P14 were marked and Thiru.Boopathi was examined as PW2 and no documents have been marked.

On the side of the respondents, No oral evidence and Ex.R1 were marked with consent.

5). Now point for the consideration is whether this petition is allowed?

Since it is a summary trial it is foremost to decide the following heads:

6). Negligence:

6.1. It is the case of the petitioners are that, on 26.05.2018 at about 8.00 PM the deceased was driving his PIAGGIO Passenger Auto bearing registration No.TN 39

BM 6935 at Perumanallur to Malaiyapalayam Road near Ozhala Temple Bus Stop Bend, from the direction of South to North with rash and negligent manner with high speed and in an uncontrollable manner in the turning, the said Auto had upside down at the right side of the road and had fell down on the body of the deceased Devendran who caught under the Auto which caused serious head injury and also blood came from the Eyes, Ear and Nose. Immediately he was taken to Mayura Hospital, Perumanallur where first aid and he was taken to Coimbatore Medical College Hospital, Coimbatore the doctor examined and reported he was succumbed. From the Post Mortem report it is clear that the deceased had died due to accident.

6.2. In order to substantiate such claim of the petitioner, the 1st petitioner was examined as PW1 and through him Ex.P1 to Ex.P14 documents have been marked. Ex.P1 FIR, Ex.P2 Charge sheet, Ex.P3 Rough Sketch, Ex.P4 Observation Mahazar, Ex.P5 MVI Report, Ex.P6 Post Mortem Report, Ex.P7 Death certificate, Ex.P8 Legal heirs Certificate, Ex.P9 Driving license of Devendran, Ex.P10 1st petitioner's Aadhar card, Ex.11 2nd petitioner's Aadhar card, Ex.P12 3rd petitioner's Aadhar card, Ex.P13 4th petitioner's Aadhar card, Ex.P14 5th petitioner's Aadhar card were produced. On careful perusal of records there is no contra evidence on the side of the respondent to cull out their defence that accident was happened due to the negligent act of the deceased.

7. Liability:

7.1. Preponderance of probability favours the claim of the petitioners and hence, it can be safely held that the accident occurred only due to the rashness or negligence of the deceased. This view is also supported by the decision of the **Hon'ble High Court of Madras in CDJ 2015 MHC 7982, United India Insurance Company Vs. Krishnaveni and Others**, wherein it was held as follows:-

“..... 16. It is well settled law that proceedings before the Claims Tribunal are summary in nature and it is sufficed to consider, whether there is any preponderance of probability, as to the manner of accident, as detailed in the claim petition. Strict proof of evidence is not required. In the absence of any rebuttal evidence, the finding of the Tribunal regarding negligence cannot be termed as perverse or it is not a case of no evidence.....”

7.2. On the admitted factual foundation, the claim having been instituted under the Motor Vehicles law framework (commonly referred to as the Motor Accidents Claims Tribunal proceedings), the applicability of the Employees' Compensation regime requires a clear and strict statutory examination.

7.3. The Employees Compensation Act, 1923 is a self-contained welfare legislation which operates on a distinct jurisdictional premise, namely, the existence of an employer–employee relationship and the occurrence of injury or death arising out of and in the course of employment. Its jurisdiction is not accident-centric in general terms, but employment-centric in particular terms.

7.4. In contradistinction, proceedings under Section 166 of the Motor Vehicles Act, 1988 (before the Motor Accident Claims Tribunal) are founded upon tortious liability based on negligence arising out of the use of a motor vehicle, and not upon contractual employment.

7.5. In the present case, the deceased is admittedly the owner-cum-driver of the vehicle. The evidence on record, including the police final report, indicates that the deceased himself has been arrayed as the offender for rash and negligent driving. There is no material to establish that the deceased was employed under any third person as a driver on wages or salary. Thus, the essential ingredient of “employment under a master” is completely absent.

7.6. It is a settled principle that a claim under the Employees’ Compensation Act cannot be invoked in isolation merely because the deceased was engaged in a gainful occupation such as driving. Self-employment, even if it is of a commercial nature, does not ipso facto create an employer–employee relationship. The statute does not extend to cases where a person works on his own account and suffers death while operating his own vehicle.

7.7. Further, the insurance policy in question being a statutory “Act Policy” without any additional premium for personal accident cover to the owner-driver, does not alter the legal character of the claim. In the absence of a contractual extension or statutory mandate covering the owner’s personal risk, no liability can be fastened upon the insurer under either regime.

7.8. It is also relevant that proceedings under the Motor Accident Claims Tribunal and proceedings under the Employees' Compensation Act are not concurrently interchangeable. The two forums operate in distinct jurisdictions, and a claim must be founded in the correct statutory basis. Where the foundational facts disclose absence of employment, the jurisdiction under the Employees' Compensation Act does not get attracted merely because compensation is otherwise sought for accidental death.

7.9. Therefore, in the present case, this Tribunal is of the considered view that the Employees' Compensation Act has no application whatsoever. The deceased, being the owner-cum-driver of the vehicle and not an employee under any employer, falls outside the ambit of the said enactment. The proper remedy, if any, lies only within the limited scope of adjudication under the Motor Vehicles Act, subject to proof of negligence and liability as per the policy conditions.

7.10. The main contention of the counsel for the respondent is that, at the time of the accident deceased being the owner of the said vehicle had committed act of negligence that led to the accident. He cannot claim as he is the tortfeasor. The deceased Devendran had purchased the vehicle to one A.Vijayakumar prior to the accident. The deceased Devendran had changed the owner's name on 23.03.2018, but the deceased Devendran had not changed the owner's name in the Insurance, as per policy conditions within the stipulated time. Since the vehicle owner was not insured on the date of alleged accident. There is no contract between the vehicle owner and this respondent. The vehicle was taken only Act Policy alone.

7.11. Even from the perspective of the respondent, the insurance company cannot deny that the insurance coverage remained in force at the time of the accident, notwithstanding the fact that the name of the owner was different. As per Ex.P5 MVI report, the deceased individual is the one designated as the owner. Therefore, it is imperative that the compensation due to the deceased be disbursed to his family.

7.12. In this case, the respondent has not let in any evidence to show that there is any violation of the terms of the insurance policy. Hence, the respondent insurer of PIAGGIO Passenger Auto bearing registration No.TN 39 BM 6935 will be liable to pay compensation to the petitioners.

8. Quantum:

8.1. Since the respondent insurance company is directed to pay the compensation as awarded by this court. Now it is the duty of this court to fix the quantum.

8.2. With respect to quantum it is foremost duty of this court to fix the monthly income of the deceased. Here as per Ex.P6 Post mortem report of deceased Devendran is 39 years. There is no contra evidence adduced by the respondents to deny the age of the deceased Devendran.

8.3. For fixation of monthly income it is the case of the petitioner that deceased Devendran was a Professional driver and through which he earned a monthly income of Rs.15,000/-. A review of the records on the petitioners side revealed that no

documents were mentioned regarding the deceased's monthly income. Hence this court is of considered view that it is safe to fix the nominal income.

8.4. Hence as per judgment of our **Hon'ble High court in Petchiammal and others Vs Sathiyamoorthy and another** in **C.M.A.No.2636/2022** dated **17.07.2023** wherein our Hon'ble High Court had fixed a nominal income is Rs.17,000/- for the accident happened on 2019 whereas here accident happened on 2018 and age of the deceased is 39. Hence taking note of such fact this court hereby fix the nominal income of deceased Devendran as **Rs.15,000/-** at the time of accident.

8.5. To assess the appropriate compensation the monthly income, multiplicand, loss of estate, consortium, funeral expenses should be taken into account. Here monthly income was fixed as Rs.15,000/- and age fixed as 39 years for deceased. As per guidelines of our **Hon'ble Apex Court in Pranay Sethi** case future prospectus should be added in the income of the deceased. Here age of the deceased is 39 years and a Professional driver. Hence future prospectus fixed as 40% for his monthly income (Fixed as Rs.15,000/-). So the Monthly income of the deceased would be $(15,000/- \times 40\% + 15,000/-) = 21,000/-$ per month.

8.6. The deceased Devendran would have spend 1/4 of his income since he is married man and husband, father and son of petitioners. So after deduction, the amount is fixed as Rs.15,750/- Rounded Off Rs.15,800/-. So the yearly loss of dependency would be $(15,800/- \times 12 = 1,89,600/-)$. Hence yearly loss of dependency fixed as

Rs.1,89,600/-. As per guidelines of **Hon'ble Apex Court in Sarala Verma** case the multiplicand for the age between 36-40 is 15. So the loss of dependency would be (1,89,600/- x 15 = 28,44,000/-).

8.7. Apart from loss of dependency the dependent is entitled for loss of estate, loss of consortium, funeral expenses and transport expenses as per decision of **Pranay Seithi** case. As per said decision our **Hon'ble Apex Court** had ordered to pay Rs.40,000/- towards Consortium, Rs.15,000/- towards Funeral and Rs.15,000/- loss of estate. Further our Hon'ble Apex court had ordered to enhance 10% under conventional heads once in three years. The said decision was decided before three years. Hence as per order of Hon'ble Apex court the petitioner is entitled to (15,000/- x 10%) Rs.16,500/- towards loss of estate, (15,000/- x 10%) Rs.16,500/- towards funeral expenses and (40,000 x 10%) Rs.44,000/- towards each consortium. So this petitioner is entitled to (28,44,000 + 16,500 + 16,500 + 44,000 + 44,000 + 44,000 + 44,000 + 44,000) = Rs.30,97,000/- as total compensation.

9. Apportionment of compensation:

Sl.No	CATEGORIES OF COMPENSATION	APPORTIONED AMOUNT
1.	Nominal Income	Rs. 15,000/-
2.	After deduction the amount is fixed as	Rs. 15,800/-
3.	Yearly loss of income (15,800/- x 12)	Rs. 1,89,600/-
4.	Multiplier (Age 36 -40)	15
5.	Loss of dependency (1,89,600/- x 15)	Rs. 28,44,000/-
6.	Loss of estate	Rs. 16,500/-
7.	Funeral expenses	Rs. 16,500/-

8.	Loss of consortium for 1 st petitioner	Rs.	44,000/-
9.	Loss of consortium for 2 nd petitioner	Rs.	44,000/-
10.	Loss of consortium for 3 rd petitioner	Rs.	44,000/-
11.	Loss of consortium for 4 th petitioner	Rs.	44,000/-
12.	Loss of consortium for 5 th petitioner	Rs.	44,000/-
	Total	Rs.	30,97,000/-

With this observation this petition is allowed by directing the respondent to pay a compensation of **Rs.30,97,000/-** with an interest of 7.5.% per annum from the date of this petition to the petitioners within a period of one month in the **SBI Current Account No:42886033150 either directly or through NEFT or RTGS.**

10. a) In the result, this petition is allowed in part with proportionate cost and the petitioners are awarded compensation for a sum of **Rs.30,97,000/-** together with interest at the rate of 7.5% per annum from the date of the petition till realization.

b) The petitioners are not entitled for any interest for the period of default if any.

c) The respondent is directed to deposit the award amount to the credit of the “MACT” Subordinate Judge, which is the Bank Account of this claim Tribunal specially being maintained for this purpose at **MAC Tribunal, (Subordinate Judge) Sathyamangalam, SBI Current Account No:42886033150 IFSC Code No:SBI N0001498** directly by NEFT (or) RTGS mode within one month.

d) The 1st petitioner shall be entitled to **Rs.6,97,000/-**, the 2nd and 3rd petitioners shall be entitled to **Rs.10,00,000/-(each)**, the 4th and 5th petitioners shall be entitled to **Rs.2,00,000/- (each)** with proportionate interest and cost.

- e) The petitioner's entitled award amount to be transferred to the Bank Account of the petitioners directly from the Tribunals "MACT" Bank Account.
- f) The petitioners are directed to pay the court fee of **Rs.30,343/-** within 2 weeks from the date of this order. The petitioner shall not be entitled to withdraw the sum deposited as per the Award until the balance of court fee is deposited.
- g) Advocate fee is fixed as **Rs.37,970/-** shall be paid through NEFT (or) RTGS mode.
- h) The Minor petitioners' share shall be deposited in any one nationalized bank till attaining his majority. The Minor's guardian will be entitled to withdraw the interest of the Minor petitioner's deposit once in 3 month directly from the bank without permission of this tribunal.
- i) Following the judgment of the **Hon'ble High Court of Madras in M/s Cholamandalam MS General Insurance Co. Ltd., Vs. Ayyanar & others** reported in 2020 (4) CTC 272, no decree is prepared. All the parties are entitled to free copies of the award as per section 168 (2) of the MV Act and Rules 20 (6) of the Rules.

Dictated by me to the Steno typist, typed by her in the Computer directly, corrected and pronounced by me in open court on this the 24th day of March 2026.

MAC Tribunal/Subordinate Judge,
Sathyamangalam.

List of witnesses

Petitioner side:

PW-1 Tmt.Surya (1st Petitioner)
PW-2 Thiru.Boopathi

Respondents side: -Nil-

List of documents

Petitioner side:

S.No.	Date	Particulars	Nature
Ex.P1	27.05.2018	FIR	Online Copy
Ex.P2	30.06.2018	Charge Sheet Rough Sketch	Online Copy
Ex.P3	27.05.2018	Rough Sketch	Online Copy
Ex.P4	27.05.2018	Observation Mahazar	Online Copy
Ex.P5	05.06.2018	MVI Report (TN 39 BM 6935)	Online Copy
Ex.P6	27.05.2018	Postmortem Report	Certified Copy
Ex.P7	03.07.2018	Death Certificate	Certified Copy
Ex.P8	14.07.2018	Legal Heirs Certificate	Certified Copy
Ex.P9	-----	Driving license of Devendran	Xerox
Ex.P10	-----	Aadhar Card of 1 st petitioner	Xerox
Ex.P11	-----	Aadhar Card of 2 nd petitioner	Xerox
Ex.P12	-----	Aadhar Card of 3 rd petitioner	Xerox
Ex.P13	-----	Aadhar Card of 4 th petitioner	Xerox
Ex.P14	-----	Aadhar Card of 5 th petitioner	Xerox

Respondent's side :

S.No.	Date	Particulars	Nature
Ex.R1	----	Insurance Policy of TN 39 BM 6935	Xerox

MAC Tribunal/Subordinate Judge,
Sathyamangalam.