



IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE, HOSUR

Present :Tmt.E.Sasikala., M.L., P.G.Dip., in Cyber Law,
Motor Vehicle Accident Claims Tribunal Judge
(Principal Subordinate Judge), Hosur.

Thursday, the 11th day of August 2022.
Thiruvalluvar-Andu-2053-Subakrith-Varusam- 26th day of Aadi.

M.C.O.P. No.236/2019

CNR No.TNKI05-000636-2019

Mr.S.Govindhan, S/o. B.K.Satyanarayana, aged 32 years, residing at,
plot No.6,7 Classic Homes, Matham Agraharam Road, Near New Astc
Hudco, Hosur, Krishnagiri 635 109. ... Petitioner

//versus//

1.Mrs.K.Deepa, W/o.Karuppusamy, residing at No.17, Nandagopal
Nagar, Sriperumpudur, Kanchipuram District.

2.M/s.Hanil Automotive India Pvt., Ltd., Represented by its authorized
person, having address at, No.A8, Sipcot, Industrial Park,
Irrungattukottai, Sriperumpudur Taluk, Kanchipuram District 602 105.

3.Mr.M.S.Suresh Kumar, S/o.M.Sivalingam, aged about 35 years,
residing at No.103/72, Vellaya Mudali Street, Mamandoor, Arakkonam
Taluk, Vellore District.

4.National Insurance Company Ltd., Represented by the branch Manage,
Sriperumpudur Branch, having address at No.51, First Floor, Bangalore
Highway Road, Sriperumpudur, Kanchipuram District – 602 105 and
also having registered office at No.3, Middleton Street, Post Box
No.9229, Kolkata 700 071. ...Respondents

This claim petition, coming before me for final hearing on



07.07.2022 in the presence of Thiru.K.Velayudham, Counsel for the petitioner, and respondent set exparte for their non appearance and upon perusal of entire case records, and having stood over for consideration till this day, this court delivered the following:-

ORDER

The claim petition had been filed by the petitioner Under Sec.166 of M.V.Act claiming compensation of Rs.8,50,000/- (Rupees Eight Lakhs Fifty Thousand only) from the respondents for injuries caused to the petitioner, due to road accident that took place on 08.11.2011.

1.THE ALLEGATIONS IN THE PETITION:

(a) The victim is the petitioner and he is working in private company at the time of accident and there is earning income as a employee from the private concern R.35,000/- from the date of accident occurred till the date of joining in another company and he is residing with his family in the above said address.

(b) On 08.11.2011 at about 2.5 a.m. the petitioner along with his colleagues were traveling in his company car Innova bearing Reg.No.KA 51 MB 200 from Hosur to Chennai for the purpose of doing his official work, the driver drives the bus (a private service vehicle Semi Saloon Bus) bearing Reg.No.TN 21 AJ 8785 in the Bangalore to Chennai National Highways, Near Duraiperumpakkam koot road, in a rash and negligent manner, suddenly turned the bus in his right side to go to Chennai to Bangalore highways, without any sign and hit the Innova car on the left side, due to the sudden hit of the above said bus the innova car was fully damaged in its front portion and the air bag situated in the left of the vehicle was fully opened and the front glass burst out and the



glass pieces are get into the face of the petitioner. Due to which the petitioner attained grievous injuries in his face, forehead, chin and chest. The entire accident is happened due to the rash and negligent driving of the 3rd respondent who is the driver of the bus. The 1st respondent is the owner of the bus and the 2nd respondent is the employer of the 3rd respondent.

(c) Immediately after the accident, the petitioner was taken to the Government Hospital at Walaja and treated as first aid and the accident registered shows the same. The petition was taken to the CMC Hospital in Vellore for further treatment and he is admitted as inpatient there and discharged on same date with an advice to take further treatment in local hospital. The Wound Certificate issued by the CMC Hospital, Vellore also filed herewith.

(d) The petitioner occurred may permanent scares in his face, chin and neck which are caused by glass pieces of Innova car. Even after that the petitioner got treatment in Ashok Hospital in Hosur as out patient for many days. The petitioner was further advised for plastic surgery treatment for his scares. But due to mental agony he still not able to do the same. At the time of the accident he was working in Agri India Pvt., Ltd., as Accountant and earned a sum of Rs.15,000/- p.m. as salary. After the said accident he was not able to work for 6 months and then he tried very much and joined in Pearl Mineral Pvt., Ltd., and earned a sum of Rs.30,000/- p.m. as salary. Presently he is working in Biorad Medisys Pvt., Ltd., and earning a sum of Rs.62,000/- p.m. as salary. If the accident is not caused the petitioner would have earned a lot for the benefit of himself and his family welfare during these period. The petitioner is a healthy and good looking person, who lost his face beauty in the same accident. The petitioner was a bright and active



person, due to the accident all the aspirations of the petitioner are shattered for a temporary period of 5 years from the date of the accident. Due to the sudden accident, the petitioner for those injuries occurred due to the above said accident. Though mental agony caused to the petitioner cannot be calculated in terms of money value, the petitioner estimate his loss to the tune of Rs.8,70,000/-. Though entitled to more the petitioner restricting his claim to Rs.8,50,000/- only at present.

(e) Due to the said accident the said Innova car, in which the petitioner travelled with his colleagues, also damaged in its front side and the photos annexed herewith shows the same. The petitioner was sat in the left of the front seat and the driver Tamilarasan, who drives the car also occurred mere injuries. The said Tamilarasan admitted the petitioner in the Govt., Hospital Walaja and then in the CMC Hospital in Vellore and gave a complaint before the Sub Inspector of Police, Kaveripakkam Police Station.

(f) That the accident was cause only by the rash and negligent act of the driver of the above said Private services bus. If he had driven the vehicle with caution and due regard to the Traffic rules and regulations the accident would not have occurred and the petitioner would not have got injuries. In connection with the said accident the TIW Police, Walaja, have registered a case against the said driver of the above said private service bus in Cr.No.746/2011 U/Sec.279, 337(A) IPC. Since the said driver was driving the bus as per the instructions and during the course of employment under 2nd respondent and the 1st respondent is the owner of the vehicle, both are vicariously liable to pay compensation to the petitioner. Hence all the respondents are jointly and severally liable to pay the compensation to the petitioner. Hence this petition.



2. The Respondent's set exparte for his non appearance:-

3. POINTS FOR DETERMINATION:

- i) Whether the accident had occurred due to the rash and negligent driver of the registered vehicle bearing Reg.No.TN 21 AJ 8785 Private Service Vehicle Bus as alleged by the petitioner?
- ii) Whether the petitioner is entitled for compensation from the respondents? If so, from which respondent?
- iii) What is quantum of compensation, the petitioner is entitled?

4) On the side of the petitioners, Petitioner was examined as PW1, and Ex.P1 to Ex.P23 were marked. The respondents 1 to 4 were set exparte for non appearance and the respondent side no oral and documentary evidence were adduced. The Disability certificate of the petitioner was marked as Ex.C1.

5.POINT NO.(i) :-

a) The 3rd respondent is the employee of the 2nd respondent and driver of the 1st respondent vehicle. The 1st respondent Owner of the bus bearing Reg.No.TN 21 AJ 8785. The said vehicle was insured with 4th respondent insurance company.

b) In order to prove the claim, the petitioner had examined himself as PW1. The affidavit filed by him was treated as examination in chief of PW1 and the same as recorded. On perusal of the same it is found that the contents of the petitioner in claim petition is stated in it as it are in the claim petition and the documents were marked as Ex.P1 to Ex.P23.

c) The respondent 1 to 4 were set exparte for there non



appearance. In the FIR it is stated that the accident occurred due to rash, careless, negligent of the driver of the bus bearing Reg.No.TN 21 AJ 8785.

d) The Hon'ble High Court of Madras has laid down in the case of Muthu Vs. The Managing Director, TNSTC, reported in 2014(1) TNMAC 156 that the Tribunal is bound to determine whose negligence is the cause of the accident and that the same may be determined on the basis of preponderance of probabilities and that the issue does not require proof beyond reasonable doubt as in the case of criminal cases. This Tribunal is therefore bound to ascertain, on the basis of the principle of preponderance of probabilities, whose negligence was the cause of the accident.

e) Moreover the Hon'ble Apex court has laid down in the case of Meeradevi and another Vs. HRTC and others reported in 2014(1) TNMAC 456 (SC) that when the respondent attributes negligence on the part of the petitioner, the respondent is bound to prove the same by substantial evidence.

f) In this case, the petitioner had deposed as PW1 and he had deposed about the manner of the accident and had clearly attributed negligence on the part of the 1st respondent and marked FIR as Ex.P1. The respondents have not come forward to deny the involvement of the 1st respondent's vehicle and manner of the accident as spoken by the petitioner.

g) On perusal of the Ex.P1 FIR it has been reveals that the Ex.P1, FIR has been filed as against the 3rd respondent driver of the 1st respondent's vehicle in respect of the occurrence. Ex.P1 corroborates the



evidence of PW1. Consequently in view of Ex.P1 FIR it is held that the accident had occurred only due to the negligence act of the 3rd respondent driver of the 1st respondent's vehicle who is driving the Private Service Vehicle Bus Reg.No.TN 21 AJ 8785. The point is answered accordingly.

6.POINT NO. (ii) :-

a) The PW1 has produced Ex.P1 to Ex.P23 in support of his claim. The Ex.P1 FIR reveals that the the respondent who is traveling in his company Car Innova bearing Reg.No.KA 51 MB 200 was involved in the occurrence. The Ex.P9 discharge summary issued by CMC Hospital, Vellore it reveals that the petitioner suffered “Tetanus Prophylaxis, Analgesics, IV fluids, antibiotics, wound suturing. Suture removal after 1 week. The Ex.P6 registration certificate of the Private Service Vehicle Bus Reg.No.TN 21 AJ 8785 it reveals that 1st respondent is the owner of the said vehicle. It has been already found that the negligence of the 3rd respondent was caused the accident and the Ex-P7 insurance policy of the above said Private Service Vehicle Bus Reg.No.TN 21 AJ 8785 it reveals that the said bus was insured with 4th respondent insurance Company. Hence it is proved that the injuries occurred to the petitioner due to the accident caused by the 3rd respondent driver of the 1st respondent's vehicle. As the Owner, 1st respondent is vicariously liable to compensate the petitioner for the injuries sustained by the petitioner in the accident.

b) However the PW1 has produced Ex-P7 insurance policy it reveals that the said vehicle was insured by the 1st respondent with the 4th respondent for the period from 15.09.2011 to 14.09.2012. Hence when the accident was occurred on 08.11.2011 the said private bus



bearing Reg.No.TN 21 AJ 8785 was covered by Ex-P7 insurance policy and the same was in force. Therefore on view of the evidence of PW1 and Ex-P1 to Ex-P14 it found that the 3rd respondent driver of the private bus bearing the Reg.No.TN 21 AJ 8785 was responsible for the accident and vehicle had valid insurance at the time of occurrence. Hence is proved that the respondents 1,2 and 3 are liable to give compensation to the petitioner.

c) Therefore at the time of occurrence, there was a valid contract of insurance between the respondent 1 and 4 in respect of the said private bus bearing Reg.No.TN 21 AJ 8785. Hence the 4th respondent has statutory liability to indemnify the 1st respondent in respect of the compensation payable to the petitioner by the 1st respondent. This point is answered accordingly.

7.POINT NO.(iii) :-

a) The petitioner claims that he was 32 years old at the time of occurrence. As per the petitioner's Aadhar Card his date of birth is 15.06.1986. Hence it is found that on the date of occurrence, viz., 08.11.2011 the petitioner was 35 years.

b) The PW1 in his chief examination deposed that at the time of accident he was working in Agri India private limited as accountant and earned a sum of Rs.15,000/- per month as salary. After the said accident he was not able to work for 6 months and then he tried very much and joined in Pearl Mineral Private Limited and earned a sum of Rs. 30,000/- per month as salary. Presently he is working in Biorad Medisys Private Limited and earning a sum of Rs. 62,000/- per month as salary. If the accident is not cost the petitioner would have earned a lot. To support his contention, the petitioner marked the ID card of is



company has Ex-P16 and marked the appointment letter given by the Pearl Mineral Private Limited dated 25.06.2012 has Ex- P17. On perusal of Ex-P17 appointment letter, it reveals that after the accident he got the job and his salary is Rs.3,00,000 per annum. But the petitioner himself claimed that at the time of accident he was earning Rs.15,000/- per month. Hence the petitioner's notional monthly income is fixed as Rs.15,000/- p.m.

c) The PW1 stated that he occurred the grievous injuries. The Ex.P9 discharge summary issued by CMC Hospital, Vellore it reveals that the petitioner suffered "Tetanus Prophylaxis, Analgesics, IV fluids, antibiotics, wound suturing. Suture removal after 1 week and taken treatment for the injuries.

d) To get the disability of the petitioner this case was referred to Medical board and report of the medical board to which is marked as Ex.C1. The Ex.C1 reveals that the disability of the petitioner is 10% considering the nature of the injuries sustained by the petitioner, this court fixes the percentage of disability at 10%.

e) The petitioner has claimed Rs.1,00,000/- towards permanent disability. The petitioner claimed that he is earning Rs.15,000/- p.m. The petitioner has claimed that due to such permanent disability, due to his injuries the petitioner could not earned more and his earning capacity was reduced. Considering the injuries sustained by him, it is held that no permanent loss of income to the petitioner due to the accident. But due to accident had suffered only partial permanent disability and that the petitioner is entitled to compensation for 10% of partial permanent disability under section 166 of the MV Act.



f) According to the ratio laid down by the Hon'ble High Court of Madras in the case of National Insurance Co.Ltd., Vs.G.Ramesh and P.Yoshuva reported in 2013 (2) TN MAC 583 for each percentage of disability, the petitioner is entitled to Rs.3000/- as compensation. Hence it is found that for 10% of permanent disability the petitioner is entitled to Rs.30,000/- (10% X 3000=Rs.30,000/-).

g) The petitioner claimed Rs.1,75,000/- towards partial loss of earnings that by working in private company as earned Rs.15,000/- p.m. To support his contention, he has not filed any proof. Already this court fixed income of the petitioner has Rs.15,000/- p.m. Considering the nature of the injuries taken by the petitioner at least he need 1 months rest. Hence it is found that the petitioner is entitled to Rs.15,000/- the partial loss of earning is fixed as Rs.15,000X 1=Rs.15,000/-.

h) The petitioner has claimed Rs.25,000/- towards medical expenses. To substantiate the same he has produced Ex.P22 medical bills for Rs.13,099 only. The said bills are found to be related to the petitioner. Therefore, Ex.P22 medical bills are found to be bona-fide expenses incurred by the petitioner for which he may be compensated. Even though the petitioner claimed Rs.1,00,000/- towards medical expenses, he produced bills only for Rs.13,099/-. Hence it is held that the petitioner is entitled to Rs.13,100/- towards medical expenses.

i) The petitioner has claimed Rs.20,000/- towards transport to hospital, Rs.10,000/- for extra nourishment, Rs.10,000/- towards damages to clothing. To substantiate the same he has not produced any documentary evidence. Considering the petitioners residence, place of accident where he was treated and his treatment period as inpatient, it is



found that just and reasonable to award Rs.1,000/- towards transport expenses and to award Rs.1,000/- extra nourishment and towards Rs.100/- to damages to clothing.

j) The petitioner has claimed Rs.2,00,000/- pain and suffering. The petitioner was suffered the Ex.P9 discharge summary issued by CMCHospital, Vellore. It is held that it is just and reasonable to award Rs.5,000/- to the petitioner for pain and sufferings. Due to his injuries the petitioner suffered from pain and his earnings have been affected. Hence it is held that the petitioner is entitled to Rs.5,000/- as just and reasonable compensation for loss of amenities.

8. The total compensation for the petitioner under various heads as discussed above is as follows:

Sl.No.	Compensation	:	Amount
1	Partial loss of income for 4 months (Rs.15,000x1=Rs.15,000/-)	:	Rs. 15,000/-
2	Compensation for pain and suffering	:	Rs. 5,000/-
3	Loss of Amenities and Enjoyment of life	:	Rs. 5,000/-
4	Transport of Hospital	:	Rs. 1,000/-
5	Extra Nourishment	:	Rs. 1,000/-
6	Damages to clothing	:	Rs. 100/-
7	Medical Expenses	:	Rs. 13,100/-
8	Compensation for continuing as permanent Disability (10% x 3000)	:	Rs. 30,000/-
	Total	:	Rs. 70,200/-



Therefore, the petitioner is entitled for compensation is Rs.70,200 /-.

1. In the result, the petition is partly allowed with proportionate cost.
2. that the 4th respondent is ordered to pay compensation of 70,200/- to the petitioner.
3. that the award amount shall carry interest at the rate of 7.5 % p.a., from the date of petition till date of realization, excluding the default period if any.
4. that the 4th respondent is directed to deposit the award amount in the State Bank of India Hosur branch in the account of the Principal Subordinate Judge, Hosur Account No.64204179070 (IFSC:SBIN0040155) through Tribunal NEFT or RTGS within one month.
5. that the petitioner is directed to pay the deficit court fee within one month, failing which, he is not entitled to any interest.
6. that the petitioner is permitted to withdraw the amount on deposit.
7. that the advocate fee is fixed at Rs.2656/-

Petition filed on :20.07.2018

C.F.Required: Rs.122.50/-, C.F.paid : Rs.520/- on 20.07.2018

Excess C.F.paid : Rs.397.5

Bill of Cost

Sl.No.	Statement of Cost	Petitioner's side	Respondent's side
1.	Stamp on Petition	122.50	---
2.	Vakalath Nama	10	----
3.	Process Fee	25.00	---
4.	Advocate fee	2656.00	---
	Total	2813.5	----



Dictated to steno-typist directly by me and typed by her directly, corrected and pronounced by me in Open Court this the 11th day of August 2022.

Annexure:-

Petitioner side witnesses :-

PW1 - Thiru.Govardhan,

Petitioner side Exhibits :-

- Ex.P1/PW1 - Xerox copy of FIR dated 08.11.2011.
- Ex.P2/PW1 - Xerox copy of AAR dated 09.11.2011.
- Ex.P3/PW1 - Accident registered issued by the Government Hospital Walaja.
- Ex.P4/PW1 - Wound certificate by the CMC Vellore dated 17.01.2012.
- Ex.P5/PW1 - Xerox copy of the Driving License of the 3rd respondent.
- Ex.P6/PW1 - Xerox copy of the registration certificate of the Vehicle No.TN 21 AJ 8785.
- Ex.P7/PW1 - Xerox copy of the Insurance policy of the vehicle No.TN 21 AJ 8785.
- Ex.P8/PW1 - Xerox copy of the permit of the vehicle No. TN 21 AJ 8785.
- Ex.P9/PW1 - Discharges summary issued by CMC Vellore dated 18.01.2012.
- Ex.P10/PW1 - CT Brain report of the petitioner dated 08.11.2011.
- Ex.P11/PW1 - Prescription given by Ashoka Hospital to the petitioner dated 07.02.2012.
- Ex.P12/PW1 - Prescription given by Ashoka Hospital to the petitioner dated 24.02.2013.
- Ex.P13/PW1 - Prescription given by Ashoka Hospital to the petitioner dated 17.02.2013.



- Ex.P14/PW1 - X-ray of the petitioner dated 27.04.2013.
- Ex.P15/PW1 - Xerox copy of the Aadhar card of the petitioner compared with original and returned the same to the witness.
- Ex.P16/PW1 - Xerox copy of the ID card of the petitioner given by the Biorad Medisys compared with original and returned the same to the witness.
- Ex.P17/PW1 - Appointment letter given by Pearl Mineral Private Ltd., dated 25.06.2012.
- Ex.P18/PW1 - Xerox copy of the Bank Pass book of the petitioner compared with original and returned the same to the witness.
- Ex.P19/PW1 - Xerox copy of the Pan card of the petitioner compared with original and returned the same to the witness.
- Ex.P20/PW1 - Xerox copy of the Driving License of the petitioner compared with original and returned the same to the witness.
- Ex.P21/PW1 - Form 16 issued by the Income Tax department for the financial year 2017-2018.
- Ex.P22/PW1 - Medical Bills
- Ex.P23/PW1 - Photos with CD

Respondents side witnesses:- Nil

Respondents side Exhibits :- Nil

List of Court Document:-

- Ex.C1 - Disability certificate of the petitioner given by medical board