

**CNR.No.TNKI110001032020**

**BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,  
SUB COURT FOR MOTOR ACCIDENT CLAIMS CASES, UTHANGARAI**

**Present: Thiru. J.K. Dhillip, B.A., B.L.,  
Subordinate Judge, Uthangarai.**

**Friday, this the 01<sup>st</sup> day of April 2022**

2052 திருவள்ளூர் ஆண்டு ஸ்ரீ பிலவ வருடம் பங்குனி மாதம் 18-ம் நாள் வெள்ளிக் கிழமை

**MCOP. No.48/2020**

Parameswari, aged about 47 years,

W/o. Venkatesan,

residing at: No.26, Kommampattu, Govindapuram,

Uthangarai Taluk, Krishnagiri District.

... Petitioner

..Vs..

1. S. Naveenkumar, S/o. Sanjeevan,  
residing at: No.1/104 Kilayapuram,  
Mampatty Post, Harur Taluk,  
Dharmapuri District.

2. The Branch Manager,  
The Royal Sundaram General Insurance Company Limited,  
No.186/5 3<sup>rd</sup> Floor, Royal Towers,  
New Bus stand road, Meyyanur,  
Salem 636 004.

... Respondents

This petition was coming for final hearing before me on 17.03.2022 in the presence of Thiru. R. Selvakumaran, Advocate for the petitioner, and the 1<sup>st</sup> respondent was called absent and set exparte, and Tr. J. Sathiyarayanan Advocate for the 2<sup>nd</sup> respondent and he was called absent and set exparte, due to non filing of counter, on perusal of the oral and documentary evidences and having stood over for consideration till this day, this court delivers the following:-

**ORDER**

This petition has been filed by the petitioner on 06.02.2020 under section 166 of the Motor Vehicles Act, seeking compensation of Rs.1,00,000/- for the

injuries from the respondents in the motor vehicle accident which took place on 30.10.2019.

**2. The Averments in the Petition are as follows:-**

On 30.10.2019, at about 10-15 hours the petitioner attending to Eri work in Kommampattu Eri, due to rain the petitioner and other workers were returning to the house by walk. The petitioner was walking very slowly and cautiously and also in the left side edge of the road near the land of Kommampattu Krishnamoorthy in Govindapuram – Upparapatti road, at the same time a car bearing Regn. No. TN – 29-BT-7695 belonging to the 1<sup>st</sup> respondent and insured with the 2<sup>nd</sup> respondent was coming back side of the petitioner in a rash, careless and negligent manner and with high speed, the driver of car lost his control and dashed against the petitioner and others. As consequence the petitioner had sustained injuries. 1. Laceration of size 3x0.5x0.5 cm near left eye (2) Abrasion over right side hip (3) Injury below the left side shoulder and also Multiple injuries all over the body. Soon after, the petitioner was taken to Govt. Hospital, Uthangarai, for treatment, after first aid treatment she was discharged from the hospital. Still now she continuing her treatment in a private hospital at Uthangarai. Accident occurred only due to the rash and negligent driving of the driver of the car. A criminal case had been registered at Singarapettai Police against the car driver in Cr.No 345/2019, u/s 279 and 337 of IPC.

(ii). At the time of the accident, the petitioner was aged 47 years and she was hale and healthy, she was doing agricultural coolie work and she was earning not less than Rs.15,000/- per month and she contributed her entire income for the welfare of her family. She is the only bread winner of her family.

(iii) Now, the petitioner feels severe pain, could not walk freely as before and she could not able to sit, stand and she is not able to walk freely as before. The petitioner is feeling much pain while seeing the bright light. The petitioner is feeling much difficulty to attending the cooking as before. Thus, petitioner had sustained

permanent disability, she is claiming Rs.1,00,000/- as compensation under various heads from the respondents jointly and severally. At the time of the accident, the 1<sup>st</sup> respondent being the owner of the car bearing Regn. No. TN – 29-BT-7695, hence 2<sup>nd</sup> respondent is liable to pay a sum of Rs.1,00,000/- as compensation to the petitioner with interest and cost.

3. Notice sent to respondents. 1<sup>st</sup> respondent was called absent and set exparte on 15.10.2020. Tr. J. Sathiyarayanan Advocate for the 2<sup>nd</sup> respondent and but 2<sup>nd</sup> respondent set exparte for non filing of counter on 18.11.2021.

**4). POINTS FOR CONSIDERATION ARE:**

1. Whether the accident took place due to the rash and negligent driving of the driver of car bearing Regn. No. TN – 29-BT-7695?
2. Whether the Petitioner is entitled to compensation from the Respondents as prayed for?
3. What is the quantum of compensation, the petitioner is entitled to?

5). The petitioner has been examined as PW1 and ten documents were marked as Exs.P1 to P10.

**6.POINT NO: 1**

(6-1). The 1<sup>st</sup> respondent being the owner of the car bearing Regn. No. TN – 29-BT-7695 has also remained exparte.

(6-2). In order to prove the claim, the petitioner examined herself as PW1 through filing her proof affidavit. In her proof affidavit she has stated that on 30.10.2019, at about 10-15 hours the petitioner attending to Eri work in Kommampattu Eri, due to rain the petitioner and other workers were returning to the house by walk. The petitioner was walking very slowly and cautiously and also in the left side edge of the road near the land of Kommampattu Krishnamoorthy in Govindapuram – Upparapatti road, at the same time a car bearing Regn. No. TN –

29-BT-7695 belonging to the 1<sup>st</sup> respondent and insured with the 2<sup>nd</sup> respondent was coming back side of the petitioner in a rash, careless and negligent manner and with high speed, the driver of car lost his control and dashed against the petitioner and others. As consequence the petitioner had sustained injuries. 1. Laceration of size 3x0.5x0.5 cm near left eye (2) Abrasion over right side hip (3) Injury below the left side shoulder and also Multiple injuries all over the body. Soon after, the petitioner was taken to Govt. Hospital, Uthangarai, for treatment, after first aid treatment she was discharged from the hospital. Still now she continuing her treatment in a private hospital at Uthangarai. Accident occurred only due to the rash and negligent driving of the driver of the car. A criminal case had been registered at Singarapettai Police against the car driver in Cr.No 345/2019, u/s 279 and 337 of IPC. The PW1 produced as Ex.P1, the certified copy of the FIR filed as against the driver of the car.

(6-3) The Hon'ble High court of Madras has laid down in the case of Muthu /vs/ The Managing Director, TNSTC report 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 the 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 principles of preponderance of probabilities, whose negligence was the cause of the accident.

(6-4). On perusal of the ExP1, the true copy of FIR, it is evident that the case has been registered only as against the driver of the 1<sup>st</sup> respondent's car bearing Regn. No. TN – 29-BT-7695, u/s 279, 337of IPC. Under these circumstances, considering the oral evidence of PW1, the available documentary evidences Ex.P1and considering the manner in which the accident has occurred, this court hereby comes to the conclusion that the accident has occurred only due to the rash and negligent driving of the driver of the car bearing Regn. No. TN – 29-BT-7695 and Point No.1 is answered accordingly.

**7. POINT NO:2**

PW1 produced EX.P1 to Ex.P10 in support of his case. Ex.P1/FIR reveals that the car bearing Regn. No. TN – 29-BT-7695 was involved in the occurrence. It has already been found that the negligence of the driver of the said vehicle was the cause for the accident. PW1 has marked Ex.P2 Accident Register which reveals that the petitioner has suffered simple injury. As the owner, of the offending vehicle, the respondents are liable to compensate the petitioner for the injuries sustained by her in the accident caused by the negligence of the driver of the 1<sup>st</sup> respondent's vehicle. Hence, 2<sup>nd</sup> respondent is under a statutory liability to indemnify. Consequently, it is concluded that the 2<sup>nd</sup> respondent is liable to pay the compensation amount to the petitioner, the compensation to the petitioner for the injuries sustained in the accident. This point is answered accordingly.

**8. Now let us discuss the quantum of compensation:-**

The petitioner has claimed Rs.1,00,000/- under various heads as compensation. As far as age of the petitioner, as per Aadhar card of petitioner her age is 47 years, thus this tribunal fixes her age as 47. PW1 deposed that she was working as a agricultural coolie and she is earned for Rs. 15,000 and she contributed entire income for the welfare of her family. Hence, the petitioner claim Rs.1,00,000/- as compensation under various heads from the respondents. The petitioner has claimed Rs.25,000/- towards transport to hospital and extra nourishment. On perusal of the FIR, Wound Certificate, averments in the petition and in the proof affidavit, it is found the petitioner is sustained simple injuries. She does not incurred any disability. Hence it is found that, the petitioner is entitled to total sum of Rs.25,000/- as just and reasonable compensation.

(8-2). Hence it is found that, the petitioner is entitled to total sum of Rs.25,000/- as just and reasonable compensation with 7.5% interest on the compensation amount from the date of petition to the date of deposit. Hence, the 2<sup>nd</sup>

respondent is liable to pay a compensation of Rs. 25,000/- with interest at the rate of 7.5 % from the date of filing till date of deposit to the petitioner.

9. In the result, that the petition be and the same is hereby partly allowed with proportionate interest and cost.

2. that the petitioner is awarded Rs. **25,000/-** (Rupees twenty five thousand only) together with interest at the rate of 7.5% per annum from the date of petition on 06.02.2020 till the date of deposit along with proportionate cost.

3. that the 2<sup>nd</sup> respondent is liable to pay the compensation to the petitioner.

4. that the said award amount shall be deposited within two months from the date of award by the 2<sup>nd</sup> respondent directly into the account standing in the name of SUBORDINATE JUDGE (MACT), UTHANGARAI, STATE BANK OF INDIA, UTHANGARAI BRANCH, CURRENT ACCOUNT NO. 36955421971 under intimation to this Tribunal by way of sending pay advice slip. After deposit the petitioner is entitled to withdraw her award amount along with accrued interest and costs.

5. that the Advocate Fee is fixed as Rs. **1,000** /-

6. that the 2<sup>nd</sup> respondent is directed to pay a sum of Rs. **1,392.50** as being the cost to the petitioner as tabulated herein.

Bank Particulars:

Petitioner Name : Parameswari (Aadhar No.4356 2589 9399)

Indian Bank Account No : 6495235399

IFSC Code : IDIB000S062

Indian Bank, Singarapettai Branch

Other Necessary Particulars:

Date of Petition	:	06.02.2020
Date of Award	:	01.04.2022
Amount of Compensation claimed is	:	Rs.1,00,000/-
Amount of Compensation is awarded by this Tribunal is	:	Rs. 25,000/-
Court Fee payable for the said amount is	:	--
Court Fee already paid	:	Rs. 375/-
Balance court fee to be paid	:	--

Cost List for the Petitioner

Particulars	Petitioner side	Respondents side
Court fees	Rs. 372.50	
Vakalath Nama Stamp	Rs. 10.00	
Process fee	Rs. 10.00	
Advocate fee	Rs. 1,000.00	
Total	Rs. 1,392.50	

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(Cost List filed by the petitioner side)

In pursuance of the direction of the Hon'ble High Court of Madras dated 12.05.2020 and for the said compliance, both side Counsels are entitled to receive Free Award Copies from today within 15 days. And further it is ordered to receive the Free Award Copies, both side Counsels are directed to file a Memo in this regard before this Court from the date of passing award within 15 days. And further it is ordered as per the direction of the Hon'ble High Court, Madras, this Court is not insisting on parties filing of Copy Applications for the purpose of receiving their respective Free Copies of Award. And further it is informed, as per the direction of the Hon'ble 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.

Dictated by me to the Steno-typist, directly typed by her on the computer, corrected and pronounced by me in open court on this 01<sup>st</sup> day of April 2022.

Subordinate Judge,  
(MACT),  
Uthangarai.

**Petitioner's side Witness:-**

PW1 .. Parameswari (Petitioner)

**Respondents side Witness**

NIL

**Petitioner side Exhibits**

1. Ex. P1 .. On line copy of FIR
2. Ex. P2 .. On line copy of Accident Register with wound certificate
3. Ex. P3 .. On line copy of Rc book of 1<sup>st</sup> respondent's vehicle
4. Ex. P4 .. On line copy of insurance policy of 1<sup>st</sup> respondent's vehicle
5. Ex. P5 .. Xerox copy of rough sketch
6. Ex. P6 .. On line copy of charge sheet
7. Ex. P7 .. On line copy of MVI report of 1<sup>st</sup> respondent's vehicle
8. Ex. P8 .. On line copy of driving license of driver of 1<sup>st</sup> respondent's vehicle
9. Ex. P9 .. Self Attested copy of the Petitioner's Aadhar card
10. Ex.P10 .. Xerox copy of petitioner's bank pass book 1<sup>st</sup> page

**Documentary evidence of the Respondents side**

NIL

Subordinate Judge,  
(MACT),  
Uthangarai.