

Date of presentation: 11.02.2020

Date of filing : 12.02.2020

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
SUBORDINATE JUDGE, UTHANGARAI

Present : Thiru. M. Ashfaq Ahamed, B.A., B.L.,
Subordinate Judge, Uthangarai

Thursday, the 23rd day of June 2022

MCOP.52/2020

CNR: TNKI-11000113-2020

1.	Name and address of the Claimant(s)	Meenatchi W/o. Krishnan No.124, Kommampattu, Govindapuram, Uthangarai Taluk, Krishnagiri District.
2.	Name and address of respondent(s)	1. S.Naveen Kumar, S/o. Sanjeevan, No.1/104, Kilayapuram, Mampatty post, Harur Taluk, Dharmapuri District. 2. Royal Sundaram General Insurance Company Ltd.,No.186/5, 3 rd Floor, Royal Towers, New Bus Stand Road, Meyyanur, Salem-636004.
3.	Date of filing of the claim petition	12.02.2020
4.	Date of award	23.06.2022
5.	Amount of award	Rs.35,000.00
6.	Costs allowed	Rs.2080.00
7.	Court Fee for award amount	Rs.72.50
8.	Court Fee paid	Rs.375
9.	Balance of court fee to be refunded	302.50
10.	ORDER	As per the direction of the Hon'ble High Court, Madras in Tr.CMP. Nos.264 to 281 of 2020 M/s. Cholamandalam MS Genl. Ins. Co. Ltd., Vs.

		Mr. Ayyannar S. and others dated 11.05.2020 , no separate decretal order will be drafted.
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This petition came up before this tribunal for final hearing on 23.06.2022 in the presence of Tr.R.Selvakumaran, Counsel for the petitioner and the 1st respondent set exparte and 2nd respondent also set exparte and on hearing the Arguments of the petitioner and upon perusal of the entire case records and this petition having stood over for consideration till this day, the tribunal delivered the following order.

ORDER

1. This petition is filed by the petitioner under section 166 of the MV Act r/w.Rule 3 of M.A.C.T rules claiming compensation of Rs.1,00,000/- for the injuries caused to her in the road accident on 30.10.2019.

2. The brief avernments of the petition:

On 30.10.2019 at about 10.15 hours when the petitioner was walking near the land of Kommampattu Krishnamoorthi, the car bearing registration number TN-29-BT-7695 driven by 1st respondent and insured with the 2nd respondent in a rash and negligent manner and dashed the petitioner and others and caused an accident. Due to the accident the petitioner sustained injuries on the left eye, chest and multiple injuries all over the body. The petitioner was taken to Government Hospital Uthangarai and there after Government Medical College Hospital, Dharmapuri and admitted as in patient on the same day and discharged on 02.11.2019.

The 1st respondent is responsible for the accident and the vehicle was duly insured with the 2nd respondent vide policy No.MIOD012889 with validity for the period 29.10.2019 to 28.10.2020 which covered the date of accident. The 1st respondent being the owner and the 2nd respondent the insurer of the car bearing registration No. TN-29-BT-7695 are vicariously and statutorily liable to pay compensation of Rs.1,00,000/- which is arrived at by apportioning different amounts under various heads to the petitioner. The petition is therefore filed.

3. The 1st respondent and the 2nd respondent remained exparte.

4. Points for consideration

- a) Whether the accident was due to the rash and negligent driving of the driver of the car bearing registration No. TN-29-BT-7695?
- b) Whether the petitioner is entitled to get any compensation?
- c) Who is liable to pay compensation?
- d) What is the quantum of compensation that the petitioner is entitled to?

5. To prove the case of the petitioner, she has examined herself as PW1 and Ex.P1 to P11 was marked.

6. The oral and documentary evidence produced in the case were perused and Arguments advanced on the side of the petitioner was heard.

7. **Point No.1**

a) The perusal of EX.P1 copy of the First Information Report lodged by Parameshwari PW1 shows that on 31.10.2019 at about 10.15hours the complainant parameshwari and others were returning to home due to rain after doing their agricultural Kooli work near Kommampattu Krishnamoorthi land the car owned and driven by the 1st respondent bearing registration number TN-29-BT-7695 driven by 1st respondent and insured with the 2nd respondent in a rash and negligent manner and dashed the petitioner and others and caused an accident. Due to the accident the petitioner sustained injuries on the left eye, chest and multiple injuries all over the body. The petitioner was taken to Government Hospital Uthangarai and there after Government Medical College Hospital, Dharmapuri and admitted as in patient on the same day and discharged on 02.11.2019. The copy of wound certificate produced by the petitioner under Ex.P2 and Discharge Summary as Ex.P3, evidence the injuries sustained by the petitioner in the accident. Ex.P7 is a final report filed against the driver of the car which shows the accident has happened due to the negligence of the driver of the car.

b) From these documents taken to consideration would establish that the accident was happened on account of rash and negligent driving of the car by its driver. There is no material to infer that the accident took place only due to the negligence of the petitioner.

c) In view of the above discussion this tribunal holds that the petitioner sustained injuries in the motor accident on account of the negligent driving of the car bearing registration No.TN-29-BT-7695 and the point is answered in affirmative.

8. **Point No.2**

It is evident from Ex.P1 to P3 that the petitioner sustained injuries in the motor accident. In Ex.P3 discharge summary issued by the Government Medical College Hospital, Dharmapuri and Wound certificate produced as EX.P2 it is clear the petitioner has taken treatment as inpatient from 30.10.2019 to 02.11.2019 for 3 days and she was diagnosed with simple injuries. Therefore the tribunal is of view that the petitioner is entitled to compensation and point is answered in favour of the petitioner.

9. **Point No.3**

As stated earlier the 1st respondent being the owner of the car TN29BT7695 and the 2nd respondent being the insurer have not chosen to appear before the tribunal and have not raised any defence. The petitioner in her petition has mentioned the particulars of the policy of the car and the same bears policy No.MIOD012889 with validity for the period 29.10.2019 to 28.10.2020 which covered the date of accident. No evidence contrary to that of the petitioner in this regard was placed by respondents so as to disbelieve the version of the petitioner. Hence this tribunal has no hesitation to conclude that the vehicle involved in the accident was insured with the 2nd respondent. As such the tribunal is of view the 1st and 2nd respondent are jointly and severally liable to pay the compensation as would be awarded by this

tribunal and that the 2nd respondent be directed to pay the compensation to the petitioner. The point is answered accordingly.

10. **Point No.4**

Though Ex.P2 accident register shows that the petitioner sustained injuries in the accident, there is no material to show that the petitioner suffered any disability on account of such injuries. The petitioner has not produced any medical bills or evidence indicating the injuries sustained by the petitioner are grievous in nature. Therefore this tribunal conclude that the injuries sustained by the petitioner are simple in nature. In this view of the matter this tribunal feels that a lumpsum award of Rs.35,000/- (Rupees Thirty Five Thousand only) may be awarded as compensation towards simple injury.

In fine, the petitioner is entitled to a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) as just and fair compensation and the point is answered accordingly.

11. Pursuant to the directions of the Hon'ble High Court of Madras in CMA.No.428/2016 dated 11.03.2016 reported in 2016 (1) TNMAC 433 (DB) the petitioner has produced the attested copy of the 1st page of her bank passbook and the xerox of the Aadhar card.

12. In the result, the petition is allowed with proportionate cost against the respondents 1 and 2, awarding the compensation of Rs.35,000/- (Rupees Thirty Five Thousand only) including interim award passed if any, payable with interest at 7.5% per annum from the date of numbering of the petition i.e. 12.02.2020 till the date of realization. **The 2nd respondent is liable to deposit the said compensation amount to the credit of the bank account of this tribunal, Subordinate Judge (MCOP) Subordinate Court, Uthangarai maintained at State Bank of India, Uthangarai branch A/c.No.36955421971, IFSC code No.SBIN0007495, MICR No.635002010,**

directly by NEFT or RTGS mode within a period of two months from date of this order and intimate the said deposit details to this tribunal with a copy of the bank advice. No interest is awarded for the period when the petitioner defaulted, as per orders if any. After such deposit by the 2nd respondent the compensation amount shall be deposited in the petitioners bank account. The particulars of the petitioners bank account, Aadhar card and PAN card details are furnished below.

Petitioner Name	Bank Name and Branch	Bank Account details and IFSC code	Aadhar Card No.	PAN Card No.
Meenatchi	Pallavan Grama Bank, Periyathallapadi Branch	A/c.No. 93327619 IFSC: Not mentioned	477949572899	FRPPK6661C

Court fee paid along with this petition is Rs.375/-. Court fee for the award amount is Rs.72.50. The Advocate fee is fixed at Rs.1500/-. A free copy of the award shall also be delivered to the parties on request within 15 days as per section 168(2) of the MV Act and Rule 20(6) of the Rules. The petitioner is entitled for refund of excess court fee paid on the petition.

Order directly dictated to the Typist and typed by her in computer and taken print out and after rectification of mistake, Pronounced by me in open court, this the 23rd day of June 2022.

Details of cost

Sl. No	Cost statement on petitioner side	Amount Rs. P.
1.	Stamp on petition	372.50
2.	Vakalath	10.00
3.	Advocate Fees	1500.00
4.	Application charge	20.00
5.	Process fees	22.50
6.	Stamp on documents	55.00
7.	Typing charges	100.00
	Total	2080.00

AppendixPetitioner side witnesses:

PW1 - Tmt. Meenatchi, Petitioner

Petitioner's side Exhibits:

Ex.P1	First Information report	Online copy
Ex.P2	Accident Register	Online copy
Ex.P3	Discharge summary	Original
Ex.P4	Registration certificate of the vehicle TN 29-BT-7695	Online copy
Ex.P5	Insurance policy of the vehicle TN-29-bt-7695	Online copy
Ex.P6	Rough sketch	Online copy
Ex.P7	Charge Sheet	Online copy
Ex.P8	M.V.I report of the vehicle TN-29-BT-7695	Online copy
Ex.P9	Driver driving license of the vehicle TN-29-BT-7695	Online copy
Ex.P10	Aadhar card	Xerox copy
Ex.P11	1 st page of the bank pass book	Xerox copy

Respondent's side witnesses - NilRespondent's side Exhibits:- - Nil