BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, NAGERCOIL.
(In the Court of the Special Judge for Forest Offence Cases, Nagercoil)

PRESENT : Tmt. C.Kalaiyarasi Reena, M.L.,
Tribunal Judge/Special Judge.

Thursday, the 21st day of May, 2026.

M.C.O.P.No. 106 of 2025

Sujin ..... Petitioner

-Vs.-

1. Berkmans
2. Chola M.S. General Insurance Company Limited,
   Rep.,by its Branch Manager, Thirunelveli.
3. Vijila
4. Chola M.S. General Insurance Company Limited,
   Rep.,by its Branch Manager, Nagercoil. ..... Respondents

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This petition came before this Tribunal on 13.05.2026 for final hearing in the presence of Thiru.Raveendran, Advocate for the petitioner, Thiru.Subash, Advocate for the 1st respondent, Thiru.Anukumar, Advocate for the 2nd and 4th respondents, 3rd respondent remains exparte and upon hearing arguments of the both sides and perusing the relevant records and the same having stood over for consideration till this day, this Tribunal delivers the following :

O R D E R

This petition filed by the petitioner for claiming compensation for a sum of Rs.75,00,000/- with interest for the injuries sustained by him in the Motor accident, u/s.166 (a) of the Motor Vehicles Act and Rule 24 of the Tamil Nadu Motor Accident Claims Tribunal Rules, 1989.

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1. The Petition averments in brief :

(i). On 20.1.2025 at about 3.30 p.m., when the petitioner and his friend Sahaya Sijan were traveling in the two wheeler Hero Honda Deo bearing Reg.No. TN 75 AV 4260 from West to East, Muttom Lal Bakery Road to Muttom J.P.R. Harbour road, when they reached near by Suresh house at that time the 1st respondent rode the Suzuki Access motor cycle bearing Reg.No. TN-75-AS-6899 in the opposite direction. The 1st respondent drived in a rash and negligent manner and dashed into the petitioner's two wheeler and caused the accident. Due to the rash and negligent driving of the 1st respondent, the petitioner and the pillion rider sustained severe injuries. Immediately the petitioner was taken to the Muttom KMMC Hospital, and he was shifted to Muthu Neuro Hospital in Chungankadai for treatment and admitted as inpatient from 20.1.2025 to 28.02.2025 and 29.4.2025 to 06.5.2025.

(ii). The petitioner was working as Fisher man in deep sea fishing and in a self employment earning a monthly income of Rs.45,000/- to Rs.50,000/-. Due to the accident the petitioner was put into severe pain and sufferings and unable to do the work and has a permanent disability. The Vellichanthai police had registered a case in Cr.No.13/2025 against the 1st respondent. This accident had occurred due to the rash and negligent driving of the 1st respondent who is the driver cum owner of motor cycle bearing Registration No.TN 75 AS 6899 and the 2nd respondent is the insurer of the above said offending vehicle, the 3rd respondent is the owner of the petitioner's driving vehicle and 4th respondent is the insurer of the 3rd respondent vehicle, hence they are jointly and severally liable to pay the compensation. Hence, the petitioner is claiming total compensation of Rs.75,00,000/- with interest from the respondents under various heads.

2. The Counter averments of the 1st respondent in brief :

The 1st respondent drived the motor cycle in careful manner and the petitioner drived his vehicle in rash and negligent manner and voluntary invited this accident. The injuries sustained by the petitioner are simple in nature and there is no permanent disability to petitioner. The damages claimed by the petitioner under various heads are much higher and petitioner not working as fisherman, hence the petitioner never earned as stated in the petition. Therefore, for his owner wrong the petitioner has no locus-standi to claim compensation from this respondent, hence, prays to dismiss the petition.

3. The Counter Averments of the 2nd and 4th respondents in brief :

The insurance policy issued by this respondent in favour of the insured is with the possession of the insured the 1st respondent. There is no negligence on the part of 1st respondent. In fact the accident happened due to the rash and negligent driving of the petitioner herein who was the rider of motorcycle bearing registration No.TN-75-AV-4260. The petitioner had no driving licence at the time of accident. The 3rd respondent is mother of petitioner. The 3rd respondent knowingly handed over to possession of the vehicle bearing registration No. TN-75-AV-4260 to petitioner. Hence, the petitioner is not entitled for any compensation from these respondents and prays for the dismissal of the same.

4. The 3rd respondent remains exparte in this case.

5. The points for consideration in this petition are as below :-

1. Whether the accident was caused due to rash and negligent driving of the driver of the Motor cycle bearing registration No. TN 75 AS 6899 ?

2. Who is liable to pay the compensation ?

3. Whether the petitioner is entitled for any compensation? If so, what is the quantum of the compensation that the petitioner is entitled to ?

6. On the petitioner side, the petitioner examined as P.W.1 and Ex.P1 to Ex.P24 marked. One Mariya Kishore examined as P.W.2. On the side of the respondents, no oral evidence was adduced and no documents were marked. On the side of the Court, Ex.C1 marked.

7. Point No.1 :

(i). To prove the case the petitioner has examined himself as P.W.1 and deposed evidence. On careful perusal of Ex.P1 the FIR reveals that on 20.1.2025 at about 3.30 p.m., when the petitioner and his friend Sahaya Sijan were traveling in the two wheeler Hero Honda Deo bearing Reg.No. 75 AV 4260 from West to East, Muttom Lal Bakery Road to Muttom J.P.R. Harbour road, when they reached near by Suresh house at that time the 1st respondent rode the Suzuki Access motor cycle bearing Reg.No. TN-75-AS-6899 in the opposite direction. Further it was stated that the 1st respondent drived in a rash and negligent manner which results in accident and the petitioner had sustained severe injuries.

(ii). On 2nd and 4th respondents side argued that, the accident had happened only due to the rash and negligent driving of the petitioner. On careful perusal of the Ex.P2, Ex.P3, Ex.P4 and Ex.P8, the Rough Sketch, Observation Mahazar, accident register and Final Report, it reveals that the accident occurred on the left side of the road from Muttom Lal Bakery Road to Muttom J.P.R. Harbour road. The petitioner came from Muttom Lal Bakery Road to Muttom J.P.R. Harbour road in the motor cycle drived by him and it was clearly stated that at that time the 1st respondent rode the Suzuki Access motor cycle bearing Reg.No. TN-75-AS-6899 in the opposite direction. The 1st respondent drived in a rash and negligent manner and dashed into the petitioner's two wheeler and hit by the vehicle. Further, on careful perusal of Ex.P2 rough sketch, the place of occurrence marked at the left side of the road. On careful perusal of Ex.P8 Final Report, in which it was clearly stated that the accident occurred due to the rash and negligent driving of 1st respondent and final report filed against him u/s. 281, 125(b) of BNS.

(iii). Considering the evidence of P.W.1 and Ex.P1 to Ex.P4 and Ex.P8, it clearly shows that the accident had taken place due to the rash and negligent driving of the 1st respondent and the petitioner had sustained grievous injuries due to the accident. Hence this tribunal holds that the accident was due to rash and negligent driving of the 1st respondent, who is driver of motor cycle bearing registration No. TN-75-AS-6899 and Point No.1 is answered accordingly.

<u>8. Point No. 2</u> :

(i). On the basis of the 2nd and 4th respondents arguments this tribunal carefully verified the Ex.P5 the MVI report of the vehicle drived by 1st respondent bearing registration No.TN-75-AS-6899 and found as follows :

“ 7. Particulars of Driving Licence if available – DL No: TN 74 20220000056 MCWG 05.01.2022 TN 74, valid up to 30.11.2031.

10. Date of expiry of Insurance Certificate and name and address of the Company which issued policy in respect of the vehicle : 25.06.2021 to 24.06.2026 Chola MS Gen.Insurance Co.Ltd Policy No:3397/0250361/000/00 ”

Further on careful perusal of the Insurance certificate of the 1st respondent vehicle Ex.P9, which clearly reveals that the vehicle drived by the 1st respondent bearing registration No. TN 75 AS 6899 got insured in the 2nd respondent insurance company and it is valid upto 24.06.2026.

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(ii). In view of the above Ex.P5 and Ex.P9, the MVI report of the 1st respondent motor cycle and Insurance copy of 1st respondent reveals that, 1st respondent had a valid driving licence and valid insurance policy at the time of the accident and there is no policy violations. Considering the evidence of P.W.1 and Ex.P1 to Ex.P4 and Ex.P8 and Ex.P9, the accident had taken place due to the rash and negligent driving of the 1st respondent and the petitioner had sustained grievous injuries due to the accident.

(iii). The petitioner had claimed that the 2nd respondent is the insurer of the above said offending vehicle, the 3rd respondent is the owner of the petitioner's driving vehicle and 4th respondent is the insurer of the 3rd respondent vehicle at the time of accident. The 2nd and 4th respondents has not produced any oral or documentary evidence to prove that, the 1st respondent has violated the terms and conditions of the policy. Hence, this tribunal holds that at the time of the accident there was an insurance coverage. Therefore, being the insurer of the 1st respondent's vehicle, the 2nd respondent is liable to pay the compensation to the petitioner and the Point No.2 is answered accordingly.

<u>8. Point No. 3</u> :

i). Considering the Ex.P7 wound certificate of petitioner issued by Muthu Neuro Centre, Chungankadai, Nagercoil and Ex.P16 Discharge summary of petitioner issued by Muthu Neuro Centre, Chungankadai, Nagercoil it reveals that, this petitioner was an inpatient from 20.1.2025 to 28.2.2025 and 29.04.2025 to 06.05.2025 and had taken treatment for the following injuries sustained by him.

1. Lacerated wound right frontal region with bone and brain materials exposed (20x4 cm) (30 clips)
2. Comminuted displaced fracture right frontoparietal bone

3. Right temporal bone fracture
4. Right frontal SDH
5. Multi focal hemorrhagic contusion in right frontal lobe.
6. Fracture involving entire right roof of orbit
7. Mild depressed fracture in right zygomatic arch
8. Right maxillary sinus fracture
9. Right sphenoid bone fracture.

ii). Further due to the injuries on careful perusal of Ex.P16 discharge summary the petitioner undergone three surgeries as follows:-

1. On 26.1.2025 – RIGHT FRONTOTEMPOROPARIETAL DECOMPRESSIVE CRANIECTOMY + EVACUATION OF SDH + LAX DUROPLASTY.

2. On 27.1.2025 – ENDOSCOPIC CSF LEAK REPAIR (RIGHT SPHENOIDAL LEAK)

3. On 01.05.2025 – TITANIUM MESH CRANIOPLASTY.

iii). Pending enquiry as per the order of the Hon'ble High Court in TATA AIG General Insurance -vs- Prabhu, the petitioner was referred to medical board and the medical board submitted disability certificate Ex.C1 stating that the petitioner had sustained 50 % of permanent disability.

iv). On perusal of Ex.P16 discharge summary, Ex.C1 disability certificate in the evidence of P.W.1, this Tribunal came to know that the petitioner has sustained grievous head injuries due to the accident and took treatment, hence this Tribunal holds that he is entitled to get the compensation. Further on careful perusal of Ex.C1 disability certificate of petitioner stated as follows:

"**Ex.C1 – Final Decision : Nature of disability : Permanent**

Percentage of disability : 50% (Fifty)" v). At this juncture the learned counsel appearing for the petitioner argued that, petitioner sustained severe head injuries and undergone three surgeries and the petitioner is entitled for reasonable compensation and submitted the authority reported in **2023 (1) TN MAC 135 (DB)** *of the* ***Honourable High Court of Madras*** *in Sathish Kumar Vs. P.N.Thangavel* in which it was held that as injured suffered severe head injuries the Tribunal granted the compensation on the basis of applying multiplier method. Further submitted the authority reported in **2024 (1) TN MAC 525** *of the* ***Honourable High Court of Madras*** *in Reliance General Insurance Co. Ltd., Vs. M. Karthick and other* in which it was held that the Tribunal was right in awarding compensation by fixing disability at 50% as the injured disabled from doing is earlier fitter work and there in no fault in applying the multiplier method for calculation of the compensation.

vi). Considering the above authorities and head injuries sustained by the petitioner wants to fix a reasonable disability percentage and thereby fixing the disability as 50% permanent as per the medical board disability certificate Ex.C1, being no fault on his part, the petitioner had sustained injuries in the accident. Therefore, this Tribunal holds that he is entitled to get compensation.

vii). It has been decided by the Tribunal that the disability is 50%, considering the age of the injured petitioner, nature of head injuries sustained by the petitioner, this Tribunal intends to apply multiplier method, for the reason thereof, it is very difficult for him to continue his avocation and to do his normal routine work. Hence, multiplier method is applied.

<u>(a) Permanent Disability / Functional Disability</u>

(i). **<u>Age</u>**:- On careful perusal of Ex.P22 Birth certificate of petitioner and Ex.P23 Transfer certificate of petitioner, reveals that the petitioner born on 27.6.2003. Hence this Tribunal fixed his age as **21 years** at the time of accident.

ii). Further on petitioner side the employer of petitioner examined as P.W.2. On careful perusal of evidence of P.W.2, he deposed in his evidence that petitioner was working as fisher man in his boat and petitioner is earning monthly income of Rs.45,000/- per month. Further the Ex.P20 Mutton Fisherman Sangam membership card of petitioner and Ex.P21 Identity card of petitioner issued by Mutton Fisherman Sangam shows that petitioner was working as fisherman before the accident. But, no documents filed on petitioner's side to show the exact income earned by the petitioner. Hence this Tribunal as per the order reported in **2025 (1) TN MAC 10** *of the **Honourable High Court of Madras** in Manager, Cholamandalam MS General Insurance Co.Ltd., Vs. T.Maheswari and others,* fixed the notional income of Rs.15,000/-per month. Hence, **monthly income of the petitioner = Rs.15,000/-**
Proper multiplier for the petitioner's age as per Sarala Varma case is **18.**

The Permanent functional disability is assessed as follows :

Rs.15,000/- X 12 X 50 /100 X 18 = Rs.16,20,000 /-

The petitioner is entitled for a sum of **Rs.16,20,000/-** towards the **permanent functional disability.**

<u>(b) Quantum</u> :

The petitioner had sustained grievous injuries due to the accident, he had undergone 3 surgeries and under treatment for a considerable period. The petitioner must have suffered a lot due to the grievous injuries. Considering the nature of injuries sustained by the petitioner and the period of treatment, this Tribunal is inclined to award a sum of **Rs.60,000/-** towards Pain and Sufferings, **Rs.10,000/-** towards Transportation, **Rs.20,000/-** towards Extra Nourishment, **Rs.5,000/-** towards Loss of cloth and property and **Rs.32,000/-** towards Attender Charges (Since the petitioner had sustained severe head injuries, obviously someone has to attend him atleast for 4 months).

(c) Medical Expenses :

The petitioner had taken treatment from the private hospital and have incurred medical expenses for the treatment taken by him and produced Ex.P11 to Ex.P15, Ex.P24 and medical bill dated 29.5.2025. As per Ex.P11, **Rs.31,600/-** is medical expenses. As per Ex.P12, **Rs.7,23,621/-** is medical expenses. The Ex.P13 is the IP prescriptions receipt of petitioner total of 67 numbers. The receipts submitted in Ex.P13 is already mentioned in medical bills submitted in Ex.P12 Bill numbers 7, 11, 12, 13, 14, 16, 17, 18, 20 and 21 as IP advanced receipts. Hence Ex.P13 could not be taken into account for calculation of medical expenses. As per Ex.P14, **Rs.3,63,636/-** is medical expenses. As per Ex.P15, **Rs.48,290/-** is medical expenses. As per Ex.P24, **Rs.2,436/-** is medical expenses. As per medical bill dated 29.5.2025, **Rs.2,498/-** is medical expenses. As per the above exhibits, **Rs. 11,72,081/-** is awarded towards medical expenses. Further on careful perusal of medical bills totally of 3 numbers dated 29.5.2025, it was stated that next review for the petitioner is on 28.6.2025 which shows that petitioner is taking continuous treatment for his severe head injuries. Hence this Tribunal holds that the petitioner entitled for future medical expenses of **Rs.20,000/-**.

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9. In the result, the compensation is awarded as below :

			Rs.P.
1.	Disability	:	16,20,000.00
2.	Pain and Sufferings	:	60,000.00
3.	Transportation	:	10,000.00
4.	Extra Nourishment	:	20,000.00
5.	Loss of cloth and property	:	5,000.00
6.	Attender Charges	:	32,000.00
7.	Medical Expenses		11,72,081.00
8.	Future Medical Expenses	:	20,000.00 ---------------
	Total	:	29,39,081.00

The total amount of compensation is **Rs. 29,39,081/-.**

Further on careful perusal of Ex.P6 MVI Report of vehicle drived by petitioner bearing registration No. TN 75 AV 4260 it was mentioned that petitioner not produced the driving licence. Petitioner/P.W.1 also admitted in his evidence that he have no driving licence to drove the motor vehicle. Hence from the total amount of the compensation 10% amount to be deducted. Hence, **Rs. 29,39,081 – Rs.2,93,908 = Rs.26,45,173.**

In total the injured petitioner is entitled to a sum of **Rs.26,45,173 /-** as just and fair compensation and Point No.3 is answered accordingly.

10. (a). **In the result, this petition is partly allowed.** The 2nd respondent is directed to pay to the petitioner a sum of **Rs. Rs.26,45,173/-** (Rupees Twenty Six lakhs fourty five thousand one hundred and seventy three only) (including interim award passed if any) with future interest at 7.5% per annum from the date of numbering of the petition i.e. on 18.06.2025 till the date of realization and with cost. The petitioner is not entitled to interest for the default period if any.

(b). As the insurer of the 1st respondent's vehicle, the 2nd respondent is directed to deposit the said compensation amount to the credit of the Bank account of this Claims Tribunal bearing **Indian Bank, Nagercoil M.A.C.T. Account No. 6473279310, IFSC code IDIB000N006 directly by RTGS/NEFT** mode within a period of 30 days from the date of this order and intimate the said deposit details to this Tribunal with a copy of the said Bank advise or the same to be informed to this Tribunal through e mail address **kkm.scforest-tn@indiancourts.nic.in**.

(c). On such deposit, the award amount should be deposited in a nationalized bank for a period of 3 years.

(d). The petitioner is directed to pay the court fee of **Rs.25,824/-** for the award amount within 2 weeks from the date of the order. The Advocate fee is fixed at **Rs.33,452**. The petitioner is entitled for decree only after payment of the court fee.

Directly dictated to the steno-typist, typed by her, corrected and pronounced by me in the open court on this the **21st day of May, 2026.**

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Motor Accident Claims Tribunal Judge/
Special Judge,
Nagercoil.

<u>List of witnesses on the petitioner side</u> :

P.W.1	:	Sujin (Petitioner)
P.W.2	:	Mariya Kishore

<u>List of exhibits on the petitioner side</u> :

Ex.P1	-	Copy of FIR in Cr.No.13/2025 in Vellichanthai Police Station u/s. 281, 125(a) of BNS.
Ex.P2	-	Rough Sketch of case in Cr.No.13/2025 in Vellichanthai Police Station u/s. 281, 125(a) of BNS.
Ex.P3	-	Observation Mahazar of case in Cr.No.13/2025 in Vellichanthai Police Station u/s. 281, 125(a) of BNS.
Ex.P4	-	Accident Register of petitioner.
Ex.P5	-	Copy of MVI report of vehicle bearing Registration No.TN-75-AS-6899.
Ex.P6	-	Copy of MVI report of vehicle bearing Registration No.TN-74-AV-4260.
Ex.P7	-	Copy of Wound Certificate of petitioner.
Ex.P8	-	Final Report.
Ex.P9	-	Insurance Copy of the 1st respondent vehicle.
Ex.P10	-	Insurance Copy of the 3rd respondent's vehicle.
Ex.P11	-	Muthu Neuro Hospital Medical Bills of petitioner (Nos.43).
Ex.P12	-	Muthu Neuro Hospital Medical Bills of petitioner (Nos.49).
Ex.P13	-	Muthu Neuro Hospital IP prescriptions receipts of petitioner (Nos.67).
Ex.P14	-	Vanaja Pharmacy Medical Bills of petitioner (Nos.143).
Ex.P15	-	Lords Blood bank and scan centre Medical Bills of petitioner (Nos.18).
Ex.P16	-	Discharge Summary of petitioner .
Ex.P17	-	Compared with original copy of Aadhar card of petitioner.
Ex.P18	-	Compared with original copy of 1st page of Bank Saving Pass Book of petitioner.
Ex.P19	-	Certified copy of passport of petitioner.
Ex.P20	-	Attested copy of Muttom Fisherman Sangam Membership card of petitioner.

Ex.P21	-	Attested copy of Identity card of petitioner issued by Muttom Fisherman Sangam.
Ex.P22	-	Birth Certificate of petitioner.
Ex.P23	-	Transfer Certificate of petitioner.
Ex.P24	-	Medical Bills of petitioner.(3 Nos) dated 4.7.2025.

List of witnesses and Exhibits on the respondents side : Nil

List of exhibit on the Court side :

Ex.C.1 - Disability certificate of petitioner.

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