

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, KARUR

PRESENT: THIRU.N.S.JAYAPRAKASH.,B.Sc.,B.L.,

Chief Judicial Magistrate

Motor Accident Claims Tribunal

Tuesday, the 08th day of September 2026

M.C.O.P. No.126/2020

CNR NO.TNKR-02-000531-2020

Siva, Age 19/2020,

S/o.Durai,

No.43, High School road,

Paramathi Velur,

Pandamangalam,

Namakkal – 637 208.

..Petitioner.

//Vs//

1. Natesan,

S/o.Anandagounder,

No.29, Mottur,

Vellanayakkan palayam,

Edapadi Taluk,

Salem District.

2. The Manager,

M/s.United India Insurance Company Limited,

No.43 & 45 Thiru.V.Ka road,

(Thiruvalluvar Maithanam south side)

Karur – 639 01.

.. Respondents.

This original petition filed U/s.141 & 166 of Motor Vehicles Act, 1988 coming before me for final hearing in the presence of Thiru.N.Senthilkumar, learned counsel for the petitioner and 1st respondent remained exparte and Thiru.R.Jegan, learned counsel for the 2nd respondent and upon hearing the both side argument and on perusal of entire materials placed before me this Tribunal passed the following:-

ORDER

01. This petition was filed by the petitioner under sections 141 & 166 of Motor Vehicles Act, 1988 claiming Rs.10,00,000/- as compensation against the respondents together with interest and cost from the date of accident.

02. The averments of the Amended Petition in brief :-

On 17.11.2019, at about 5.30 p.m., the petitioner alongwith his friends Karikalan and Naveenkumar were proceeding in a two wheeler Pulsar bearing Reg.No.TN-88-V-0894. They were proceeding from north to south near Rangapalayam four road pirivu at Nallur to Kabilarmalai. One by Kabilan was riding the two wheeler and the petitioner and Naveenkumar were traveling as pillion riders. Whiles, a TATA 407 vehicle bearing Reg.No.TN-27-Y-3434 came in a rash and negligent manner and dashed on the petitioner's two wheeler. Due to the same, the petitioner sustained multiple grievous injuries all over his body. Immediately after the accident, the petitioner was taken to the Government Hospital, Paramathi Velur for first aid and then to the Raj Ortho Hospital, Karur and admitted as an inpatient. With regard to the accident, a case U/s.279, 337, 304(A) of IPC was registered at

Jedarpalayam Police Station in Crime Number.196/2019. The 1st respondent is the owner of the TATA 407 vehicle bearing Reg.No.TN-27-Y-3434. The said vehicle was insured with the 2nd respondent. Both respondents are jointly and severally liable to pay the compensation to the petitioner. The petitioner estimate his claim of compensation at Rs.10,00,000/-.Hence this petition.

03. The 1st respondent remain exparte. Petition u/s 170 MV Act was filed by the 2nd respondent and the same was allowed in I.A.No.06/2026, dated 21.07.2026. Hence, the 2nd respondent was permitted to contest the case claiming defence that ought to has been contended by the 1st respondent in the case.

04. The Brief contentions of the counter filed by the 2nd respondent as follows:-

The petition is false, frivolous and not maintainable either on law or on facts. It is false to state that on 17.11.2019, at about 5.30 p.m., the petitioner alongwith his friends Karikalan and Naveenkumar were proceeding in a Pulsar bearing Reg.No.TN-88-V-0894, they were proceeding from north to south near Rangapalayam four road pirivu at Nallur to Kabilarmalai, one by Kabilan was riding the two wheeler and the petitioner and Naveenkumar were traveling as a pillion rider. It is false to state that a TATA 407 vehicle bearing Reg.No.TN-27-Y-3434 came in a rash and negligent manner and dashed on the petitioner's two wheeler and the petitioner sustained multiple grievous injuries all over his body. It is further false that immediately after the accident, the petitioner was taken to the Government Hospital, Paramathi Velur

for first aid and then to the Raj Ortho Hospital, Karur and admitted as an inpatient. The age, occupation and monthly income of the petitioner as false. The manner of accident stated in the petition is false. The details of injuries, period of treatment, Medical expenditure and disability mentioned in the petition are false. The avocation of the petitioner stated in the petition and the income are false. The petition has no merits and liable to be dismissed.

05.The points for consideration:-

- 1) Whether the accident took place due to the rash and negligent driving of the driver TATA 407 vehicle bearing Reg.No.TN-27-Y-3434?
- 2) Whether the petitioner is entitled for compensation? if so, what is the quantum?
- 3) If the petitioner is entitled for compensation, who is responsible to pay the same?

06. On the petitioner's side, PW1 was examined and Ex.P1 to Ex.P8 were marked. On the side of 2nd Respondent no witnesses and no documents marked. The Disability Certificate was marked as Ex.C1.

07.POINT NO 1: -

7(1) In order to prove the claim, the petitioner was examined as PW1. He has stated that on 17.11.2019, at about 5.30 p.m., the petitioner alongwith his friends Karikalan and Naveenkumar were proceeding in a two wheeler Pulsar bearing Reg.No.TN-88-V-0894. They were proceeding from north to south near

Rangapalayam four road pirivu at Nallur to Kabilarmalai. One by Kabilan was riding the two wheeler and the petitioner and Naveenkumar were traveling as pillion riders. Whiles, a TATA 407 vehicle bearing Reg.No.TN-27-Y-3434 came in a rash and negligent manner and dashed on the petitioner's two wheeler. Due to the same, the petitioner sustained multiple grievous injuries all over his body. Immediately after the accident, the petitioner was taken to the Government Hospital, Paramathi Velur for first aid and then to the Raj Ortho Hospital, Karur and admitted as an inpatient. With regard to the accident, a case U/s.279, 337, 304(A) of IPC was registered at Jedarpalayam Police Station in Crime Number.196/2019.

7(2) The petitioner examined as PW1 has stated that himself, alongwith his friends Karikalan and Naveenkumar were proceeding in a Pulsar bearing Reg.No.TN-88-V-0894, they were proceeding from north to south near Rangapalayam four road pirivu at Nallur to Kabilarmalai, one by Kabilan was riding the two wheeler and the petitioner and Naveenkumar were traveling as a pillion rider and the TATA 407 vehicle bearing Reg.No.TN-27-Y-3434 came in a rash and negligent manner and dashed on his vehicle and caused the accident. PW1 has spoken about the manner of the accident and attributed negligence on the part of the TATA 407s driver. The 2nd respondent stated in the counter that the two wheeler was negligent and only due to the same, the accident occurred. **At this juncture it is pertinent to read the judgment of *Hon'ble High Court, Madras in 2014 (1) TNMAC 156 - Muthu Vs The Managing director, TNSTC*.** In the said judgment it

was held that the tribunal is bound to determine whose negligence is the cause of the accident and the same may be determined on the basis of preponderance of probability. It was further held that the standard of proof doesn't require proof beyond reasonable doubt.

7(3) In this case, the petitioner has stated that himself, alongwith his friends Karikalan and Naveenkumar were proceeding in a Pulsar bearing Reg.No.TN-88-V-0894, they were proceeding from north to south near Rangapalayam four road pirivu at Nallur to Kabilarmalai, one by Kabilan was riding the two wheeler and the petitioner and Naveenkumar were traveling as a pillion rider and the TATA 407 vehicle bearing Reg.No.TN-27-Y-3434 came in a rash and negligent manner and caused the accident. If the vehicle was driven carefully, the accident could have been thwarted. Per contra, the 2nd respondent had contended that the accident occurred by the contributory negligence of the petitioner. Here, the 2nd respondent attributes the negligence on the part of the petitioner. At this juncture, this tribunal rely on the judgment of *Hon'ble Apex Court in 2014(1) TNMAC 456 Meeradevi and Another Vs HRTC and others*, in which, it was held that when the 2nd respondent attributes negligence on the part of the petitioner, the 2nd respondent is bound to prove the same by substantial evidence. As stated in the said judgment, the 2nd respondent is bound to prove the negligence of the petitioner by substantial evidence. No eye witness was examined by the 2nd respondent to prove the negligence of the petitioner, whereas, the petitioner had proved his case by probable evidence. The standard of proof to

establish the negligence is lesser than preponderance of probability. The petitioner established his case by probable evidence. Therefore, it is concluded that the accident took place only due to the rash and negligent driving of the driver of the TATA 407 vehicle bearing Reg.No.TN-27-Y-3434. This point is answered accordingly.

08.POINT NO.2:

8(1) The petitioner had marked Ex.P1 to Ex.P8. The FIR in Crime No.196/2019 of Jedarpalayam Police Station is Ex.P1. The petitioner had sustained injuries could be seen from the Wound Certificate Ex.P2 and Discharge Summary Ex.P6. It is proved that the petitioner sustained injuries due to the accident caused by the owner of the TATA 407 vehicle bearing Reg.No.TN-27-Y-3434. Hence, the petitioner is entitled for compensation.

8(2) The petitioner has claimed **Rs.10,00,000/-** under various heads as compensation. The petitioner has contended that, due to the accident, he had suffered injuries and was permanently disabled. In order to prove the said fact, the petitioner has filed a memo to refer him to Medical Board for assessment of disability. The petitioner was referred to medical board and Doctors of the medical board had assessed the disability of the petitioner and given Ex.C1, the disability certificate. On perusal of Ex.C1, it is evident that the petitioner sustained injury. It is referred in the disability certificate that the percentage of disability is **17%**. The injury sustained by the petitioner is on the right femur, both bones right leg, Crush injury right foot. The

petitioner has stated that he is working as computer operator. But, the Disability is not established as Functional Disability. Hence, percentage method of calculation is adopted. As the disability is fixed at **17%**, by applying the principle laid down in the judgment of our Hon'ble High Court reported in ***CMA.No.114/2025, R.Thiyagarajan /vs/ Gunashree and another***, for each percentage of disability, **Rs.8,000/-** has to be awarded. Hence, for **17% disability, Rs.1,36,000/- (17x Rs.8,000/-) is awarded.**

8(3) On perusal of Ex.C1 the disability certificate, it seems that the petitioner has sustained injury. Considering the said fact, for **Pain and Sufferings** undergone by the petitioner, **Rs.80,000/-** is awarded. Towards **Extra Nourishment** that would have been taken for speedy recovery, **Rs.10,000/-** is awarded. As the petitioner was hospitalized for period of two weeks, naturally, the petitioner would have been assisted by an attender. Towards the **Attender Charges Rs.10,000/-** is awarded. The petitioner claimed that he had incurred Transportation Charges. A sum of **Rs.5000/-** is awarded towards **Transportation Expenses**. Considering the injuries sustained by the petitioner, the petitioner will have to forgo certain amenities at present and in future. Hence a sum of **Rs.15,000/-** is awarded towards **Loss of Amenities**. The Petitioner has stated that he is working as computer operator and earning a sum of **Rs.10,000/-** per month. To prove the same the petitioner has not filed any documents to substantiate his claim. Since no document was filed towards proof of income, a notional income of **Rs.10,000/-** is fixed. The petitioner sustained injury which cause disability of **17%**. Due to such a percentage of disability, the petitioner would have

absented from his regular avocation for at-least **three months** after accident. Hence, **10,000 x 3 = Rs.30,000/-** is awarded towards **Loss of Income** during the period of suffering due to injury. The petitioner had marked Medical bills/Ex.P7 for Rs.2,34,386/-. All the bills are original. Hence, a sum of **Rs.2,34,386/-** is awarded towards **Medical Expenses**. With regard to the other claims made by the petitioner, no documents were filed.

8(4) In fine, this tribunal award the following amount towards the claim of the petitioner under the given heads.

1.	Towards Disability	Rs.	1,36,000/-
2.	Towards Pain & Suffering	Rs.	80,000/-
3.	Towards Extra nourishment	Rs.	10,000/-
4.	Towards Attender Charges	Rs.	10,000/-
5.	Towards Transportation Expenses	Rs.	5,000/-
6.	Towards Loss of amenities	Rs.	15,000/-
7.	Towards Loss of Income	Rs.	30,000/-
8.	Towards Medical Expenses	Rs.	2,34,386/-
	Total	Rs.	5,20,386/-

This point is answered Accordingly.

9. POINT NO.3:-

It is decided in Point No.1 that the accident took place only due to the rash and negligent driving of the owner-cum-driver of TATA 407 vehicle bearing Reg.No.TN-27-Y-3434. The 1st respondent is the owner of the vehicle and vicariously liable to compensate the petitioner. But, the TATA 407 vehicle bearing Reg.No.TN-27-Y-3434

was insured with the 2nd respondent. The Motor Vehicle Report was marked as Ex.P3. The insurance was valid from 08.01.2019 to 07.01.2020. The accident occurred on 17.11.2019. No violation of policy terms established. Therefore, the 2nd respondent is liable to indemnify the 1st respondent for the compensation awarded to the petitioner. This point is answered accordingly.

In the result, the petition is Partly with cost allowed as follows:-

1. The Petitioner is awarded **Rs.5,20,386/- (Rupees five Lakhs, twenty thousand, three hundred and eighty six Only)** together with interest at 7.5% per annum from the date of petition till the date of deposit.
2. The 2nd respondent shall pay a sum of **Rs.5,20,386/- (Rupees five Lakhs, twenty thousand, three hundred and eighty six Only)** with cost to the petitioner on behalf of the 1st respondent.
3. The award amount shall be deposited within one month from the date of order by NEFT/RTGS mode directly into the account standing in the name of the **CJMKRURMCOP12620 IFSC.No.IOBA0000738 Thanthonimalai** under intimation to this Tribunal by way of submitting pay advice slip.
4. The petitioner is hereby directed to furnish a copy of the first page of Bank pass book of himself, which compulsorily contain the photograph of the petitioner duly attested by the bank concerned, self attested copy of the pan card if available, to this Tribunal, within a period of one month from today for the deposit of award amount in his bank account, failing which the petitioner is not entitled to withdraw the award amount.

5. The petitioner is permitted to withdraw the amount on deposit.
6. The Advocate fee is fixed at **Rs.23,704/-**
7. The petitioner shall pay the balance court fee of **Rs.4,204/-** within 15 days from the date of this order.
8. On such payment only the decretal order for the Petitioner shall be provided.

(Decree need not be drafted as per the dictum laid down by the Our Hon'ble High Court of Madras in M/s.Cholamandalam General Insurance Company Limited Vs Lakshmi Narayan)

COST LIST

Particulars	Allowed Rs.
Petition filed on	18.02.2020
Stamp on petition	
(i) Already paid	373.00
(ii) To be paid	4,204.00
(iii) Total	4,577.00
Stamp on Vakalath	10.00
Process Fee on Batta	36.00
Preparation Charges for Petition	100.00
Advocate Fee	23,704.00
Total	28,427.00

Dictated to Steno-Typist and directly typed by her in the computer and corrected and pronounced by me in the open Tribunal on this the **08th day of September 2026.**

**Chief Judicial Magistrate,
Karur.**

Petitioner side Witness:-

PW1 Thiru.Siva (Petitioner)

Petitioner's side Documents:-

Ex.P1 Copy of First Information Report
Ex.P2 Copy of Wound Certificate
Ex.P3 Copy of MVI Report of TN-27-Y-3434
Ex.P4 Copy of Rough Sketch
Ex.P5 Copy of Charge sheet
Ex.P6 Discharge Summary
Ex.P7 Medical bills (Rs.2,34,386/-)
Ex.P8 Copy of Adhar card

2nd Respondent's side Witnesses:- NIL

2nd Respondent's side Documents:- NIL

Document marked through Court:

Ex.C1 Disability Certificate issued by the Medical board Government Medical College Hospital, Karur to the petitioner.

**Chief Judicial Magistrate,
Karur.**