

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, KARUR

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

Chief Judicial Magistrate

Motor Accident Claims Tribunal

Monday, the 15th day of June 2026

M.C.O.P. No.261/2022

CNR No.TNKR-02-002436-2024

Moorthy, Age 52 years,
S/o.Vengudusamy,
Vandugar Street,
Illuppur Taluk,
Pudukkottai District -622 102 and
Now residing at
Veerarakkiyam,
Krishnarayapuram Taluk,
Karur District.

..Petitioner.

//Vs//

1. Prasanth,
S/o.Ravi,
Residing at
No.2/489, Koranattu Karuppur,
Natham, Kumbakonam Taluk,
Thanjavur District – 612 501.

2. The Branch Manager,
The Oriental Insurance Company Limited,
Gopalrao library building,
Townhall road,
Kumbakonam – 612 001.

.. Respondents.

This original petition filed U/s.166 of Motor Vehicles Act coming before me for final hearing in the presence of Thiru.T.Madhan, B.A., B.L., learned counsel for the petitioner and Thiru.Amarsri, M.B.A., L.L.B., learned counsel for the 1st respondent and Thiru.V.Ponnusamy, B.A., B.L., 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 166 of Motor Vehicles Act 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 petition in brief :-

On 13.01.2022, the petitioner was walking from west to east, at Karur to Trichy main road. At about 8.00 p.m., while the petitioner was proceeding near the Veerarakkiyam R.S. Medical, a two wheeler Hero Splendor bearing Registration No.TN-68-T-5784 came in a rash and negligent manner, in a high speed, without observing the road rules and dashed on the petitioner. Due to the same, the petitioner sustained grievous injuries all over the body. Immediately after the accident, the petitioner was taken to the Raj Ortho Hospital, Karur and admitted as inpatient. With regard to the accident, a case U/s 279, 337 of IPC was registered at Mayanoor Police Station in Crime Number.17/2022. The 1st respondent is the owner of the two wheeler Hero Splendor bearing Registration No.TN-68-T-5784. 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 Brief contentions of the counter filed by the 1st Respondent as follows:-

The petition is false, frivolous and not maintainable either on law or on facts. The 1st respondent sold his vehicle bearing Registration No.TN-68-T-5784 to one Gunasekaran, S/o.Ramasamy on 24.12.2021 and also obtained receipt from the purchaser. On the date of alleged accident the 1st respondent is not an owner of the said vehicle. The 1st respondent is an erstwhile owner of the vehicle was allegedly caused the accident. The purchaser of the vehicle is a proper and necessary party to the case. The petitioner ought to implead the present owner of the vehicle. The 1st respondent denied the each and every averments in the petition filed by the petitioner. The 1st respondent had taken package Policy No.480600/31/2022/159 from the 2nd respondent and the Insurance Policy was in force at the time of accident. The alleged driver and present owner of the vehicle namely Gunasekaran was having valid driving license to driven the vehicle at the time of accident. The age, occupation and monthly income of the petitioner are 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.

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 13.01.2022, the petitioner was walking from west to east, at Karur to Trichy main road, at about 8.00 p.m., near the Verarakkiyam R.S. Medical, a two wheeler Hero Splendor bearing Registration No.TN-68-T-5784 came in a rash and negligent manner, in a high speed, without observing the road rules and dashed on the petitioner. Due to the same, the petitioner sustained grievous injuries all over the body. Immediately after the accident, the petitioner was taken to the Raj Ortho Hospital, Karur and admitted as inpatient. The driver of the 1st respondent vehicle Hero Splendor bearing Registration No.TN-68-T-5784 had no driving license at the time of accident. The 1st respondent driver violated terms and conditions of the Insurance policy. The age, occupation and monthly income of the petitioner are all false and denied. The petitioner is put to strict proof of his earning. The petitioner was not permanently disabled. The compensation claimed is excess. Hence this petition is liable to be dismissed.

05.The points for consideration:-

- i) Whether the accident took place due to the rash and negligent driving of the driver of the two wheeler Hero Splendor bearing Registration No.TN-68-T-5784?
- ii) Whether the petitioner is entitled for compensation, if so, what is the quantum?
- iii) If the petitioner is entitled for compensation, who is responsible to pay the same?

06. On the petitioner's side, PW1 and PW2 were examined and Ex.P1 to Ex.P9 were marked. On the side of 2nd Respondent, RW1 and RW2 were examined Ex.X1 and Ex.X2 and Ex.R1 to Ex.R4 were marked. The Disability Certificate was marked as Ex.C1.

7.POINT NO 1:

7(1) In order to prove the claim, the petitioner was examined as PW1. He has stated that on 13.01.2022, the petitioner was walking from west to east, at Karur to Trichy main road. At about 8.00 p.m., while the petitioner was proceeding near the Veerarakkiyam R.S. Medical, a two wheeler Hero Splendor bearing Registration No.TN-68-T-5784 came in a rash and negligent manner, in a high speed, without observing the road rules and dashed on the petitioner. Due to the same, the petitioner sustained grievous injuries all over the body. Immediately after the accident, the petitioner was taken to the Raj Ortho Hospital, Karur and admitted as inpatient. With regard to the accident, a case U/s 279, 337 of IPC was registered at Mayanoor Police Station in Crime Number.17/2022.

7(2) The petitioner examined as PW1 has stated that he was walking from west to east, at Karur to Trichy main road and the Hero Splendor bearing Registration No.TN-68-T-5784 came in a rash and negligent manner with high speed and without observing the road rules and dashed on him and caused the accident. PW1 has spoken about the manner of the accident and attributed negligence on the part of the 1st

respondent. The 2nd respondent has stated in the counter that the averments stated in the petition are false and they are invented for the purpose of the petition. 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. Therefore, it is concluded that the accident took place only due to the rash and negligent driving of the the Hero Splendor bearing Registration No.TN-68-T-5784. This point is answered accordingly.

7(3) In this case, the petitioner has stated that he was walking from west to east, at Karur to Trichy main road and the Hero Splendor bearing Registration No.TN-68-T-5784 came in a rash and negligent manner and dashed on him causing accident. If the two wheeler was driven carefully, the accident could have been thwarted. Percontra, the 2nd respondent contended that the accident occurred when the petitioner carelessly attempting to cross the road without precaution. 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 the Hero Splendor bearing Registration No.TN-68-T-5784. This point is answered accordingly.

08.POINT NO.2:

8(1) The petitioner has marked Ex.P1 to Ex.P9. The FIR in Crime No.17/2022 is Ex.P1. It reveals that the Hero Splendor bearing Registration No.TN-68-T-5784 was involved in the accident. The petitioner had sustained injuries could be seen from the copy of Wound Certificate/Ex.P4 and Discharge summary marked as Ex.P6. It is proved that the petitioner sustained injuries due to the accident caused by the owner of the Hero Splendor bearing Registration No.TN-68-T-5784. Hence, the petitioner is entitled for compensation.

8(2) The petitioner has claimed **Rs.10,00,000/-** under various heads as compensation. The petitioner contended that, due to the accident, he had suffered injuries and have some disability. In order to prove the said fact, the petitioner has filed the 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 **29%**. The petitioner had examined Dr.Anbzhagan as PW2. He deposed that he had treated the petitioner on 13.01.2022 and again, the petitioner came to the hospital on 13.01.2026 for obtaining Disability Certificate. PW2 assessed the Disability of the petitioner and gave a Disability Certificate/Ex.P8 stating the Disability as **32%**. It is pertinent to note that already three doctors constituted as Medical board and assessed the Disability of the petitioner by giving proper calculation. But, PW2 has given Disability Certificate/Ex.P8 without giving valid calculation. Further, the Medical Board has been constituted based on the Judgment of Hon'ble High Court, Madras which has been made pan India by Hon'ble Supreme Court. The learned counsel for petitioner would argue that the petitioner's Disability has to be considered based on the Certificate issued by PW2. The same is not acceptable. Further, dissenting from the view of Medical Board constituted under the direction of Hon'ble Supreme Court and Hon'ble High Court, Madras is not fair on Medical ethics.

8(3)The injuries sustained by the petitioner he is on the left lower limb. On perusal of the Discharge Summary/Ex.P6, a "Open Reduction and Internal Fixation" was carried out with Nail and Screws. The post operative X-Ray in Ex.P9 reveals the fixation of Plate and Screw. The mobility of the petitioner is not restricted. After removal of the Internal fixation, the petitioner would be able to perform well.

Therefore, it is concluded that the disability is not a Functional Disability. Hence, percentage method of calculating award is adopted. As the disability is fixed at **28%**, by applying the principle laid down in the judgment of our *Hon'ble High Court reported in CMA No.3423/2024, dated 21.12.2024 Ramasamy Vs Arunkumar and two others*, for each percentage of disability, **Rs.10,000/-** has to be awarded. Hence, for **29%** disability, **Rs.2,90,000/- (29 x Rs.10,000/-)** is awarded.

8(4) 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.1,00,000/-** is awarded. Towards **Extra Nourishment** that would have been taken for speedy recovery, **Rs.15,000/-** 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.15,000/-** 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.20,000/-** is awarded towards **Loss of Amenities**. The Petitioner has stated that he is a Labour and earning a sum of **Rs.30,000/-** 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.12,000/-** is fixed. The petitioner sustained injury which cause disability of **29%**. Due to such a percentage of disability, the petitioner would have absented from his

regular avocation for at-least **three months** after accident. Hence, **12,000 x 3 = Rs.36,000/-** is awarded towards **Loss of Income** during the period of suffering due to injury. The petitioner has marked Medical bills for **Rs.1,11,400/-** as Ex.P7. The said amount is awarded towards **Medical Expenses**. The petitioner has to undergo a surgery for removal of Nail and Screw. Considering the approximate cost, a sum of **Rs.30,000/-** is awarded towards **Future Medical Expenses**. With regard to the other claims made by the petitioner, no documents were filed.

8(5) In fine, this tribunal award the following amount towards the claim of the petitioner under the given heads.

1.	Towards Disability	Rs. 2,90,000/-
2.	Towards Pain & Suffering	Rs. 1,00,000/-
3.	Towards Extra nourishment	Rs. 15,000/-
4.	Towards Attender Charges	Rs. 15,000/-
5.	Towards Transportation Expenses	Rs. 5,000/-
6.	Towards Loss of amenities	Rs. 20,000/-
7.	Towards Loss of Income	Rs. 36,000/-
8.	Towards Medical Expenses	Rs. 1,11,400/-
9.	Towards Future Medical Expenses	Rs. 30,000/-
	Total	Rs. 6,22,400/-

This point is answered Accordingly.

09. POINT NO.3:-

9(1) It is decided in Point No.1 that the accident took place only due to the rash and negligent driving of the 1st respondent's driver of Hero Splendor bearing Registration No.TN-68-T-5784. The 1st respondent contend that he had sold the

vehicle to another person even before the accident. But, the Registration Certificate still stands in the name of the 1st respondent. As the owner of the offending vehicle, the 1st respondent is vicariously liable to compensate the petitioner. However, the Motorcycle was insured with the 2nd respondent as could be seen from the MVI Report marked as Ex.P3. The Policy had been valid from 09.04.2021 to 08.04.2022. The accident occurred on 13.01.2022. The accident was covered by the insurance policy.

9(2) The 2nd respondent would contend that the Driver of the Hero Splendor bearing Registration No.TN-68-T-5784 had no valid driving license at the time of accident and the same amounts to violation of police terms. In order to establish the said contention, an official from Regional Transport Office, Kulithalai examined as RW1. RW1 deposed that Thiru.Gunasekaran, S/o.Ramasamy, Nerur. Vadapaham, Palaiyur Post, Karur, was not issued driving license. A notice was sent to the 1st respondent to produce the driving license the Hero Splendor bearing Registration No.TN-68-T-5784 two wheeler. A copy of notice was marked as Ex.R2 and the same issued by the 1st respondent as could be seen from the acknowledgment card/Ex.R3. The 2nd respondent has taken proper efforts to establish that the Hero Splendor bearing Registration No.TN-68-T-5784 two wheeler driver had no driving license at the time of accident. But, the 2nd respondent cannot disown its liability. On this aspect, it is pertinent to read the Judgment in ***CMA No.517 of 2025 The Branch Manager, ICICI Lombard General Insurance Company Limited Vs***

Mariyapushpam and two others dated 01.06.2026. In the said Judgment, it was held by Hon'ble High Court, Madras that the Insurance Company shall pay the compensation and recover the same from the owner. Applying the said dictum, it is concluded that the 2nd respondent Insurance Company shall pay the compensation to the petitioner and recover the same from the 1st respondent. This point is answered accordingly. Hence, the 2nd respondent is liable to indemnify the 1st respondent for the compensation awarded. This Point is answered accordingly.

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

1. The Petitioner is awarded **Rs.6,22,400/- (Rupees six lakhs, twenty two thousand, four hundred 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.6,22,400/- (Rupees six lakhs, twenty two thousand, four hundred only)** to the petitioner and recover the same from 1st respondent without filing any separate proceedings.
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 **CJMKRURMCOP26122 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, with in 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.4000/-

7. The petitioner shall pay the balance court fee of **Rs.5,224/-** within 15 days from the date of this order.

8. On such payment only the decretal order for the Petitioner shall be provided.

Dictated to Steno-Typist and directly typed by her in the computer and corrected and pronounced by me in the open Tribunal on **15th day of June 2026**.

**Chief Judicial Magistrate,
Karur.**

Petitioner's side Witnesses:-

PW1 Thiru.Moorthy (Petitioner)
PW2 Dr.Anbazhagan

Petitioner's side Documents:-

Ex.P1 Copy of First Information Report
Ex.P2 Copy of Charge sheet
Ex.P3 Copy of MVI Report of TN-68-T-5784
Ex.P4 Copy of Wound Certificate
Ex.P5 Copy of Adhar card of the petitioner
Ex.P6 Medical bills
Ex.P7 Medical bills
Ex.P8 Disability Certificate
Ex.P9 X-Ray

2nd Respondent's side Witnesses:-

RW1 Thiru.Ramasamy (Assistant of the Regional Transport Office, Kulithalai)

RW2 Thiru.Sekar (Assistant Manager of the Regional Transport Office, Kulithalai)

2nd Respondent's side Documents:-

Ex.X1 Authorization letter Insurance policy

Ex.X2 MVI Report of TN-68-T-5784

2nd Respondent's side Documents:-

Ex.R1 Insurance Certificate

Ex.R2 Advocate notice

Ex.R3 Acknowledgment card

Ex.R4 Returned Acknowledgment card

Documents marked through witness:- 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.**