

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, KARUR**

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

**Chief Judicial Magistrate**

**Motor Accident Claims Tribunal**

**Friday, the 10<sup>th</sup> day of April 2026**

**M.C.O.P. No.265/2024**

**CNR No.TNKR-02-004433-2024**

Natrayan, Age 60/2024,  
S/o.Kandasamy,  
No.2/145, Suriyampalayam,  
Karudapalayam,  
Karutaiyampalayam,  
Karur District – 639 111.

..Petitioner.

**//Vs//**

1.Dharmaraj,  
S/o.Murugesan,  
No.2/95, Enamputhur,  
Mathakiri,  
Trichy District – 621 313.

2. The Branch Manager,  
M/s.Solamandalam M.S General Insurance Company Limited,  
No.41, 2<sup>nd</sup> floor,  
TABS Complex, Bharathithasan road,  
Trichirapalli – 620 001.

.. Respondents.

**Policy No.3368/01383803/000/01**

**Period : 07.10.2022 to 06.10.2023**

This original petition filed U/s.166 of Motor Vehicles Act coming before me for final hearing in the presence of Thiru.K.Suresh, learned counsel for the petitioner and the 1<sup>st</sup> respondent remain exparte and Thiru.A.Nagarajan, learned counsel for the 2<sup>nd</sup> 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.50,00,000/- as compensation against the respondents together with interest and cost from the date of accident.

**02. The averments of the petition in brief :-**

On 09.08.2023, at about 7.15 p.m., the petitioner was proceeding in a two wheeler XL Super bearing Registration No.TN-47-W-2197 from south to north at Karur-Kovai road, to cross the Periyar nagar mud road. Whiles, a Swift Car bearing Reg.No.TN-45-CZ-3808 came in a rash and negligent manner and dashed on the petitioner's two wheeler. Due to the same, the petitioner sustained grievous injuries all over his body. Immediately after the accident, the petitioner was taken to the Amaravathi Hospital, Karur for first aid and then to the KMCH Hospital, Coimbatore and admitted as inpatient. With regard to the accident, a case U/s.279, 337 of IPC was registered at K.Paramathi Police Station in Cr.No.132/2023. The 1<sup>st</sup> respondent is the owner of the Swift Car bearing Reg.No.TN-45-CZ-3808. The said vehicle was insured with the 2<sup>nd</sup> respondent. Both respondents are jointly and severally liable to

pay the compensation to the petitioner. The petitioner estimate his claim of compensation at Rs.50,00,000/-. Hence this petition.

**03.** The 1<sup>st</sup> respondent remain exparte.

**04. The Brief contentions of the counter filed by the 2<sup>nd</sup> respondent as follows:-**

The petition is false, frivolous and not maintainable either on law or on facts. The driver of the 1<sup>st</sup> respondent Swift Car bearing Reg.No.TN-45-CZ-3808 had no driving license and badge at the time of accident. The 1<sup>st</sup> respondent driver violated terms and conditions of the Insurance policy. It is false to state that on 09.08.2023, at about 7.15 p.m., the petitioner was proceeding in a two wheeler XL Super bearing Registration No.TN-47-W-2197 from south to north at Karur-Kovai road, to cross the Periyar nagar mud road. Whiles, a Swift Car bearing Reg.No.TN-45-CZ-3808 came in a rash and negligent manner and dashed on the petitioner's two wheeler. Due to the same, the petitioner sustained grievous injuries all over his body. Immediately after the accident, the petitioner was taken to the Amaravathi Hospital, Karur for first aid and then to the KMCH Hospital, Coimbatore and admitted as inpatient. 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 Swift Car bearing Reg.No.TN-45-CZ-3808?
- 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 was examined and Ex.P1 to Ex.P8 were marked. On the side of 2<sup>nd</sup> Respondent no witnesses examined and no document 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 09.08.2023, at about 7.15 p.m., the petitioner was proceeding in a two wheeler XL Super bearing Registration No.TN-47-W-2197 from south to north at Karur-Kovai road, to cross the Periyar nagar mud road. Whiles, a Swift Car bearing Reg.No.TN-45-CZ-3808 came in a rash and negligent manner and dashed on the petitioner's two wheeler. Due to the same, the petitioner sustained grievous injuries all over his body. Immediately after the accident, the petitioner was taken to the Amaravathi Hospital, Karur for first aid and then to the KMCH Hospital, Coimbatore and admitted as inpatient. With regard to the accident, a case U/s.279, 337 of IPC was registered at K.Paramathi Police Station in Cr.No.132/2023.

7(2) The 2<sup>nd</sup> Respondent contended that only the petitioner rode his two wheeler without following the traffic rules and invited the accident. The Petitioner examined as PW1 and marked Ex.P1 to Ex.P8. The FIR marked as Ex.P1 reveals that the accident took place on 09.08.2023. The 2<sup>nd</sup> respondent has not denied the accident. Therefore, the occurrence is admitted. The Petitioner has stated that while he was riding his two wheeler, Car dashed on his vehicle in a rash and negligent manner. 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 he was proceeding in his two wheeler and Car came without showing signal and dashed on his two wheeler. Per contra, the 2<sup>nd</sup> respondent contended that only the petitioner had driven the two wheeler without noticing the Auto and invited the accident. Here, the 2<sup>nd</sup> respondent attributes 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 2<sup>nd</sup> respondent attributes negligence on the part of the petitioner, the 2<sup>nd</sup> respondent is bound to prove the same by substantial evidence. As stated in the said judgment, the 2<sup>nd</sup> respondent is

bound to prove the negligence of the petitioner by substantial evidence. No eye witness was examined by the 2<sup>nd</sup> respondent to prove the negligence on the part of the petitioner, whereas, the petitioner had proved his case by probable evidence. The 1<sup>st</sup> respondent is the owner. 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 Swift Car bearing Reg.No.TN-45-CZ-3808. 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.132/2023 of K.Paramathi Police Station is Ex.P1. The petitioner had sustained injuries could be found from the Wound certificate/Ex.P3 and Discharge summaries/Ex.P4 to Ex.P7. It is proved that the petitioner sustained injuries due to the accident caused by the owner of the Swift Car bearing Reg.No.TN-45-CZ-3808. Hence, the petitioner is entitled for compensation.

**8(2)** The petitioner has claimed Rs.50,00,000/- under various heads as compensation. The petitioner in his claim 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 **58%**. The disability has been noted as permanent impairment and not likely to improve. The injuries sustained by the petitioner are

1. Contusion over left temporal parietal region of size 2x3 cm
2. Left ear bleed
3. Laceration over left lower leg of size 6x2x0.5 cm
4. Laceration over left foot dorsal side of size 3x2x1 cm
5. Laceration over right middle of thigh of size 2x2x0.5 cm exposing muscles
6. Laceration over right lower leg of size 2x1x1 cm.

The Disability of the petitioner is **58%**, particularly on the left leg. The Disability is the whole body Disability. The petitioner cannot stand for long time. The petitioner has stated that he has been earning a sum of Rs.25,000/- per month as a Milk Vendor and Farmer. Considering the avocation of the petitioner, he cannot do the same work in future due to the disability. The disability is a functional disability. Therefore, it is necessary to invoke multiplier method to calculate the compensation.

**8(3)**The accident took place on 09.08.2023. The petitioner was diagnosed for disability certificate on 09.01.2026. The age of the petitioner is mentioned as 60 years in the disability certificate. Since, the date of accident was on 09.08.2023, the age of the petitioner is 57 years on the date of accident. Therefore, on the date of accident, the petitioner's age would be 57 years. The income of the petitioner is stated as Rs.25,000/- per month in the petition. No document was produced for the proof of employment. It is pertinent to read the judgment of Hon'ble High Court, Madras in

**CMA.No.1121/.2022 S. Raja /vs/ R. Munish and others.**

*“ In the absence of any materials, the Tribunal fixed a sum of Rs.10,000/-per month as notional income of the appellant. The accident is of the year 2018. The income so fixed is meagre. Considering the age and the date of accident, we are of the opinion that it would be just and proper to fix a sum of Rs.13,000/- per month as notional income of the appellant”.*

In this case, the accident took place on 09.08.2023. The age of the petitioner at the time of accident is 57 years. he Petitioner in the judgment discussed above was a business man. In this case, the petitioner was a Milk Vendor and Farmer. The income for the Milk Vendor and Farmer cannot be same when compared to a business man. Considering the age and avocation of the petitioner in this case, a notional income of Rs.12,000/- is fixed. The Annual income of the petitioner comes to Rs.12,000 x12=Rs.1,44,000/-.

**8(4)** The petitioner had lost his future earning capacity due to the accident. *Hon'ble Supreme Court in 2013 ACJ 1403 Rajesh and others - Vs - Rajbir Singh and others*, held that future prospects shall be included also for the injury cases. The petitioner's age being 57 years, and is future prospectus of 10% is added to the income. The income of the petitioner is fixed as Rs.12,000/-per month. The future prospects of 10% is Rs.1,200/-. The monthly income added with future prospects is Rs.12000+1200=Rs. 13,200/-. The annual income including future prospects is Rs.13,200x 12 = Rs. 1,58,400/-

**8(5)** The petitioner's age is fixed as 57 years. The multiplier stated by Hon'ble Supreme Court is adopted as per the Judgment in **2009(2) TNMAC 1 (SC) Smt.Sarala Varma and other/ versus/ Delhi Transport Corporation and another**. Considering the age of the petitioner as 57 years, the multiplier is fixed as 9.

**The Loss of functional Disability is calculated as follows:-**

Age	.. 57 years
Multiplier	.. 9
Monthly income including future prospects	.. Rs.13,200/-
Annual income including future prospects	.. Rs.1,58,400/-
Percentage of Disability	.. 58%
Loss of functional Disability	.. Rs. 1,58,400 X 9 X 58 / 100
<b>Total</b>	<b>.. Rs.8,26,848/-</b>

**8(6)** Considering the nature of injuries sustained by the petitioner, **Rs.1,00,000/-** is awarded towards **Pain and Sufferings**. Towards **Extra Nourishment**, **Rs.15,000/-** is awarded. The petitioner had been treated as inpatient. Hence, towards **Attender Charges Rs.15,000/-** is awarded.

**8(7)** 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**.

**8(8)** The petitioner claimed that he has incurred medical expenses. The petitioner had marked Ex.P8 for Rs.2,99,827/-. The petitioner was also treated as inpatient from 09.08.2023 to 11.08.2023 as found in the Discharge summary/Ex P4. Again the petitioner was treated as inpatient from 11.08.2023 to 13.09.2023 as found in discharge summary/Ex.P5. Again the petitioner was treated as inpatient from 13.09.2023 to 26.09.2023 as found in discharge summary/Ex.P6. Again the petitioner was treated as inpatient from 02.10.2023 to 05.10.2023 as found in discharge summary/Ex.P7. All the medical bills are originals. The entire sum of **Rs.2,99,827/-** is awarded towards **Medical Expenses**.

**8(9)** In fine, the amount awarded under different heads are totaled below:-

1.	Towards Loss of earning due to Disability	Rs. 8,26,848/-
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 Medical Expenses	Rs. 2,99,827/-
	<b>Total</b>	<b>Rs. 12,81,675/-</b>

This point is answered accordingly.

**09. POINT NO.3:-**

It is decided in Point No.1 that the Swift Car bearing Reg.No.TN-45-CZ-3808 was driven by its driver in a rash and negligent manner and caused the accident. The 1<sup>st</sup> respondent is the owner of the said vehicle. The vehicle was insured with the 2<sup>nd</sup> respondent and the period of validity was from 07.10.2022 to 06.10.2023. The accident took place on 09.08.2023. No violation established. Hence, the 2<sup>nd</sup> respondent is liable to indemnify the 1<sup>st</sup> respondent for the compensation payable to the petitioner. This point is answered accordingly.

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

1. The Petitioner is awarded **Rs.12,81,675/-(Rupees Twelve Lakhs, Eighty one thousand, six hundred seventy five only)** together with interest at 7.5% per annum from the date of petition till the date of deposit.
2. The 2<sup>nd</sup> respondent shall pay a sum of **Rs.12,81,675/-(Rupees Twelve Lakhs, Eighty one thousand, six hundred seventy five only)** to the petitioner on behalf of the 1<sup>st</sup> 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 **CJMKRURMCOP26524 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.11,817/-** 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 **10<sup>th</sup> day of April 2026.**

**Chief Judicial Magistrate,  
Karur.**

**Petitioner's side Witnesses:-**

PW1        Thiru.Natrayan (Petitioner)

**Petitioner's side Documents:-**

Ex.P1       Copy of First Information Report  
Ex.P2       Copy of Insurance Certificate  
Ex.P3       Copy of Wound Certificate  
Ex.P4       Discharge Summary - Original  
Ex.P5       Discharge Summary - Original  
Ex.P6       Discharge Summary - Original  
Ex.P7       Discharge Summary - Original  
Ex.P8       Medical bills (Rs.2,99,827/-)

**2<sup>nd</sup> Respondent's side Witnesses:-**        **NIL**

**2<sup>nd</sup> Respondent's side Documents:-**        **NIL**

**Document marked through Court:**

Ex.C1    Disability certificate issued by the Mahathma Gandhi Memorial Government Hospital, Tiruchirappalli-17 to the petitioner.

**Chief Judicial Magistrate,  
Karur.**