

Motor Accidents Claims Tribunal
In the Court of the Subordinate Judge, Keeranur
Present: Thiru.C. Rajesh, B.A, B.L.,
Subordinate Judge, Keeranur.

Wednesday, the 11th day of March 2026
2056 Thiruvalluvar Andu, Visuvavasu varudam Maasi thingal 27th day

Motor Accidents Claims Original Petition No.427 of 2023
(CNR NO.TNPD17-001127-2023)

1.	Name and Address of the Claimant(s)	:	1. Rajalakshmi, D/o. Jayakumar (Late), 2. Minor. Sangeetha, S/o. Jayakumar (Late), 3. Minor. Saravanan, S/o. Jayakumar (Late), 4. Kamalam, W/o. Kaliyamoorthy (R2 and R3 are Rep. by their mother and next friend 1st Respondent) All are residing at No.234/2, Kallar Street, Kalamavur Post, Kulathur Taluk, Pudukkottai District.
2.	Name and address of Respondent(s)	:	1. S. Murugesan, S/o. Samikkannu, No.19, Ramanujam Street, Kallukkuzhi, Trichy District - 620 020. 2. The Branch Manager, United India Insurance Company Ltd., Divisional Office - 1, No.4, Pramanedu Road, Trichy - 620 001. 1. Policy No.0905003117P107332323.
3.	Date of filing of the claim petition	:	13.12.2017
4.	Date of Award	:	11.03.2026
5.	Amount of Award	:	Rs.1,09,91,300/-
6.	Costs Allowed	:	Rs.2,26,243/-
7.	Court Fee for award amount	:	Rs.1,09,285/-

8.	Court Fee Paid	:	Rs.372.50
9.	Balance of Court fee to be paid	:	Rs.1,08,913/-
10.	ORDER	:	Partly Allowed

Date of Final Hearing	07.03.2026
Counsel for the Petitioner(s)	Mr. M. Venkatesakumar, B.A, B.L.,
Counsel for the Respondent(s)	1 st Respondent - Exparte 2 nd Respondent – Mr. S. Mahalingam, B.Sc., B.L.,

This petition was taken on file as MCOP.No.762/2017 on 13.12.2017 by the Hon'ble Principal District Court, Pudukkottai and transferred to the Hon'ble Additional District Court, Pudukkottai and then transferred to this Court as per the proceedings of the Hon'ble Principal District Judge, Pudukkottai in A.No.93/2023, dated 05.05.2023 and taken on file as MCOP.No.427/2023 on 11.08.2023.

ORDER

This petition has been filed under Section 140, 141, 142, 160, 160A, 163A, 163B, 166 and 182A of the Motor Vehicles Act, and 3(1) of the M.A.C.T., rules, by the dependents of the deceased Jayakumar, who sustained fatal injuries in a motor accident seeking compensation for Rs.1,50,00,000/-.

The brief averments of the petition as follows:-

1. The deceased Jayakumar was worked as a porter (OPTQ) at Southern Railway and drawn salary of Rs.40,000/-. On 09.10.2017 at about 8.30 p.m. the deceased Jayakumar was traveling in his Honda Shine two-wheeler bearing Reg.No.TN55-AU-4963 in Pudukkottai – Trichy National Highways in the extreme left side of the road. When he nearing Mookambigai Engineering College, at the time a TATA ACE Mini Lorry which belongs to the 1st Respondent bearing Reg.No.TN69-K-4919 driven by its driver in a rash and negligent manner and hit against the deceased

Jayakumar. Due to the accident the deceased Jayakumar was thrown out from the two-wheeler and sustained grievous injuries all over the body. Immediately he was taken through Highway Ambulance and brought to Government Hospital Trichy. Wherein the doctors have inspected the injured Jayakumar and declared his death. The above said accident was occurred only on the negligent driving by the 1st Respondent's driver. The 1st Respondent's vehicle was insured with the 2nd Respondent at the time of accident. Hence, the 1st respondent is the owner and the 2nd respondent as the insurer of the vehicle are jointly and vicariously liable to pay compensation to the petitioners with cost and interest as per M.V. Act.

The counter filed by the 2nd Respondent is as follows:

2. This petition is not maintainable. This Respondent denies the age, occupation and monthly income of the deceased. His income is exaggerated, speculative and not even supported by any documentary evidence. It is learnt from the petition the deceased was a Central Railway (OPTQ PORTOR) Govt. employee. But, it is not supported by pay certificate. Even if it is true, the family members will be the benefits and family pension, as per Govt. norms, if he was really a permanent employee. Moreover, one of his family members will get appointment on compassionate ground. Furthermore, income tax is also to be deducted. Moreover, the family members are eligible to get compensation for the balance service of years - loss of dependency - awarded by the applying service multiplier method alone. The mode and manner of accident narrated in the application is completely denied by this Respondent. The deceased had driven the two wheeler in a hectic speed without adhering traffic rules and had invited the incident voluntarily due to his own negligence. The petitioner had not impleaded the insured and insurer of two wheeler bearing registered No.TN55-AU-4963 (Honda Shine) as Respondents and hence this application is bad for non-joinder of necessary parties, since the two-wheeler rider alone is responsible for this accident. The two wheeler had no valid Registration certificate, policy and the rider had no valid driving license on the date of accident.

The two-wheeler rider was not wearing the helmet and invited the incident voluntarily due to his own negligence. On that count also, this Respondent is not responsible and liable to answer this claim petition. Hence, he pays to dismissal of this petition.

3. The point for consideration in this petition are as follows:-

- 1) Whether this accident has occurred due to the rash and negligent driving by the driver of TATA ACE bearing Reg.No.TN69-K-4919?
- (2) Who is liable to pay the compensation?
- (3) Whether the Petitioners are entitled for compensation? and if so, what is the quantum?

4. On the side of the Petitioners, two witnesses were examined as Pw.1 and Pw2 and 11 documents were marked as Ex.P1 to P11. The 1st respondent's driver Balasubramanian was Examined as Rw1 and no exhibits were marked.

5. Point No.1:

(i) According to the case of the petitioner that, on 09.10.2017 at about 8.30 p.m. the deceased Jayakumar was traveling in his Honda Shine two-wheeler bearing Reg.No.TN55-AU-4963 in Pudukkottiai – Trichy National Highways in the extreme left side of the road. When he nearing Mookambigai Engineering College, at the time a TATA ACE Mini Lorry which belongs to the 1st Respondent bearing Reg.No.TN69-K-4919 driven by its driver in a rash and negligent manner and hit against the deceased Jayakumar. Due to the accident the deceased Jayakumar was thrown out from the two-wheeler and sustained grievous injuries all over the body. Immediately he was taken through Highway Ambulance and brought to Government Hospital Trichy. Wherein the doctors have inspected the injured Jayakumar and declared his death. The above said accident was occurred only on the negligent driving by the 1st Respondent's driver. The 1st Respondent's vehicle was insured with the 2nd

Respondent at the time of accident. Hence, the 1st respondent is the owner and the 2nd respondent as the insurer of the vehicle are jointly and vicariously liable to pay compensation to the petitioners with cost and interest as per M.V. Act.

(ii) To prove the case of the petitioners, the 1st petitioner has been examined as PW1 and she reiterated the petition averments in his affidavit. On the side of the petitioners the copy of the FIR was marked as Ex.P1. The copy of Postmortem certificate was marked as Ex.P2.

(iii) On perusal of the oral evidence of PW1, PW2 and Ex.P1 it came to light that the deceased Jayakumar died due to road accident on 09.10.2017. For that accident a criminal complaint was lodged before Keeranur, Police Station and an FIR has been registered in crime No.299/2017. The driver of the TATA ACE Mini Lorry bearing Reg. No.TN-69-k-4919 has been shown in the 7th column of the FIR as an accused. The first respondent being the owner of the vehicle has not denied same and he simply remained ex-parte. The 2nd respondent has not brought anything contra from the cross examination of PW1 and PW2 as to the cause of the accident. Further in order to prove the version of the respondent he has not produce either oral or documentary evidence. Though the 2nd respondent in his counter has denied the alleged manner of accident, but he has not produce either oral or documentary evidence.

(v) Hence, from the oral evidence of Pw.1, Pw2 and the documentary evidence Ex.P1 Ex.P2 and since there is no contra evidence available, this Tribunal comes to the conclusion that the accident was occurred due to the rash and negligent driving by the driver of the TATA ACE Mini Lorry belongs to the 1st respondent bearing Reg. No.TN-69-k-4919.

Accordingly, the Point No.(1) is answered.

6. Point No.(2)

(i) In Point No.(1), it has been decided that the accident was occurred due to the rash and negligent driving by the driver of the TATA ACE Mini Lorry belongs to the 1st respondent bearing Reg. No.TN-69-K-4919.

(ii) In the claim petition, the petitioners have mentioned that the first respondent's vehicle has been insured with the 2nd respondent and the Insurance Policy copy was marked as Ex.P5. So it is clear that the above TATA ACE Mini Lorry belongs to the 1st respondent bearing Reg. No.TN-69-k-4919 was insured with the 2nd respondent under Policy No.0905003117P107332323 which was valid for the period from 23.08.2017 to 22.08.2018. The date of accident is 09.10.2017. The respondents did not file any documentary evidence to disprove the accident and also not denied about the policy particulars mentioned by the petitioners. Therefore, it is considered that the said TATA ACE Mini Lorry belongs to the 1st respondent bearing Reg. No.TN-69-k-4919 had a valid insurance policy issued by the 2nd respondent at the time of the accident.

(iii) Hence, this Tribunal comes to the conclusion that the 2nd respondent being the insurer is liable to pay the compensation to the petitioners. Accordingly the Point No.(2) is answered.

7. Point No.(3)

(i) In the postmortem certificate which was marked as Ex.P2, it has been stated that the deceased would appear to have died due to Multiple injuries. From the above document, the petitioners have proved that the deceased died due to the accident. In the petition, it has been stated that the 1st Petitioner is the wife of the deceased, 5th petitioner is the mother of the deceased, 2nd and 3rd petitioners are the children of the deceased. The Ex.P7 legal heirship certificate has proved the 1st petitioner is the wife, the 4th petitioner is the Mother, 2nd and 3rd petitioners are the minor children of the deceased Jayakumar. Hence it is proved that the petitioners 1 to 4 are the legal heirs of the deceased and they are entitled to the compensation as thus as the dependents of the deceased.

(ii) As per the judgement in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr, The age of the deceased is decided as 38 years as per Ex.P2, copy of Deceased's Postmortem Certificate.

Monthly & Annual Income of the deceased:

(i) In the petition, it has been stated that at the time of the accident, the deceased was working as an Porter in Southern Railway and earned Rs.40,000/-per month. To Substantiate the same the Salary Slip for the month of April 2017 and Bank Account details of deceased Jayakumar as Ex.P11. Wherein his gross salary was mentioned as Rs.61,000/-. The 2nd Respondent's counsel contents that the 1st petitioner herself admitted that she is receiving Rs.9,000/- as family pension and hence the family pension amount shall be deducted from the income of the deceased. Now, it is to be decided whether the family pension amount should be deducted from the income. For better understanding it is need to refer the following precedents. In **Helen.C Rebello (Mrs.) and others Vs Maharashtra State Road Transport Corporation and another reported in (1999) 1 SCC 99** where in the Hon'ble Supreme Court has held as follows,-

“35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event, viz., accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No correlation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer

indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any correlation. The insured (deceased) contributes his own money for which he receives the amount which has no correlation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."

and in *Sebastiani Lakra and others Vs. National Insurance Company Limited and Another, (2019) 17 SCC 465'*,

"12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to "just compensation" under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the

advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death.

From the above decisions it is very clear that the purpose of compensation under the Motor Vehicles Act is to alleviate financial loss caused by an accident. It does not account for benefits unrelated to the accident, such as family pension. The family pension is a safeguard for dependents to maintain their livelihood and has no nexus with the accidental death. Allowing deductions for family pension would defeat the object of ensuring financial security to dependents after the loss of the deceased. So, it is made clear that the family pension cannot be deducted while calculating the income of the deceased. So, this Tribunal is inclined to fix the income of the deceased Jayakumar as per the pay slip Ex.P11 after deducting the income tax. The deceased was receiving the gross salary of Rs.61,973/-per month at the time of accident.

The Income Tax Slab for the Financial Year 2017-2018 is as below

Net Taxable Income	Tax Rate
Upto Rs.2,50,000/-	Nil
Rs.2,50,001/- to Rs.5,00,000	5% = 12,500
Rs.5,00,001/- to Rs.10,00,000/-	20% = 1,00,000
Above Rs.10,00,001/-	30% = 34,714

Deduction of tax after adding future prospects

Annual Income of the Deceased (Rs.61,973 x 12) = 7,43,676/-

Add: 50% Future Prospects = 3,71,838/-

Total Annual Income = 11,15,716/-

Less:

Income Tax Payable is Rs.1,47,214 +

cess @ 4% Rs.5,888/- = 1,53,102/-

Professional Tax = 2,500/-

Annual Income after Tax = 9,60,114/-(11,15,716 - 1,55,602)

Thus, the annual income of the deceased fixed as **Rs.9,60,114/-**

Number of Dependents:

(ii) From Ex.P7, the legal heir certificate and the claim petition, it is found that the Petitioners 1 to 4 are the legal heirs and they are the dependents of the deceased at the time of death. Therefore, the number of the dependents are 4 in this case.

Loss of dependency per annum:

(iii) At the time of accident there are 4 dependents for the deceased. As per judgement in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997, 1/4 has to be deducted as the personal and living expenses of the deceased. Therefore, 1/4 amount Rs.2,40,028/-to be deducted. Hence, the balance (Rs.9,60,114 – Rs.2,40,028/-)Rs.7,20,086/- is considered to be the contribution to the dependent family per annum.

Multiplier and total loss of dependency:

(iv) So far as multiplier is concerned, as per the judgement in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997, the multiplier will be 15 since the age of the deceased was 37 at the time of death. **Therefore, the total loss of dependency would be Rs.1,08,01,290/- (Rs.7,20,086 x 15).**

Loss of Consortium:

(v) As per the judgement of Honourable Apex court in New India Assurance company vs Somwati in Civil appeal No:3093/2020 dated 7-9-2020, it has been decided that no compensation can be granted under the head of Love and affection and the dependents of the family are only entitled for the compensation under the head of spousal consortium, parental consortium, filial consortium. As per the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the each petitioner is entitled for Rs.40,000/- towards loss of consortium. Hence, the Petitioners are entitled to Rs.1,60,000/- under the head of loss of consortium.

Loss of Estate:

(vi) Following the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the Petitioners are entitled to Rs.15,000/- under the head of "**Loss of Estate**".

Funeral Expenses:

(vii) Following the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the Petitioners are entitled to Rs.15,000/- under the head of "**Funeral expenses**".

(x) CALCULATION:

1. Total loss of dependency	:	Rs.1,08,01,290.00
2. Loss of Consortium	:	Rs. 1,60,000.00
3. Loss of Estate	:	Rs. 15,000.00
4. Funeral Expenses	:	Rs. 15,000.00

Total Compensation is fixed at	:	Rs. 1,09,91,290.00
Rounded to	:	Rs. 1,09,91,300.00

8. Conclusion :-

1. In the result, this petition is partly allowed with costs.

2. That the petitioners are entitled for a sum of Rs. **1,09,91,300** (Rupees One crore Nine Lakhs Ninty One Thousand and Three Hundred only) as compensation with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization in full, excluding the default period if any with proportionate costs.

3. That the compensation amount with accrued interest and costs shall be deposited by the 2nd respondent within 90 days from today, into the Tribunal's i.e. Sub Court MACT, Keeranur. State Bank, Keeranur Branch, A/c No.42444342164, IFSC code No.SBIN0011073, MICR No.622002005, directly by NEFT or RTGS mode.

4. That the 1st petitioner is entitled to Rs.79,91,300/-. The petitioners 2 to 4 are entitled to Rs.10,00,000/- each. Considering the fact that they are literate and they are in need of funds to meet out expenses, the petitioner 1 and 4 are permitted to withdraw their respective share amount on deposit of the same together with proportionate interest and costs. The petitioners 2 and 3 being minors and their share shall be invested in a nationalized Bank, till they attain majority.

5. That the amount shall be credited through Electronic Clearing System, (ECS) in favour of the **Petitioners name are 1. Rajalakshmi, 2. Minor. Sangeetha, 3. Minor. Saravanan and 4. Kamalam.**

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
-	-	-	-

6. That the balance court fee to be paid within 10 days from date of this order. Advocate fees fixed at Rs.1,16,913/-

7. That the petition is dismissed with regard to the rest of the claim amount.

8. That the second respondent do pay to the petitioners a sum of Rs.2,26,243/- towards the costs of this petition.

Other necessary particulars:

Date of Presentation of petition	-	26.10.2017/29.11.2017
Date of taken up on file	-	13.12.2017
Compensation claimed in the M.C.O.P.	-	Rs.1,50,00,000/-
Compensation awarded in this petition	-	Rs.1,09,91,300/-
Court fee paid along with the petition	-	Rs.372.50
Court fee payable on the award amount	-	Rs.1,09,285.5
Deficit court fee payable	-	Rs.1,08,913.50

Cost List for the petitioner

STATEMENT OF COSTS

<u>For the petitioners</u>		<u>Rs.</u>	<u>P.</u>	<u>For the Respondents</u>
Stamp on petition	-	1,09,285	. 50	
Stamp on Vakalat	-	10	. 00	
Stamp for process	-	35	. 00	-- not filed --
Advocate fees		1,16,913	. 00	
Costs allowed	-	2,26,243	. 50	

The direction regarding copy of the Judgment and decretal order prepared under Sub rule 6 of Rule 20 of TNMAC Rules, 1989, and Honble Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 are obediently followed. And further it is informed that, as per the direction of the Honorable High Court, as far as this claim Petition is concerned, Decree is not drafted separately. And in the award, instead of drafting the decree, necessary details have been incorporated in this claim Petition's order.

Directly dictated to the Steno-typist, and typed by her in the Computer, corrected and pronounced by me in the open Court on this the 11th day of March 2026.

Motor Accident Claims Tribunal,
Subordinate Judge,
Keeranur.

1. Petitioner's side Witnesses :

P.W.1 : Mrs. Rajalakshmi (1st Petitioner)

P.W.2 : Mr. Rajagopal

P.W.3 : Mr. Rajendran

2. Petitioner's side Exhibits :

Ex.P1	FIR	Copy
Ex.P2	Postmortem Certificate	Copy
Ex.P3	Death Certificate	Copy
Ex.P4	TN69-K-4919 - Motor Vehicle RC Book	Copy
Ex.P5	TN69-K-4919 - Motor Vehicle Insurance Policy	Copy
Ex.P6	Driving License	Copy
Ex.P7	Legal heirs certificate	Copy
Ex.P8	Rough Sketch	Copy
Ex.P9	Southern Railway Training certificate	Copy
Ex.P10	Southern Railway ID Card	Copy
Ex.P11	Southern Railway pay slip	Copy

3. Respondents' side witness

RW1 - Mr. Balasubramanian

4. Respondents' side Exhibits:- Nil

Motor Accident Claims Tribunal,
Subordinate Judge,
Keeranur.

MCOP No.427/2023, dated 11.03.2023

Order pronounced.

1. In the result, this petition is partly allowed with costs.

2. That the petitioners are entitled for a sum of Rs. **1,09,91,300** (Rupees One crore Nine Lakhs Ninty One Thousand and Three Hundred only) as compensation with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization in full, excluding the default period if any with proportionate costs.

3. That the compensation amount with accrued interest and costs shall be deposited by the 2nd respondent within 90 days from today, into the Tribunal's i.e. Sub Court MACT, Keeranur. State Bank, Keeranur Branch, A/c No.42444342164, IFSC code No.SBIN0011073, MICR No.622002005, directly by NEFT or RTGS mode.

4. That the 1st petitioner is entitled to Rs.**79,91,300/-**. The petitioners 2 to 4 are entitled to Rs.10,00,000/- each. Considering the fact that they are literate and they are in need of funds to meet out expenses, the petitioner 1 and 4 are permitted to withdraw their respective share amount on deposit of the same together with proportionate interest and costs. The petitioners 2 and 3 being minors and their share shall be invested in a nationalized Bank, till they attain majority.

Motor Accident Claims Tribunal,
Subordinate Judge,
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