

**BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTUR**  
**( SALEM DISTRICT)**

**Present:Thiru.K.Ananthan, M.Sc., M.Phil., L.L.M.,**  
**MOTOR ACCIDENTS CLAIMS TRIBUNAL**  
**(SUBORDINATE JUDGE)**

Wednesday, this the 29<sup>th</sup> day of March 2023

**M.A.C.T.O.P. No. 29/2021**  
**(CNR No.TNSA 12000-378-2021)**

R.Sethulakshmi, aged about 36 years, wife of Rangadurai, residing at Door No.3/99, Ambedkar Nagar, Thennanguidpalayam Post, Attur Taluk, Salem District. ... Petitioner

/vs/

1.T.Chitra wife of Thangarasu, No.119, Panneerselvam Street, Attur Post, Salem District.

2. Cholamandalam Ms General Insurance Company Limited, No.9, First Floor,Rajaji Road, State Bank of Tiruvancore, Peramanur, Salem 636 007.

... Respondents

Policy No.3379/01502548/000/00

Period 01.09.2016 to 31.08.2017

Petition filed on: 08.04.2021

This petition came before me on 09.03.2023 for final hearing in the presence of Thiru.S.Balakrishnaraj, the learned counsel for the Petitioner, and Notice served to Respondents and Respondents were called absent and set *ex-parte* and upon perusing the case records, on hearing petitioner side and having stood over for consideration till this day, this court passed the following

**ORDER**

Facts relating to the claim:

- 1.Claim for : Injuries  
2.Name of the deceased : R.Sethulakshmi w/o.Rangadurai  
3.Age of the deceased : 36 years  
4.Occupation : Fruits Business Stall No.22 at New  
Bus stand, Attur  
5.Income pleaded : Rs.25,000/ per month  
6.Date of accident : 18.07.2017  
7.Compensation claimed : Rs.23,00,000/-

1. The case of the Petitioner is laconically projected on 18.07.2017, the Petitioner R.Sethulakshmi was travelling through the Mahindra and Mahindra Bolero Maxi Truck LMV Goods Vehicle registration number TN-77-H-5365 from Attur to go to Bangalore for purchasing fruits, for her fruit stall business, situated at Attur new bus stand along with vehicle owner Chitra, her husband Thangaraj @ Thangasu her son Sathishkumar and one Rajina. The driver of the first Respondent was driving the LMV Goods vehicle registration No.TN77-H-5365 rash and negligently at a great speed without following the traffic rules and it was proceeding on the Chennai-Salem road and it was proceeding at Salem City Ammapet Police Station jurisdiction near Udayapatty Perumal Kovil Medu Bridge at about 12.30 A.M. and the same the driver suddenly applied the break for seeing the opposite side oncoming car and the same the LMV Goods vehicle over turned on the left side of the road. Due to this accident the

Petitioner sustained bleeding injuries at face, left leg Ankle joint crush joint, Left hand, and grievous fracture injuries at left ankle fracture Tibia and Fibula bone. Immediately, after the accident the Petitioner was taken to the Government Mohan Kumaramangalam Medical College Hospital, and she was admitted as in patient and the Petitioner herself discharges and taken to Stanley Medical College Hospital, Chennai and she was admitted as an inpatient on 19.07.2017 and she was herself discharged on 01.08.2017 and she was taken to Ganga Hospital, Coimbatore and she was admitted on 02.08.2017 and she was discharged on 07.08.2017. Subsequently, the Petitioner was admitted on 03.10.2017 and she was discharged on 04.10.2017. Subsequently the Petitioner was taking treatment as an outpatient till to this date at Ganga Hospital, Coimbatore and Dr. Neelakannan, Ortho Surgeon, Attur. The accident was occurred only due to the rash and negligent driving of the first Respondent's driver at the time of the accident. In this regard, Ammapet Police had registered a case against the driver of the first Respondent in Cr.No.552/2017 under Section 279,337 of IPC. The first Respondent is the owner of the LMV Goods vehicle Bearing Registration Number TN 77-H-5365 and the 2<sup>nd</sup> Respondent is the insurer of the LMV Goods vehicle. Both the Respondents are jointly and severally liable to pay the compensation amount of Rs.23,00,000/- with cost and interest at the rate of 15% per annum from the date of accident till the date of realization.

2. Despite of R1 and R2 served to notice and they have not appeared before this Tribunal and Respondents were set ***ex-parte on 12.08.2021 and 03.03.2022 respectively.*** On the side of Petitioner, PW.1 was

examined. Ex.P1 to Ex.P8 were marked through PW.1 and Ex.C1 marked.

3. **The point for consideration is:** Whether the Respondents are liable to pay the compensation to the Petitioners? if so what is the quantum?
4. **Point No.1:-** In order to substantiate the case of the Petitioner, the Petitioner examined herself as PW1 and the evidence of PW1 is nothing but total replica of the averments made in the petition. Through the PW1, the copy of the FIR was marked as Ex.P1, Discharge summary issued by Coimbatore Ganga Hospital Dated 07.08.2017 and 04.10.2017 were marked as Ex.P2 & Ex.P3. Copy of R.C. Copy of TN77-H-5365 vehicle, Copy of Insurance policy of the TN77-H-5365 vehicle were marked as Ex.P4 & Ex.P5. Medical Bills 39 counts for Rs.14,371.50 and Transport Bills 3 counts for R.8,977/- and Copy of Athar Card were marked as Ex.P6 to Ex.P8 were marked through PW.1.
5. Though this Court issued notice to Respondents, they have not appeared before this Tribunal and to the contest the case of the Petitioner, then they failed to appear, they remained *ex-parte*. To prove the case of the Petitioner, the petitioner examined as PW1 and marked Ex.P1 to Ex.P8. On perusing the petition, evidence of PW1 along with Ex.P1, a case has been registered against the driver of the Mahindra and Mahindra Bolero Maxi Truck LMV Goods Vehicle registration number TN-77-H-5365. Since there is no contra evidence against the evidence of PW1 and Ex.P1 this court has to accept that the accident was occurred only due to the rash and negligent driving of the vehicle. The 1<sup>st</sup> Respondent is the owner of the vehicle. The vehicle is insured in the 2<sup>nd</sup> Respondent at the time of accident and the insurance is in force. Since this court finds that the

accident has occurred only due to rash and negligent driving of the rider of the motor cycle.

6. Generally, in the Motor Vehicle accidental Claim case, The person who brings the petition for compensation, must so that the driver of said vehicle involved in the accident was negligent. For a person to be legally responsible is action, it is essential to have evidence that the said rider is at fault. To demonstrate the said fact, the PW1, the has clearly deposed that due to the rash and negligent of driver of Mahindra and Mahindra Bolero Maxi Truck LMV Goods Vehicle registration number TN-77-H-5365, the alleged accident was taken place, thereby the petitioner sustained injures.
7. For disproving and disbelieving the case of the Petitioner, neither the Owner of the Mahindra Bolero Maxi Truck LMV Goods Vehicle registration number TN-77-H-5365 nor the Respondents have come forward before to adduce their evidence. Thus, this court has no hesitation to draw an adverse inference against the Respondents, ***under Section 114(g) of the Evidence Act***, thereby the case of the Petitioners is manifestly proved ***under Section 101 of the Evidence Act***.
8. From the scanning of the Ex.P4, the R.C. of the Mahindra and Mahindra Bolero Maxi Truck LMV Goods Vehicle registration number TN-77-H-5365 stands in the name of the 1<sup>st</sup> Respondent and the same is insured with the 2nd Respondent on the date of said accident under Ex.P5. Since the accident was taken place only by the negligence of driver of the Mahindra and Mahindra Bolero Maxi Truck LMV Goods Vehicle registration number TN-77-H-5365. It is evidently apparent that the

accident was taken place only by the negligence of driver of the said vehicle, not by the negligence of injured. The Insurance of the vehicle is from 01.09.2016 to 31.08.2017, and is in force as on accident date. Therefore, the 2<sup>nd</sup> Respondent who is an Insurer of said vehicle has to pay the following compensation amount to the Claimant and the point is answered accordingly.

- 9. Point No.2:-**It is also noted that due to the said accident, the Petitioner was immediately taken to the Coimbatore Ganga Hospital and she was admitted as an inpatient on 02.08.2017 and she was discharged on 07.08.2017 and further she was admitted on 03.10.2017 and discharged on 04.10.2017 and still under treatment as an out patient. Under Ex.C1 Medical Board Certificate for person with disabilities is fixed to **25%**.
- 10. Point No:(2)** It is also noted that the said Petitioner was sustained the Injury, under the Ex.C1 the percentage of the disability is 25% only. The Petitioner had permanent disability and difficulty in squatting sitting cross legged walking in slopes climbing stairs pain over ankle as per Ex.C1. Thereto, a quantum has to be arrived with the above said consideration, Now this Tribunal has to look into the medical certificates, receipts and duration of the treatment of the petitioner as an inpatient of the Petitioner's. Further as per the evidence of the PW1, the petitioner was given treatment at Ganga Hospital, Coimbatore. To prove the injuries sustained on the part of the Petitioner under Ex.P2 and Ex.P3.
- 11.**Further the Petitioner was referred to medical board and doctors of the medical board have assessed the disability as 25% and the same has been

marked as Ex.C1 the disability certificate. On perusal of Ex.C1 it is evident that the permanent disability of the petitioner was assessed at 25%. In the Judgment of ***M.Chinnathambi -vs- S.Deepa reported in 2020 (1) TN MAC 617***, the Hon'ble High Court of Judicature, Madras, it is expressed that if no evidence that Claimant suffered functional Disability, then the Multiplier method not applicable, that the percentage method should be applied. Added to it, taking into consideration of raising a Cost of living, the amount of Rs.5,000/- was fixed per a percentage of disability. For the percentage of disability  $25\% \times 5000 = 1,25,000/-$  is awarded. Since the Petitioner got permanent disability, thus, the compensation towards loss of amenities is fixed as Rs.40,000/- and extra nourishment is fixed as Rs.10,000/-. The Petitioner is entitled for compensation of Rs.20,000/- pain and suffering and fixed to be future medical expenses is Rs.10,000/- and Transport expenses under Ex.P7 is fixed at Rs.8,977/-. Further as per the Ex.P6 he has spent a sum of Rs.14,371.50/- towards the medical expenses. Further he could have assisted with an attender at hospital and thereafter and as such the petitioner is entitled for a sum of Rs.5,000/- towards the attender charges. Damage of clothes for a sum of Rs.1,000/-. Hence the total compensation is calculated as follows:-

		Rs.
1.	Permanent Disability	1,25,000.00
2.	Loss of Amenities	40,000.00

3.	Extra Nourishment	10,000.00
4.	Pain and Suffering	20,000.00
5.	Future Medical Expenses	10,000.00
6.	Transport Expenses (Ex.P7)	8,977.00
7.	Medical Expenses (Ex.P6)	14,371.00
8.	Attendar Charges	5,000.00
9.	Damage to clothes	1,000.00
	Total	Rs.2,34,348.00

### **RESULT:**

**Eventually,** the Petitioner is awarded as follows:-

- 1) The Petitioner is entitled to awarded the Compensation of **Rs.2,34,348/- (Rupees Two Lakhs Thirty four thousand three hundred and forty eight only)** against the 2<sup>nd</sup> Respondent with cost.
- 2) The 2<sup>nd</sup> Respondent shall pay the compensation amount with 7.5 % interest from the date of filing of petition till the deposit. The interest is fixed based on the Judgment of *United Insurance Co., Ltd., vs.Indro Devi and others* reported in **2018-ACJ-P -2051**
- 3) The 2<sup>nd</sup> Respondent shall deposit the above said amount within one month from the date of this Order by NEFT/RTGS mode in the MACT Bank Account

No.36154598767 under intimation to this Tribunal by way of Sending pay advice slip.

4) The petitioner is hereby directed to furnish the first page of Bank Pass Book copy of Petitioner, 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 to produce the said document the Petitioners are not entitled to withdraw the award amount.

5) The Petitioner shall not withdraw the amount without obtaining permission from this Tribunal.

6) On such deposit the said amount shall be deposited if any one of the Nationalized Bank for a period of one year with condition that the 2<sup>nd</sup> Respondent has to send the detail of deposited amount to this Court **within 48 hours of** depositing the compensation amount to the mail of this Court i.e., **slmatu.SC-tn@indiancourts.nic.in**

7) The Balance Court fee shall be paid **within 15 days** from this Court, the ***Court fee will not pay in-time then the Petitioners are not entitled for interest for that the defaulted period.***

8) Copy of order and decretal order is prepared Under Sub Rule 6 of Rule 20 of TNMAC Rules 1989 and Hon'ble High Court ROC of 390-A/2014-F1 dated 13.12.2014 is obediently followed.

Dictated to the Steno-typist typed by her through computer and directly and corrected and pronounced in the open court on this the 29<sup>th</sup> day of March 2023.

Sd/-K.Ananthan,  
MOTOR ACCIDENTS CLAIMS TRIBUNAL  
(SUBORDINATE JUDGE) ATTUR

Witness on Petitioner's side:-

PW.1-Tmt.R.Sethulakshmi

Documents on Petitioner's Side:-

Ex.P1	21.08.2017	Copy of First information Report
Ex.P2	07.08.2017	Discharge summary issued by Coimbatore Ganga Hospital
Ex.P3	04.10.2017	Discharge summary issued by Coimbatore Ganga Hospital
Ex.P4	31.01.2017	R.C.Copy of TN 77H 5365
Ex.P5	07.09.2016	Copy of Insurance Policy of the vehicle TN77H 5365
Ex.P6	–	Medical Bill 39-Rs.14,371.50
Ex.P7	–	Transport Bills-3 Rs.8977/-
Ex.P8	–	Copy of Athar Card

Respondents side witnesses and Exhibits : NIL

Sd/-K.Ananthan,  
MOTOR ACCIDENTS CLAIMS TRIBUNAL  
(SUBORDINATE JUDGE), ATTUR



