

IN THE COURT OF SUBORDINATE JUDGE, OMALUR

Present : Tmt.T.MALATHI, B.Sc., B.L.,
Subordinate Judge,
Omalur.

Friday, the 17th day of July 2026
(Thiruvalluvarandu 2057 Sri Parabhava Varudam Aadi 1st day)

MCOP.No.25/2020

[CNR.NO.TNSA19-000023-2020]

(a)	Name and address of the claimant / Petitioner	Rajendiran, S/o. Raman, aged about 50 years, residing at Ponna Nagar, Bethel, Denishpet Post, Kadayampatty Taluk, Salem District.
(b)	Name and address of the respondents	1. Annamalai, S/o. Appavu, aged about not known, residing at No.11/301, Kongupatty Colony, Kongupatty, Kadayampatty Taluk, Salem District. 2. The Oriental Insurance Company Limited, Divisional Office, Having office at Divya Towers, II Floor, 15-1, Fort Main Road, Salem, Salem District.
(c)	Name and address of the Insurance company	The Oriental Insurance Company Limited, Divisional Office, Having office at Divya Towers, II Floor, 15-1, Fort Main Road, Salem, Salem District.
(d)	Name and address of the Transport Corporation or such other respondents who are held liable to pay	Not Applicable
(e)	Date of filing of the claim petition	04.06.2020

(f)	Date of award	17.07.2026	
(g)	Amount of award	Rs.3,64,995/-	
(h)	Interest rate applicable	7.5% per annum	
(i)	Date (s) from which interest is payable	04.06.2020	
(j)	Costs, if any	Stamp on petition	Rs.20/-
		Stamp on Vakalath	Rs.10/-
		Stamp on documents	Rs.25/-
		Court fee	Rs.3,022/-
		Advocate fee	Rs.10,300/-
		Total	Rs.13,377/-
(k)	In cases where the compensation, interests and costs are directed to be paid proportionately, the award should also specify who shall pay which portion of award, interest and costs.	The 2nd respondent is directed to deposit the award amount of Rs.3,64,995/- , together with interest at the rate of 7.5% per annum from the date of presentation of the petition till the date of realization, along with costs, within 30 days from the date of this order.	
(l)	In cases where there are several claimants, the shares and amounts payable to each of them shall be specified.	The petitioner shall be entitled to Rs.3,64,995/- with proportionate interest and costs.	
(m)	The mode and manner of deposit of compensation	As per the decision of Hon'ble Supreme Court held in Civil Appeal No.4299/2025 and the direction issued by the Hon'ble High Court of Madras in R.O.C.No.55584/2025/S.C. the petitioner shall pay the balance court fee with in 15 days from the date of this order, failing	

		which the petitioner is not entitled to the interest for the default period. After the receipt of payment of balance court fee, with in one month the award amount shall be deposited in petitioner savings Account No.096901000007082, Indian Overseas Bank, Kadayampatti Branch, IFSC Code.IOBA0000969 and the same has to intimate to this Tribunal by way of sending pay advice slip via e-mail: slmoml.sc-tn@indiancourts.nic.in
(n)	The mode and manner of disbursement.	The petitioner is entitled to withdraw the entire award amount immediately upon its deposit.
(o)	Period of default to which the petitioner are not entitled for interest, if any.	Nil
(p)	Balance of Court fee	Rs.3,002/-

Rajendiran

... Petitioner

// Versus //

1. Annamalai,

2. The Oriental Insurance Company Limited

...Respondents

The Case originally filed	In the Court of the Subordinate Judge, Omalur
Date of taken on file	11.06.2020

Counsel of Petitioner : Thiru.P.Kathiravan

Respondents 1 and 2 : Exparte

This petition came up for final hearing on 25.06.2026, and upon perusal of the materials available on record, this Court delivered the following:

AWARD

This claim petition has been filed under Section 166 of the Motor Vehicles Act, seeking compensation of ₹20,00,000.

02. The petitioner's case is as follows :

On 11.02.2020, the petitioner, aged 50 years, was working as an agriculturist and earning ₹20,000/- per month. He sustained grievous injuries when an unregistered Bajaj CD 100 motorcycle was driven in a rash and negligent manner and collided with him while he was walking. Due to the injuries sustained in the accident, he suffered a loss of earning capacity. The 1st respondent, being the owner-cum-driver of the offending vehicle, is jointly and severally liable along with the insurer/respondents 1 and 2. Consequently, a sum of ₹20,00,000/- is claimed as compensation.

03. In the course of the inquiry, on the side of the petitioner, PW1 was examined and Exs.P1 to P6 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1. Respondents 1 and 2 remained exparte.

04. Points of Findings :-

The points for findings in this claim petition are formulated as follows:

1	Whether the accident occurred as alleged by the petitioner, resulting in injuries sustained by him?
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2	Whether the petitioner is, entitled to compensation from the respondents as claimed?
3	What is the appropriate amount of compensation to be awarded to the petitioner?

05. Findings No. 1 and 2 :-

The claim petition has been filed under Section 166 of the Motor Vehicles Act. The claimant has to establish before this Court that the accident occurred due to the rash and negligent driving of the 1st respondent, being the driver-cum-owner of the offending vehicle, resulting in injuries to the claimant, on the touchstone of preponderance of probabilities, as held by the Hon'ble Supreme Court in *Sajeena Ikhbal & Ors. v. Mini Babu George & Ors.*, 2024 LiveLaw (SC) 810. Therefore, strict proof is not required, and in the absence of rebuttal evidence, the finding of negligence recorded by the Tribunal cannot be termed as perverse or as a case of no evidence, as held by the Hon'ble Division Bench of the High Court of Madras in *United India Insurance Co. Ltd. v. Krishnaveni & Ors.*, 2016 (1) TN MAC 563 (DB). The said decision affirmed that proceedings before the Claims Tribunal are summary in nature and require only a preponderance of probabilities regarding the manner of the accident.

06. The petitioner examined himself as PW1 and narrated the manner of the accident in detail in his evidence. Ex.P1, the copy of the FIR, reveals that a criminal case was registered against the 1st respondent for his rash and negligent driving,

which resulted in the accident and injuries sustained by the petitioner.

07. Despite this, respondents 1 and 2 remained ex parte in the above claim petition. Upon thorough consideration of the oral and documentary evidence adduced by PW1, this Court concludes that it has been proved that the 1st respondent drove the offending vehicle in a rash and negligent manner, causing the accident, which resulted in injuries to the petitioner. Under these circumstances, the 2nd respondent, being the insurer of the offending vehicle, is liable to pay compensation to the petitioner in the claim petition.

08. Findings No. 3:-

Finally, the quantum of compensation to be awarded to the petitioner for the injuries sustained in the accident has to be determined. The petitioner was treated as an inpatient from 11.02.2020 to 14.02.2020 at Manipal Hospital, Salem. Ex.P2, the discharge summary, discloses that the petitioner sustained a Grade IIIA open comminuted fracture of both bones of the right leg.

09. The petitioner was physically examined by the Medical Board, which assessed his physical disability and functional disability at 15% each. The Disability Certificate issued by the Medical Board has been marked as Ex.C1. It has been settled by the Hon'ble Supreme Court of India in *Raj Kumar v. Ajay Kumar & Another*, reported in 2010 (2) TN MAC 581, that all disabilities arising from injuries do not necessarily result in loss of earning capacity. The percentage of permanent disability with reference to the whole body of a person cannot be assumed to be the percentage of

loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not always the same as the percentage of permanent disability, except in cases where the Tribunal, based on the evidence available on record, concludes that the percentage of loss of earning capacity is equivalent to the percentage of permanent disability.

Further, the Medical Board, which examined the claimant and assessed the extent of disability, can give evidence only with regard to the extent of disability, whether permanent or partial permanent. The loss of earning capacity is a matter to be assessed by the Tribunal based on the evidence as a whole. The same disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of their profession, occupation, job, age, education, and other relevant factors. Therefore, based on the above legal principles, this Court concludes that the functional disability assessed by the Medical Board cannot be treated as the percentage of loss of earning capacity as claimed by the petitioner. Instead, the loss of earning capacity has to be determined based on the evidence available on record in its entirety.

10. There is no document to show that the petitioner has undergone any further treatment after 14.02.2020. If the petitioner had suffered any disability after the accident, he would have definitely sought further medical advice. The fact that he has not done so indicates that he has recovered and that there is no functional disability preventing him from continuing his day-to-day activities. No medical records have

been produced to show that he continues to undergo treatment or requires further medical care. Hence, it is held that the petitioner has not suffered any loss of earning capacity as claimed by him, and the disability is fixed at 15% partial permanent disability as mentioned in Ex.C1. Considering the above circumstances, this Court decides to adopt the percentage method for arriving at just compensation.

11. The accident in this case occurred in the year 2020. In view of the same, as per the judgment of the Hon'ble High Court of Madras in *K. Muthukumar v. P. Manikandan and Another* in CMA No.1075 of 2024, dated 23.07.2024, this Court is inclined to fix a sum of ₹8,000/- per percentage of disability. Accordingly, the compensation under the head of disability is fixed at ₹1,20,000/- ($₹8,000 \times 15\%$).

12. Based on the above facts and circumstances of the case, this Court hereby awards compensation to the petitioner under the following heads:

1). Pecuniary damages

- (i) For partial permanent disability (Rs.8,000/- x 15%)
- (ii) Expenses relating to treatment, hospitalization, medicines as per Ex.P10)
- (iii) Loss of earning during the period of treatment and rest for 5 months at the rate of Rs.12,000/- per month
- (iv) Expenses relating to attenders
- (v) Expenses relating to transportation,
- (vi) Expenses relating to nourishing food.

(vii) Damage to clothes

2) Non Pecuniary Damages

(i) Damages for pain, suffering and trauma as a consequence of the injuries

(ii) Loss of amenities

This Court also decides to calculate the compensation to be paid to the petitioner for the above categories and apportion it to the respective categories as follows.

13. Apportionment of Compensation:-

Sl.No	Categories of Compensation	Apportioned Amount
1	Partial permanent disability (Rs.8000 x 15%)	₹.1,20,000/-
2	Pain, suffering and trauma as a consequence of the injuries	Rs.30,000/-
3	Loss of amenities	Rs. 20,000/-
4	Expenses relating to treatment, hospitalization and medicines as per Ex.6	Rs.79,995/-
5	Loss of earning during the period of treatment and rest for 5 months at the rate of Rs.12,000/- per month	Rs.60,000/-
6	Expenses relating to attenders	Rs.20,000/-
7	Expenses relating to transportation,	Rs.10,000/-
8	Expenses relating to nourishing food.	Rs.20,000/-
9	Damages to cloths	Rs.5,000/-
	Total Compensation	Rs.3,64,995/-

On the basis of the evidence on record in this petition, it is decided to award a total of **Rs.3,64,995/-** as appropriate compensation for the injuries sustained by the petitioner, together with interest at the rate of 7.5% per annum for the remaining period, excluding any default period, from the date of the petition until the amount is realized. The Court further concludes that the said compensation is just and

appropriate.

14. In the result, the petition is partly allowed as follows:

- (1) The petitioner is awarded **Rs.3,64,995/-**, together with interest at 7.5% per annum from the date of the petition until the date of deposit, along with costs, to be paid by the respondents.
- (2) The 2nd respondent is liable to pay a sum of **Rs.3,64,995/-** to the petitioner.
- (3) As per the decision of Hon'ble Supreme Court held in Civil Appeal No.4299/2025 and the direction issued by the Hon'ble High Court of Madras in R.O.C.No.55584/2025/S.C. the petitioner shall pay the balance court fee within 15 days from the date of this order, failing which the petitioner is not entitled to the interest for the default period. After the receipt of payment of balance court fee, within one month the award amount shall be deposited in **petitioner savings Account No.096901000007082, Indian Overseas Bank, Kadayampatti Branch, IFSC Code.IOBA0000969** and the same has to intimate to this Tribunal by way of sending pay advice slip via **e-mail: slmoml.sc-tn@indiancourts.nic.in**
- (4) Court fee paid along with this petition is **Rs.20/-**. Court fee for the award amount is **Rs.3,022/-** and the Advocate fee is fixed at **Rs.10,300/-**. The petitioner is directed to pay the balance court fee within a period of 10 days. Total cost of the claim is **Rs.13,377/-**.
- (5) The Petitioner shall intimate the payment of balance court fee to the 2nd respondents by way of service of the acknowledgement of this court immediately.

(6) Following the judgment of the Hon'ble High Court of Madras in M/s.Cholamandalam MS General Insurance Co Ltd., Vs. Ayyanar & others reported in 2020 (4) CTC 272, no decree is prepared. All the parties are entitled to free copies of the award as per Section 168 (2) of the MV Act and Rules 20 (6) of the Rules.

Dictated to the Typist, typed by his directly into the computer, corrected, printed out and pronounced by me in Open Court on this the **17th day of July 2026**.

Sd/-T.Malathi, dated.17.07.2026
Motor Accident claim Tribunal Authority,
Subordinate Judge,
Omalur.

Petitioner's side Witness:

PW1	Rajendiran (Petitioner)
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Petitioner's side exhibits:

Sl. No.	Exhibits	Date	List of documents
1.	Ex.P1	-	Copy of First Information Report
2.	Ex.P2	-	Wound Certificate
3.	Ex.P3	-	Copy of MVI Report
4.	Ex.P4	-	Copy of Insurance Policy
5.	Ex.P5	-	Copy of Petitioner's Aadhar Card
6.	Ex.P6	-	Medical Bills

Respondents side witnesses : NIL

Respondents side Exhibits : NIL

Court Documents:

1. Ex.C1	Disability Certificate (15%)
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Sd/-T.Malathi, dated.17.07.2026
Motor Accident claim Tribunal Authority,
Subordinate Judge,
Omalur.