IN THE COURT OF SUBORDINATE JUDGE, OMALUR

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

Monday, the 20th day of April 2026
(Thiruvalluvarandu 2057 Viswavasu Varudam Chithirai 07th day)

MCOP.No.17/2018
[CNR: TNSA19-001168-2018]

(a)	Name and address of the claimant / Petitioner	Alamelu, W/o. * Mani @ Raji, aged about 50 years, residing at Door No.2/24, Meltheru, Kamalapuram Village and Post, Omalur Taluk, Salem District. (*Amended as per order in I.A.No.2/2025 Dated 04.09.2025.)
(b)	Name and address of the respondents	1. R.Krishnan, S/o. Rangasamy, residing at D.No.13/18, Nadu street, Kadayampatti, Kadayampatti Taluk, Salem District. 2. Shriram General Insurance Company Limited, 0/3, 1st Floor, NMS Tower, Indira Nagar, Palladam Main Road, Tirippur, having branch office at No.5-F, Sachin Plaza, Reddiyur Block, 1 Sriram Nagar, Alagapuram, Salem – 16, Salem District. 3. Murugan, S/o. Govindha Udayar, Nachanampatty, Kadayampatty, Kadayampatty Taluk, Salem District.
(c)	Name and address of the Insurance company	Shriram General Insurance Company Limited, 0/3, 1st Floor, NMS Tower, Indira

<table>
<tr><td></td><td></td><td colspan="2">Nagar, Palladam Main Road, Tirippur, having branch office at No.5-F, Sachin Plaza, Reddiyur Block, 1 Sriram Nagar, Alagapuram, Salem – 16, Salem District.</td></tr>
<tr><td>(d)</td><td>Name and address of the Transport Corporation or such other respondents who are held liable to pay</td><td colspan="2">Not Applicable</td></tr>
<tr><td>(e)</td><td>Date of filing of the claim petition</td><td colspan="2">28.03.2017</td></tr>
<tr><td>(f)</td><td>Date of award</td><td colspan="2">20.04.2026</td></tr>
<tr><td>(g)</td><td>Amount of award</td><td colspan="2">₹.2,15,000</td></tr>
<tr><td>(h)</td><td>Interest rate applicable</td><td colspan="2">7.5% per annum</td></tr>
<tr><td>(i)</td><td>Date (s) from which interest is payable</td><td colspan="2">28.03.2017</td></tr>
<tr><td rowspan="6">(j)</td><td rowspan="6">Costs, if any</td><td>Stamp on petition</td><td>Rs.380/-</td></tr>
<tr><td>Stamp on Vakalath</td><td>Rs.10/-</td></tr>
<tr><td>Stamp on documents</td><td>Rs.30/-</td></tr>
<tr><td>Court fee</td><td>Rs.1,523/-</td></tr>
<tr><td>Advocate fee</td><td>Rs.7,300/-</td></tr>
<tr><td align="right">Total</td><td>Rs.9,243/-</td></tr>
<tr><td>(k)</td><td>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.</td><td colspan="2">The 2nd Respondent is directed to deposit the award amount of ₹.2,15,000 with interest at the rate of 7.5% p.a from the date of presentation of the petition till the date of realization, with costs, within 15 days from the date of order.</td></tr>
<tr><td>(l)</td><td>In cases where there are several claimants, the shares and amounts payable to each of them shall be specified.</td><td colspan="2">The petitioner shall be entitled to ₹.2,15,000 with proportionate interest and cost.</td></tr>
<tr><td>(m)</td><td>The mode and manner of deposit of compensation</td><td colspan="2">The 2nd Respondent is directed to deposit the award amount of ₹.2,15,000 with</td></tr>
</table>

		interest at the rate of 7.5% p.a from the date of presentation of the petition till the date of realization, with costs, within 15 days from the date of order. After the receipt of payment of balance court fee, with in one month the award amount shall be deposited in **petitioner savings Account No.36498947037, SBI - Kiosk Bank, IFSC Code.SBIN0001030, Kamalapuram Branch** 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 on its deposit.
(o)	Period of default to which the petitioner are not entitled for interest, if any.	**NIL**
(p)	Balance of Court fee	**Rs.1,143/-**

Alamelu ... Petitioner

// Versus //

1. R.Krishnan
2. Shriram General Insurance Company Limited
3. Murugan

... Respondents

The Case originally filed	In the Court of the Subordinate Judge, Mettur in MCOP.42/2017 and Re-numbered as MCOP.17/2018 of this Court
Date of taken on file	28.03.2017
Date of Transfer to this Court	17.01.2018

Counsel of Petitioner : Thiru.A.Karthikeyan

Counsel of 2nd Respondent : Thiru.P.Sathish Kumar,

Counsel of 1st and 3rd Respondents : Exparte

This petition came up for final hearing on 23.01.2026, upon hearing the both sides and perusing 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 a compensation of Rs.10,00,000/-.

02. The petitioner's case is as follows :

The petitioner met with a road traffic accident on 31.07.2016 at about 06.15 P.M. while she was travelling as a loadman in a TATA ACE vehicle bearing Registration No. TN-30-AW-0975, which was loaded with 10 bundles of sugarcane waste to be unloaded at Kamalapuram. The said vehicle was driven by one Murugan of Kadayampatty. The petitioner and others, namely Rangasamy @ Mannan, Rajamani, Amutha, and another person, namely Alamelu, had travelled in the vehicle as loadmen. When the said vehicle was nearing Sandaithadam on the Dharmapuri to Salem NH-7 Road, the driver of the TATA ACE drove the vehicle in a rash and negligent manner and was proceeding on the right side of the road. When he attempted to turn the vehicle towards the left side, the vehicle capsized. Due to the impact, the petitioner and others travelling in the vehicle were thrown off, thereby causing injuries to the petitioner and others.

As a result of the said accident, the petitioner sustained multiple injuries all over her body. At the time of the accident, the petitioner was aged about 50 years and was working as a sugarcane cutting coolie, earning a sum of Rs.10,000/- per month. The 1st respondent is the owner of the offending vehicle, the 2nd respondent is its insurer, and the 3rd respondent is the driver of the offending vehicle. The respondents 1 to 3 are jointly and severally liable to pay compensation to the petitioner. Hence, this claim petition is filed seeking compensation of Rs.10,00,000/-.

03. The 2nd Respondent's case is as follows :

This petition is not maintainable either in law or on facts. The manner of the accident, the treatment allegedly taken by the petitioner for the injuries sustained in the accident, as well as her occupation, income, and age are all denied. The TATA ACE vehicle bearing Registration No. TN-30-AW-0975 is insured with the 2nd respondent/Insurance Company, which is liable to indemnify the 1st respondent only upon strict compliance with the terms and conditions of the policy; failing which, the 1st and 3rd respondents alone are liable, if at all. The averments regarding the petitioner’s age, occupation as a cleaner, and alleged monthly income of Rs.10,000/- are false, and the petitioner is put to strict proof of the same.

This respondent states that the deceased would have succumbed to death by some other means or in an accident involving some other vehicle, and has falsely claimed to have been injured in the alleged accident involving the vehicle bearing Registration No. TN-30-AW-0975. The 1st respondent is the owner/insured of the vehicle. The driver, Motor Vehicles Inspector, and police officials have all allegedly connived together in fabricating a false claim. This respondent further states that the said vehicle was not involved in the alleged accident and that a false case has been foisted in order to claim compensation. The driver, who is the 3rd respondent herein, was not holding a valid driving licence as on the date of accident.

This respondent admits that the interest of the vehicle bearing Registration No. TN-30-AW-0975 was covered at the material time under a policy of insurance issued by this respondent, subject to the terms, conditions, exceptions, and limitations thereof, and subject to compliance with Section 64VB of the Insurance Act, 1938. The driver of the TATA ACE vehicle bearing Registration No. TN-30-AW-0975 was not holding a valid and effective driving licence at the time of the accident, and was not qualified to hold or obtain such licence, and had not satisfied the requirements of Rule 3 of the Central Motor Vehicles Rules, 1989. Hence, the 2nd respondent is not liable to pay any compensation.

The injured persons had travelled as unauthorised passengers in a goods vehicle in the goods carriage, as the seating capacity of the vehicle is two, whereas six persons had travelled at the time of the accident. The injured petitioner, Alamelu, also travelled in violation of the seating capacity of the vehicle and contrary to the policy terms and conditions. Therefore, the 2nd respondent is in no way liable to pay any compensation to the petitioner. Hence, the petition is liable to be dismissed with costs.

04. In the inquiry, on the side of the petitioner, PW1 was examined and documents Ex.P1 to Ex.P6 were marked. On the side of the 2nd respondent/Insurance Company, RW1 was examined and documents Ex.R1 and Ex.R2 were marked. The petitioner filed a memo stating that the disability may be fixed at 15%, which was also accepted by the respondent.

05. 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 the petitioner?
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?

06. The evidence on record, as well as the arguments submitted by the learned counsels for both sides, have been considered.

07. Findings No. 1:-

The claim petition is filed under Section 166 of the Motor Vehicles Act. Therefore, the claimant must first establish whether the accident was caused by the 3rd respondent due to rash and negligent driving, as alleged, resulting in injuries to the petitioner. It is settled by the Hon’ble Supreme Court of India in the case of

Sajeena Ikhbal & Ors. v. Mini Babu George & Ors., reported in 2024 LiveLaw (SC) 810, that in claim cases arising out of motor accidents, the Court has to apply the principle of preponderance of probability and cannot apply the test of proof beyond reasonable doubt. Further, the Hon'ble Division Bench of the High Court of Madras in *United India Insurance Co. Ltd. v. Krishnaveni and others*, reported in 2016 (1) TN MAC 563 (DB), held that it is well-settled law that proceedings before the Claims Tribunal are summary in nature, and it is sufficient to consider whether there is any preponderance of probability as to the manner of accident, as detailed in the claim petition. Strict proof of evidence is not required. In the absence of any rebuttal evidence, the finding of the Tribunal regarding negligence cannot be termed perverse, nor can it be treated as a case of "no evidence."

08. The evidence available in the present case is evaluated on the basis of the principle of preponderance of probability.

09. The petitioner claims that on 31.07.2016 at about 06.15 P.M., while she was travelling as a loadman in a TATA ACE vehicle bearing Registration No. TN-30-AW-0975, which was loaded with 10 bundles of sugarcane waste to be unloaded at Kamalapuram, the said vehicle was driven by one Murugan of Kadayampatty. The petitioner and others, namely Rangasamy @ Mannan, Rajamani, Amutha, and another person, namely Alamelu, had travelled in the vehicle as loadmen. When the said vehicle was nearing Sandaithadam on the Dharmapuri to Salem NH-7 Road, the driver of the TATA ACE drove the vehicle in a rash and negligent manner without adhering to traffic rules and regulations, thereby causing the accident. As a result, the petitioner sustained grievous injuries all over her body. In contrast, the 2nd respondent denies the allegations and states that the 3rd respondent drove the TATA ACE vehicle bearing Registration No. TN-30-AW-0975 without a valid driving licence and caused the accident. It is further contended that the petitioner was a gratuitous passenger, and although Ex.R3 (Registration Certificate) states that only two persons are permitted to travel in the vehicle, six persons had actually travelled in it. Therefore, it is claimed that the insurance company bears no liability due to violation of policy conditions. It is also stated that one Alamelu died in the accident and had filed a claim petition before the Salem MCOP Court, and accordingly, it is prayed that this petition be dismissed.

10. In the present case, the petitioner examined himself as PW1 to establish his case and narrated the manner of the accident in detail. Ex.P1, the copy of the First Information Report, confirms that a criminal case has been registered against the 3rd respondent, who is the driver of the vehicle, for rash and negligent driving. Ex.P3, the Registration Certificate of the 1st respondent's vehicle, confirms that the 1st respondent is the owner of the said vehicle. Notwithstanding this, the 1st and 3rd respondents have remained ex parte in this petition. Consequently, there is no rebuttal evidence. Therefore, the petitioner's case remains unchallenged in this regard. Accordingly, this Court finds that it has been sufficiently proved, on the touchstone of preponderance of probabilities, that the 3rd respondent, the driver of the 1st respondent's vehicle, operated the vehicle in a rash and negligent manner, resulting in the accident and causing injuries to the petitioner.

11. Findings No. 2:-

The question of the respondents' liability now needs to be determined. It has already been established that the accident was caused by the rash and negligent driving of the 3rd respondent, which resulted in injuries to the petitioner. As such, it must now be considered whether the petitioner is entitled to compensation as claimed from the respondents. The evidence on record clearly establishes that the offending vehicle belongs to the 1st respondent and was insured with the 2nd respondent at the time of the accident. The learned counsel for the 2nd respondent argued that the petitioner, who is claimed to be a loadman, was a gratuitous passenger who was travelling in the vehicle, fell onto the road, and sustained injuries. As per the evidence available on record, it is found that the offending vehicle belongs to the 1st respondent, and the petitioner was travelling in the same vehicle as a loadman at the time of the accident. The 1st and 3rd respondents have also remained ex parte in this petition. The offending vehicle is a commercial goods vehicle, and at the time of the accident, a package policy was in force for the said vehicle with the 2nd respondent. Although no separate premium was collected for the employer, as per Ex.R1 (copy of the insurance policy), there is statutory liability under Section 147 of the Motor Vehicles Act to indemnify persons travelling in the course of employment as loadmen. Further, during cross-examination, PW1 stated that

விபத்து நேரத்தில் நான் எங்கு அமர்ந்து பயணம் செய்தேன் என்றால், வாகனத்தை ஓட்டியவரின் பக்கத்தில் அமர்ந்து பயணம் செய்தேன். மற்ற நபர்கள் எங்கு அமர்ந்து சென்றார்கள் என்றால், ஐந்து பேரும் மேற்படி வாகனத்தின் கேபினில் அமர்ந்து பயணம் செய்தனர்.

Hence, it is clear that at the time of the accident, the petitioner was travelling in the cabin of the TATA ACE vehicle, and the same was not specifically denied by the respondent during cross-examination. Even though the respondent has alleged that the petitioner travelled as a gratuitous passenger, there is no evidence adduced in this regard by the respondent. Even assuming that the petitioner was travelling on the goods, the Hon'ble Apex Court has laid down the following principle in this regard.

12. A combined reading of Rules 238 to 241 of the Tamil Nadu Motor Vehicles Rules clearly indicates that there is no absolute prohibition on the travelling of a person upon goods in a goods carriage, provided that such person is seated and the height does not exceed 300 cms from the road level. In fact, the authorities have the power to permit a larger number of persons to be carried in a goods carriage under certain conditions. It is settled law by the Hon'ble Madurai Bench of the Madras High Court in *Branch Manager, New India Assurance Company Ltd., Virudhunagar v. P. Ayyanar & Others*, reported in 2023 (2) TN MAC 9, that when a person travels in a goods carriage over the goods as a loadman/coolie in a sitting position and the height does not exceed 300 cms from the road level, the same cannot be construed as a statutory violation. Further, it is settled that the burden lies on the insurance company to establish that when the claimants were sitting upon the goods, the height exceeded 300 cms from the road level. In the present case, the 2nd respondent/insurance company has not discharged the said burden to show that the petitioner was sitting upon the goods at a height exceeding 300 cms from the road level. Although the respondent alleged that the 3rd respondent did not possess a valid driving licence, there is no evidence adduced in this regard. Further, as per Ex.P3, only two persons were permitted to travel in the 1st respondent's TATA ACE vehicle. However, according to the version in the FIR, six persons were travelling, one of whom died. RW1 also stated that the deceased had filed a claim before the Salem MCOP Court, but no proof has been produced in this regard. Therefore, this Court concludes that, being the insurer of the offending vehicle, the 2nd respondent is liable to compensate the petitioner for the injuries sustained in the accident.

13. Findings No.3

Finally, the amount of compensation to be awarded to the petitioner for the injuries sustained in the accident has to be determined. As per the medical records, the petitioner sustained a fracture head injury, ENT bleed with zygoma fracture, abrasion of size 4 × 3 cm in the temporal region, abrasion of size 8 × 6 cm in the anterior abdominal region of the skull, and a laceration of 6 × 4 cm in the right periorbital region in the accident. The petitioner was treated as an inpatient from 31.07.2016 to 22.08.2016 at Government Hospital, Salem. Ex.P2, the discharge summary, discloses the following injuries: abrasion of size 4 × 3 cm in the temporal region, abrasion of size 8 × 6 cm in the anterior abdominal region, and laceration of 6 × 4 cm in the right periorbital region.

14. The petitioner failed to appear before the Medical Board. There is no evidence to show that there is any loss of future earnings on account of the injuries sustained in the accident. The petitioner has also not produced any document to show that she has undergone any further treatment after 22.08.2016. If the petitioner had suffered any disability after the accident, she would have definitely sought further medical advice. Moreover, on discharge, the petitioner was stable and there were no specific complaints from her wounds. The fact that she has not done so indicates that she has completely recovered and there is no functional disability debilitating her from carrying out her normal daily activities. No medical records have been produced to show that she continues to receive treatment or requires further care. Hence, it is held that the petitioner has not suffered any functional disability. However, the injuries sustained by the petitioner are treated as grievous in nature. Accordingly, this Court proceeds to award compensation based on the nature of the injuries and treatment undergone by the petitioner.

15. Based on the above facts and circumstances of the case, this court decides to award compensation to the petitioner under the following heads.

<u>1). Pecuniary damages</u>

(i) Damages for grievous injury

(ii) Expenses relating to treatment, hospitalization, medicines GH- Treatment

(iii) Loss of earning during the period of treatment and rest for 4 months at the rate of ₹.10,000 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.

16. Apportionment of Compensation:-

Sl.No	Categories of Compensation	Apportioned Amount
1	Damages for Grievous injury	₹.75,000
2	Damages for pain, suffering and trauma as a consequence of the injuries	₹.30,000
3	Loss of amenities	₹.20,000
4	Expenses relating to treatment, hospitalization and medicines	GH- Treatment
5	Loss of earning during the period of treatment and rest for 4 months at the rate of ₹.10,000 per month	₹.40,000
6	Expenses relating to attenders	₹.10,000
7	Expenses relating to transportation	₹.10,000
8	Expenses relating to nourishing food.	₹.25,000

9	Damages to cloths	₹.5,000
	Total	**₹.2,15,000**

On the basis of the evidence on the record in this petition, it is decided to award a total of **₹.2,15,000** as appropriate compensation for the injuries sustained by the petitioner and to award the same with 7.5% interest for the remaining period, excluding any default period, from the date of the petition until the amount is collected. The Court also concludes that the said compensation is just and appropriate.

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

(1) The petitioner is awarded **₹.2,15,000**, 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 2nd respondent.

(2) The 2nd respondent is liable to pay a sum of **₹.2,15,000**, 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 of 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.36498947037, SBI - Kiosk Bank, IFSC Code.SBIN0001030, Kamalapuram**

Branch and the same has to intimate to this Tribunal by way of sending pay advice slip via **e-mail: subordinatecourtomalur@gmail.com**

(4) Court fee paid along with this petition is **Rs.380/-.** Court fee for the award amount is **₹.1,523** and the Advocate fee is fixed at **₹.7,300.** The petitioner is directed to pay the balance court fee within a period of 10 days. Total cost of the claim is **₹.9,243.**

(5) The Petitioner shall intimate the payment of balance court fee to the 2nd respondent 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 **20th day of April 2026.**

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

Petitioner's side Witness:

No. of Witnesses	Name of the Witnesses
PW1	Alamelu (Petitioner)

Petitioner's side exhibits:

Sl. No.	Exhibits	Date	List of documents
1.	Ex.P1	01.08.2016	Copy of First Information Report
2.	Ex.P2	-	Discharge summary

3.	Ex.P3	-	Copy of Registration Certificate
4.	Ex.P4	-	Copy of Insurance Policy
5.	Ex.P5	-	Copy of Petitioner's Aadhar Card
6.	Ex.P6	-	Copy of Petitioner's Bank Passbook

Respondent's side Witness:

No. of Witnesses	Name of the Witnesses
RW1	Dinesh

Respondent's side Exhibits :

Sl. No.	Exhibits	List of documents
1.	Ex.R1	Copy of Insurance Policy (TN 30 AW 0975 TATA ACE)
2.	Ex.R2	Copy of Registration Certificate (TN 30 AW 0975 TATA ACE)

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