

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, SIVAGANGAI

PRESENT: THIRU.A.PASUMPON SHUNMUGIAH, B.A.,B.L., L.L.M.,

Motor Accident Claims Tribunal Judge,

(Chief Judicial Magistrate, Sivagangai)

Wednesday, the 11th day of March, 2025

M.C.O.P. No.48/2023

CNR.No.TNSV02-002672-2023

(MCOP.No.38/2023 on the file of Principal District Court, Sivagangai)

Gurumoorthy (Age 33)

S/o. Muthu,

South Street,

Rajakampeeram Village,

Manamadurai Taluk,

Sivagangai District.

... Petitioner

- Vs -

Shek Abdul Rehuman

S/o. Syed Abdul Kathar,

D.No.44/5, Surya Illam,

6th Floor, T.T.Nagar,

Karaikudi, Sivagangai District.

... Respondent

This Original Petition came up before me for final hearing on 18.02.2025 in the presence of Tmt.P.Malathi, Advocate for the Petitioner and Eventhough respondent initially appeared through advocate, latter remained exparty without filing counter upon hearing the petitioner side argument and on perusal of entire materials placed before me, this Tribunal passed the following...

ORDER

1) This petition is filed by the Petitioner before this Tribunal claiming Rs.10,00,000/- as compensation against the Respondent together with interest and cost from the date of presentation of petition.

Facts relating to the claim

- | | |
|--------------------------------------|--|
| 1. Claim for | .. Injury |
| 2. Name of the Injured Person | .. Gurumoorthy S/o. Muthu |
| 3. Age of the Injured Person | .. 33/2022 |
| 4. Occupation | .. Mason |
| 5. Income pleaded | .. 30,000/- Per month |
| 6. Date of accident | .. 03.03.2022 at about 7.00 P.M. |
| 7. Compensation Claimed | .. Rs.10,00,000/- |
| 8. Claimed is filed Under
M.V.Act | .. 1988 of u/s.140, 166 & M.V.Act 1988
r/w Rule 3(1) and Amended Act 54/94
of the Tamil Nadu Motor accidents
claims tribunal Rules. |

2) The averments of the petition in brief :-

(i) On 03.03.2022 at 7.00 hours petitioner along with Ramachandran, Mahendrakumar and Seeman from his son in law Vijaysekar house by walk in the left side of the Okkur Anna Nagar Road after purchasing grocery by the time TN 03 J 2093 driven by its driver in a rash and negligent manner and hit the petitioner by which petitioner thrown away and sustained grievous injuries in all over the body.

(ii) With regard to the accident, a case was registered by Sivagangai Town Police Station Crime No.112/2022. The Respondent is owner of the vehicle. Respondent is liable to pay compensation to the Petitioner for the injuries sustained by his in the above said accident is the contention of the Petitioner.

(iii) Respondent is remained exparte.

3) The points for consideration : -

1. Whether the accident took place due to the rash and negligent the rider of the respondent?
2. Whether the petitioner is entitled for compensation? If so, what is the quantum?
3. Who is liable to pay compensation?

4) On the side of the Petitioner, petitioner is examined, P.W.1 and P.W.2 and Ex.P1 to Ex.P7, Ex.X1 and Ex.C.1 have been marked.

5) POINT NO.1:-

NEGLIGENCE:-

Heard the learned counsel for Petitioner. Records perused. In order to prove the case of the Petitioner, the Petitioner has been examined as P.W.1 and P.W.2 Ex.P.1 to Ex.P.7, Ex.X1 and Ex.C1 marked. On 03.03.2022 at 7.00 hours petitioner along with Ramachandran, Mahendrakumar and Seeman from his son in law Vijaysekar house by walk in the left side of the Okkur Anna Nagar Road after purchasing grocery by the time TN 03 J 2093 driven by its driver in a rash and negligent manner and hit the petitioner by which petitioner thrown away and sustained grievous injuries in all over the body.

6) In this aspect it is necessary to state the principle lay down by the **Hon'ble Supreme Court in the Judgment reported in 2014 (1) TN MAC 456 (SC) Meera Devi and another Vs. H.R.T.C and another,**

" To prove the contributory negligence, there must be cogent evidence. In the instant case, there is no specific evidence to prove that the accident has taken place due to rash and negligent driving of the deceased scooterist. In the absence of any cogent evidence to prove the plea of contributory negligence, the said doctrine of common law cannot be applied in the present case ."

7) From the above principle said laid down by Hon'ble Supreme Court it is evident that to prove the claim of the contributory negligence, Respondent must let in satisfactory evidence. But in this case Respondent is remained exparte. Further Ex.P1 First Information Report and Ex.P4 FIR support the case of petitioner, no material is available to reject it. Hence, considering the facts and circumstances and the evidence let in before this Tribunal, i.e., evidence of P.W.1and P.W.2 and Ex.P.1 to Ex.P.7, Ex.X1 and this Tribunal has come to conclusion that due to rash and negligent respondent's driver only, the accident has occurred.

8) For the reason stated above this tribunal, has come to the conclusion that due to the rash and negligent of the respondent only, this accident has happened. Accordingly, this point is answered.

POINT NO.2:-

QUANTUM:-

9) The petitioner in claim petition has claimed compensation under various heads and for convenience of this court, the heads are discussed separately.

DISABILITY:-

10) The Petitioner claims that injured has temporary disabled due to the injuries sustained in the accident. To prove the same, the Petitioner has appeared before Medical Board to ascertain the permanent disability. In this regard, Medical Board Certificate is marked as Ex.C.1, in which, Medical Board has reported as the Petitioner has sustained **21% disability**. In this regard, the learned Petitioner counsel draws attention of this Tribunal to the decision of our **Hon'ble Madras High Court in Murali -vs- 1.Murasu and another in CMA 1661 of 2024 decided on 15.07.2024** In the decision, our Hon'ble Madras High Court has held as,

"The tribunal has adopted the per percentage method and fixed a sum of **Rs.5,000/-** per percentage. The accident had taken place in the **year 2022** and this court is inclined to fix a sum of **Rs.8,000/-** per percentage. Accordingly, the compensation under the head of disability is fixed at **Rs.1,68,000/- (Rs.8,000 X 21%)** " Hence, considering date of accident in this case i.e **03.06.2023** by applying the above said Honourable High Court decision, this Tribunal decides to award **Rs.8,000/-** for each 1% of permanent disability, by which **Rs.1,68,000/- (21 X 8,000 = 1,68,000/-)** is awarded for Petitioner towards disability.

11) LOSS OF INCOME:-

The Petitioner has stated in his petition as the Petitioner was a Mason and was earning a sum of **Rs.30,000/-** per month. To prove the occupation and income, no oral and documentary evidence is produced by the petitioner. Hence considering present day economy of petitioner, petition and counter averment this tribunal fixes the monthly income of **Rs.10,000/-** per month.

TRANSPORTATION CHARGE :-

12) Even though, the Petitioner has claimed Rs.10,000/- as transportation charge, no material is placed for it. Considering injuries caused to the Petitioner, this Tribunal is inclined to award the amount of **Rs.2,000/-** as transportation charge.

EXTRA NOURISHMENT :-

13) Even though, the Petitioner has claimed Rs.1,00,000/- as nutritious food charge, no material is placed for it. Considering injuries caused to the Petitioner, this Tribunal is inclined to award the amount of **Rs.10,000/-** is awarded.

PAIN AND SUFFERING:-

14) On perusal of Ex.C1 disability certificate issued by Medical board, it seems that the petitioner has obtained **21%** permanent disability due to the accident. Hence considering the said fact, for pain and suffering, **Rs.30,000/-** is awarded.

MEDICAL EXPENSES:

15) Even though, the petitioner claims **Rs.3,00,000/-** as medical expenses, the petitioner was treated in the Government. Therefore no amount is awarded under this head.

DAMAGE TO CLOTH:-

16) Even though, the Petitioner has claimed Rs.5,000/- towards damage to clothes, no material is placed for it. Considering the facts and circumstances oral and documentary evidence, argument, **Rs.2,000/-** is granted.

OTHER EXPENSES:-

18) With regard to other claim made by the petitioner, no document is filed by the petitioner, hence the same is not awarded.

In fine, in the light of discussion made above this Tribunal finds that the claimant is entitled for the following amount under the head given below.

1)	Disability (21% X 8,000)	Rs.	1,68,000/-
2)	Loss of Income	Rs.	10,000/-
3)	Transportation Charges	Rs.	2,000/-
4)	Extra Nourishment	Rs.	10,000/-
5)	Pain and suffering	Rs.	30,000/-
6)	Damage of cloth	Rs.	2,000/-
Total		Rs.	2,22,000/-

Hence, this point is answered accordingly.

POINT No.3:-**LIABILITY:**

19) This Tribunal for the reason stated in Point No.1, has come to conclusion that due to the rash and negligent of the Respondent only the accident was happened. Considering the facts and circumstances records available before this court in the light of above said decision this court comes to conclusion that there is no legal impediment to direct the respondent to pay the said compensation amount. Hence this point is answered accordingly.

RESULT :-

- (i) In the result, this petition is partly allowed as
- (ii) The petitioner is awarded **Rs.2,22,000/-** (Rupees Two lakh Twenty Two Thousand Only) together with interest at 7.5% per annum from the date of taken on file of this petition (10.02.2023) to till the date of deposit.
- (iii) The Respondent is liable to pay the compensation to the petitioner and the Respondent shall deposit the above said amount and interest with cost of this petition within two months from the date of this Order in the name of MACT Account of this Court using 'SB collect facility VAN' (Virtual Account Number) (IFSC No.SBIN0004266).
- (iv) The Petitioner paid court fee as **Rs.373/-**, the Petitioner is directed to pay Balance court fee **Rs.1,220 /-** within 15 days from the date of this award.
- (v) Advocate fee is fixed at **Rs.8,940/-**
- (vi) Petitioner side cost list not filed.

	Petitioner Rs.	Respondent Rs.
1. Court Fee on Petition	1,593.00/-	--
2. Vakkalath	--	--
3. Advocate Fess	8,940.00/-	--
4. Process fees	--	--
Total	10,533.00/-	--

- (vii) Petitioner is not entitled for interest during the default period, if any.
- (viii) 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 03.12.2014 is obediently followed.

Dictated to Steno-Typist directly and typed by him in the computer and corrected and pronounced by me in the Open Tribunal on this the 11th day of March, 2025.

Motor Accident claims Authority,
(Chief Judicial Magistrate)
Sivagangai.

Petitioner Side Witnesses :-

P.W.1 : Gurumoorthy (petitioner)

P.W.2 : Karunanithi

Petitioner side Exhibits :-

Ex.P.1 : Copy of First Information Report

Ex.P.2 : Copy of Alteration Report

Ex.P.3 : Copy of Motor Vehicle Inspection Report

Ex.P.4 : Copy of Final Report

Ex.P.5 : Copy of Accident Register

Ex.P.6 : Copy of Aadhaar Card of Petitioner

Ex.P.7 : Copy of Pass Book of Petitioner

Petitioner side Exhibit:-

Ex.X1 : Treatment file of Petitioner (03.03.2022 to 17.03.2022)

Court Exhibits :-

Ex.C.1 : Disability Certificate

Respondent side Witness and Exhibits :- Nil

Motor Accident claims Authority,
(Chief Judicial Magistrate)
Sivagangai.