



**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE AT THENI**  
**PRESENT: TMT. T.S.P. JAYASUDHA, M.L.,**  
**Chief Judicial Magistrate, Theni.**

**Friday, the 31<sup>st</sup> day of July, 2026**

**M.C.O.P. No.195/2019**  
**C.N.R. No. TNTH02 – 002519 - 2020**

Balasubramani, S/o. Karuppiyah, aged about 55 years, residing at Ward 1, D.No.23, South Street, Boyandurai Road, Pudhur, Bodinayakkanur Taluk, Theni District.

**... Petitioner**

Vs.

1. Kanagaraj, S/o. Sivankaalai, aged about – years, residing at South Street, Bodi Pudhur, Bodinayakkanur, Theni District.

2. The Branch Manager, Iffco – Tokia Gen Insurance Company Limited, 375A, First Floor Jeyam Building, Madurai Road, Theni.

**... Respondents**

This Petition came up on 02.07.2026 for final hearing before me in the presence of Mr. R. Sathiyamoorthi, Advocate appearing for the Petitioner, Mr. M. Ragu, Advocate appearing for the 1st Respondent, Mr. S. Venkateswaran, Advocate appearing for the 2nd Respondent, and upon hearing the arguments of both sides and after perusing case records and having stood over for consideration till this day, this Tribunal passed the following:

**A W A R D**

This Petition is filed under Section 140, 141, 142, 160, 163A, 163B, 166 and 182A of the M.V. Act 1988 r/w Rule 3(1) of the MACT rules Amendment Act 54, 1954 claiming a compensation of Rs.15,00,000/- with interest and costs



from the Respondents for the injuries sustained by the Petitioner in the accident which occurred on 10.09.2017 at about 01.15p.m at Allinagaram Main Road opposite to Kokila Hospital.

2. **Briefly stated averments in the Petition are as follows:**

It is the case of the Petitioner, that on 10.09.2017 at about 01.15p.m the petitioner was traveling as a pillion rider on a Honda Unicorn motorcycle bearing Reg. No. TN 60 T 5358 driven by 1<sup>st</sup> respondent to attend a funeral rites at Bommaiyaoundanpatti, while his relatives were following on another motorcycle. While they were traveling at high speed along Allinagaram Main Road in the south to north direction and opposite to Kokila Hospital a dog suddenly crossed their path. The 1<sup>st</sup> respondent failed to notice that dog and suddenly applied the brakes. This caused the vehicle to loose balance, resulting which the petitioner fell down on the ground. As a result, the petitioner sustained severe injuries to his left knee, left knee joint and big toe. His relatives admitted him to Rathinam Ortho Centre Rajamanikandan Ortho Centre in Theni, where he took treatment as an inpatient from 10.09.2017 to 15.09.2017. The petitioner working as a load man was earning about Rs.1,000/- per day. Hence, the Petitioner seeks compensation of sum of Rs. 15,00,000/- from the Respondents under various heads.



**3. The averments in the counter filed by the 1<sup>st</sup> Respondent in brief are as follows:**

In the counter filed by the 1<sup>st</sup> Respondent it is contended that on 10.09.2017 at about 01.15p.m while the vehicle was driven in a slow manner from the south to north on the left side of the road, dogs suddenly began fighting and darted onto the road. The petitioner who was sitting carelessly at the rear of the vehicle, was watching the dog fight and fell down on his own, thereby causing the accident. The accident did not occur due to any negligence or carelessness on the part of the 1st Respondent. The 1st Respondent also fell to the right side with the vehicle collapsing between his legs and sustained no external injuries. The 1st Respondent himself had admitted the petitioner to the nearby Rathinam Ortho Care Centre for first aid. Hence this petition deserves to be dismissed.

**4. The averments in the counter filed by the 2<sup>nd</sup> Respondent in brief are as follows:**

In the counter filed by the 2<sup>nd</sup> Respondent it is contended that the 1<sup>st</sup> respondent's vehicle bearing Reg.No. TN 60 T 5358 is having policy No. 1-75HDAHP as per the petition but as per the MV report the said vehicle having policy No. 1-75HDANP and the date of expiry of insurance certificate is 26.02.2018 and that policy was insured with this 2<sup>nd</sup> respondent. The policy



No.1-75HDAHP was originally issued for the vehicle bearing Reg. No. TN 18 C 5193 for the period from 12.08.2016 to 11.08.2017 by this 2<sup>nd</sup> respondent. Therefore, the 1<sup>st</sup> respondent's vehicle had not been insured with this 2<sup>nd</sup> respondent at the time of accident. FIR was registered after 41 days from the date of accident. And as per the MV report, there are no damages in the 1<sup>st</sup> respondent's vehicle and the petitioner was admitted in the hospital after 2 days from the accident. These factors are creating suspicious regarding the involvement of 1<sup>st</sup> respondent's vehicle in the accident. So this 2<sup>nd</sup> respondent is not a necessary party for this case. Hence this claim Petition deserves to be dismissed.

5. **The points for determination are:**

|    |                                                                                                                                                          |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Whether the accident occurred due to the rash and negligent riding of the bike bearing Reg.No. TN 60 T 5358 belonging to the 1 <sup>st</sup> Respondent? |
| 2. | Whether the Respondents are liable to pay the compensation?                                                                                              |
| 3. | Whether the petitioner is entitled for compensation and if so what is the amount?                                                                        |

6. On these points, PW1 to PW5 were examined through proof-affidavit and exhibited documents Ex.P1 to P18, Ex.X1 to Ex.X3 were marked on the side of



the petitioner. On behalf of the 2<sup>nd</sup> respondent, RW1 was examined and exhibited documents Ex.R1 to Ex.R7 on their side. Further the disability assessment report issued by the Medical Board was marked as Ex.C1. Written arguments of the petitioner were filed.

7. **POINT No.1:**

(i) It is the case of the petitioner that on 10.09.2017 at about 01.15p.m the petitioner was traveling as a pillion rider on a Honda Unicorn motorcycle bearing Reg. No. TN 60 T 5358 driven by 1<sup>st</sup> respondent to attend a funeral rites at Bommaiyaoundanpatti, while his relatives were following on another motorcycle. While they were traveling at high speed along Allinagaram Main Road in the south to north direction and opposite to Kokila Hospital a dog suddenly crossed their path. The 1<sup>st</sup> respondent failed to notice that dog and suddenly applied the brakes. This caused the vehicle to loose balance, resulting which the petitioner fell down on the ground. As a result, the petitioner sustained severe injuries to his left knee, left knee joint and big toe. His relatives admitted him to Rathinam Ortho Centre Theni, where he has been taking treatment as an inpatient from 10.09.2017 to 15.09.2017. Hence this petition.

(ii) With regard to the rash and negligent aspect of driving of the 1<sup>st</sup> respondent, the petitioner himself has deposed as PW1. There is nothing elicited in the cross examination of PW1, so as to deny the rash and negligent riding of



the 1<sup>st</sup> respondent. It is seen that, FIR registered in Allinagaram PS Cr.No.427/2017, U/s. 279, 337 of IPC against R1 namely Kanagaraj and that copy of FIR was marked as Ex.P1 and he was charge sheeted under Ex.P4. The actual date of accident is 10.09.2017 but the petitioner gave complaint on 21.10.2017 i.e., after 41 days FIR was registered. The petitioner stated that due to lack of formal education complaint was given so late. Hence delay alone cannot be a ground to reject the claim of the petitioner herein. This court is also inclined to note from Ex.P5 that, the case against the 1<sup>st</sup> respondent filed in Judicial Magistrate at Theni was taken on file as STC 11686/2017 and judgment of conviction was pronounced on 22.12.2017. This court considering the aforesaid facts is of the view that, the cause of accident is the rash and negligent act of the 1<sup>st</sup> respondent in riding his two wheeler. Hence, this point is answered accordingly.

8. **POINT No.2:**

(i) It is seen from Ex.P.12 that bike bearing Reg. No. TN 60 T 5358 belongs to the 1<sup>st</sup> respondent herein. In the present case the insurance for such vehicle lies with the 2<sup>nd</sup> respondent is vehemently disputed by such respondent. It is seen that Motor vehicle inspection report under Ex.P3 reveals that the Insurance Policy number of above stipulated offending vehicle is mentioned as 1-75 HDANP and valid from 27.02.2017 till 26.02.2018, in the name of 1<sup>st</sup> respondent. The Learned counsel for petitioner contends that, while describing



the policy number the same is mentioned erroneously as 1-75 HDANP instead of actual policy No. 1-75 HDAHP. Further on behalf of the petitioner, the actual correct policy No. 1-75 HDAHP, as stated by him is produced under Ex.P8. Hence the Learned counsel for petitioner seeks to fix liability upon the 2<sup>nd</sup> respondent insurer.

(ii) This court at this juncture is inclined to note that, it is the contention of this 2<sup>nd</sup> respondent that, the correct policy Number as stated by the petitioner in No.1-75 HDAHP, also does not belong to this vehicle and this 2<sup>nd</sup> respondent alleges Ex.P8 as a forged document and has disproved the contents of the such Ex.P8, by examining its official as RW1 and producing the original policy pertaining to the aforesaid policy No.1-75 HDAHP, under Ex.R1, wherein it could be seen that, such policy stands in the name of one Suresh, for the vehicle No.TN 18 C 5193 for the period from 12.08.2016 till 11.08.2017. No explanation has been offered by the petitioner regarding Ex.R1. Further admittedly regarding forged Ex.P8, a complaint has also been preferred by the 2<sup>nd</sup> respondent to the Superintendent of Police, Theni District, as could be seen from Ex.R4 and R5. In this regard a letter has also been addressed to 1<sup>st</sup> respondent by the 2<sup>nd</sup> respondent herein.



(iii) This court is inclined to note that, despite the 2<sup>nd</sup> respondent having produced Ex.R1 and disproving the contents of Ex.P8, the petitioner did not choose to examine 1<sup>st</sup> respondent, and produce the original of Ex.P8, though he alleges the 1<sup>st</sup> respondent as his relative. Hence this court considering the fact that the petitioner failed to produce a valid insurance policy standing in the name of the 1<sup>st</sup> respondent herein, as being insured with the 2<sup>nd</sup> respondent, this 2<sup>nd</sup> respondent cannot be considered as being liable to compensate the petitioner and hence this court holds the 1<sup>st</sup> respondent as liable to compensate the petitioner and this point is decided accordingly.

**9. Point No.3:**

The petitioner herein, after the petition mentioned accident, has been admitted in Rathinam Ortho Centre at Theni from 10.09.2017 to 15.09.2017 which could be seen from Ex.P11/Discharge Summary issued by such Hospital. And there he was diagnosed for both bone left leg fracture and procedure done was closed IMIL nailing left tibia. The same is certified as grievous under Ex.P2. Hence, this tribunal is inclined to hold that the Petitioner is entitled to receive compensation.



**Computation of loss sustained by the petitioner:**

10. The Petitioner has made a claim of Rs.15,00,000/- under various fractures and injuries sustained by him in the alleged accident. Now this Tribunal proceeds to calculate the compensation payable to the Petitioner.

**(a) Pain and sufferings:-**

This tribunal is inclined to note that the petitioner due to the petition mentioned accident has been admitted at Theni Rathinam Ortho Centre from 10.09.2017 to 15.09.2017 which could be seen from Ex.P11/Discharge Summary. A perusal of the same reveals that, the petitioner had sustained both bone left leg fracture. Hence considering the nature of injury, and the period of hospitalization being 6 days, this tribunal is able to appreciate the immense pain and sufferings, that would have been undergone by the Petitioner both during the accident and recovery period. Hence, this tribunal is inclined to award a sum of **Rs.80,000/-** to the Petitioner for the pain and sufferings undergone by him.

**(b) Permanent Disability:**

As per the Ex.C1, report of the Medical Board, the petitioner suffered disability of 15% which is described as temporary disablement. As the petitioner did not take any steps to get his permanent disability assessed, amount is awarded under this head.



(c) **Loss of earning capacity :**

(i) It is seen that, the petitioner herein is stated to be load man and was earning about Rs.1,000/- per day. A perusal of Ex.P9 and evidences of PW2 and PW3 would establish the avocation of this petitioner. However no document is produced by this petitioner to substantiate his income proof. Hence this court is inclined to calculate the notional income of the petitioner. Hence this tribunal considering the age and avocation of the petitioner and also considering the reported judgment of the Hon'ble High court of Madras in <http://indiankanoon.org/doc/157080925/> in The Manager -vs- Divya on 14.02.2024 and <http://indiankanoon.org/doc/48268368/> in The Oriental Insurance Company Limited -vs- Kaliasammal (Died) on 18.04.2024., wherein our Hon'ble High Court has relied upon the decision of our Hon'ble Apex Court in Sayed Sadiq -vs- United India Insurance Company reported in 2014 (1) TN MAC 459, wherein our Hon'ble Apex Court has fixed the monthly income of vegetable vendor @ Rs.6500/- per month in 2008, when the cost inflation index was 129. Hence, this court is inclined to adopt the same principle to this case also. Considering the cost inflation index at 272 for the financial year 2017-2018, this tribunal fixes notional income for the petitioner (  $272/129 \times \text{Rs.6,500/-} = \text{Rs.13,705.42/-}$  ) at Rs.13,705.42/- rounded off to Rs.13,700/- per month.



(ii) This petitioner on account of both bone fracture in the left leg could not have attended his regular duties as a loadman for a period of 4 months and hence this court is inclined to award a sum of **Rs.54,800/-** (4 X Rs. 13,700/- ) towards loss of income.

(d) **Medical expenses:**

The petitioner had taken treatment at Rathinam Ortho Centre as could be seen from Ex.P11. He had produced his medical bills under Ex.P10. A perusal of Ex.P10, would reveal that this petitioner incurred medical expenditure of Rs.86,540/-. Considering the same, a sum of **Rs.86,600/-** is awarded under this head.

(e) **Transport Charges, Attender charges and Extra Nourishment:**

Due to the both bone left leg fracture, the petitioner had taken treatment in Rathinam Ortho Centre at Theni. Considering the nature of the injuries and the period of hospitalization being nearly 6 days, this tribunal is inclined to award a sum of **Rs.10,000/-** under the head of transportation charges. When the petitioner had taken treatment in such hospital, he ought to have been in need of an attender for his assistance. Hence this court is inclined to award a sum of **Rs.10,000/-** towards attender charges. Further, this tribunal is inclined to award a sum of **Rs.10,000/-** towards extra nourishment for his recovery.



(f) **Loss of comfort and amenities :-**

This court considering the nature of grievous injury sustained by the petitioner is inclined to award a sum of **Rs.20,000/-** towards loss of amenities.

Therefore, the petitioner is entitled to compensation under various heads are as follows:

|                                     |                      |
|-------------------------------------|----------------------|
| Pain and Sufferings                 | Rs.80,000/-          |
| For permanent disability            | ----                 |
| For Medical expenses                | Rs.86,600/-          |
| For loss of income                  | Rs.54,800/-          |
| For Transport expenses              | Rs.10,000/-          |
| For attender charges                | Rs.10,000/-          |
| For Extra nourishment               | Rs.10,000/-          |
| Loss of Comfort and Basic amenities | Rs.20,000/-          |
| <b>Total</b>                        | <b>Rs.2,71,400/-</b> |

This point is answered accordingly.

12. In the result, this petition is partly allowed as follows:-

a) That the 1<sup>st</sup> respondent shall pay a sum of **Rs.2,71,400/- (Rupees Two lakhs seventy one thousand and four hundred only)** as compensation to the petitioner with costs and interest at the rate of 7.5% per annum from the date of filing of the Petition from 14.08.2019 till the date of realization. The interest is not payable for the default period if any;



b) As per the order of our Hon'ble apex court in SLP No.4484/2020, the aforesaid compensation amount together with interest, costs shall be **deposited by the 1<sup>st</sup> respondent into the Petitioner bank account. The petitioner is directed to furnish his bank account particulars, and proof of payment of deficit Court fee, to the 1<sup>st</sup> respondent through registered post and the 1<sup>st</sup> respondent upon receipt of the same shall pay the compensation amount to such account of the petitioner** directly by NEFT or RTGS mode within a period of two months from the date of this order and intimate the same to this tribunal with particulars of the deposit so made;

c) **Particulars of Court fee and Cost**

Cost of this petition is **Rs.10,595/-** = ( Vakkalath fee:Rs.10 + Process fee: Rs.70/- + Court fee: Rs.2,087/- + Advocate fee: Rs.8,428/-)

ii) Court fee paid: Rs.380/-

iii) Court fee allowed : Rs.2,087/-

iv) Deficit Court Fee :Rs. 1,737 /-

The petitioner shall pay the deficit court fee of Rs.1,737/- within a period of 15 days from today.



Directly dictated to the stenographer typed by her, corrected and pronounced by me in the Open Court on this the 31<sup>st</sup> day of July, 2026.

Chief Judicial Magistrate,  
Theni.

The Bank Account particulars of the Petitioner:

The petitioner directed to directly furnish the same to the respondent concerned.

**PETITIONER'S WITNESSES:**

| S.No. | PW  | Name of the witnesses | Chief      | Cross            |
|-------|-----|-----------------------|------------|------------------|
| 1.    | PW1 | Balasubramani         | 21.07.2023 | 11.12.2023       |
| 2.    | PW2 | Kumar                 | 14.03.2024 | 14.03.2024       |
| 3.    | PW3 | Palanivel             | 04.09.2024 | 12.11.2024 by R2 |
| 4.    | PW4 | Alex Samuvelraja      | 02.01.2025 | 02.01.2025       |
| 5.    | PW5 | Rajamanikandan        | 14.02.2025 | 14.02.2025       |

**PETITIONER'S EXHIBITS :**

| Exhibits | Date       | Description of the Exhibit             | Proved by /<br>Attested by |
|----------|------------|----------------------------------------|----------------------------|
| Ex. P1   | 21.10.2017 | Photocopy of FIR No. 427/2017          | PW1                        |
| Ex.P2    | 10.09.2017 | Photocopy of Wound Certificate         | PW1                        |
| Ex.P3    | 01.11.2017 | Photocopy of MV Report of TN 60 T 5358 | PW1                        |
| Ex. P4   | 21.10.2017 | Photocopy of Final Report              | PW1                        |
| Ex. P5   | 22.12.2017 | Judgment copy in STC 11686/2017        | PW1                        |
| Ex. P6   | ---        | Photocopy of Bank Passbook first page  | PW1                        |



|         |            |                                                             |     |
|---------|------------|-------------------------------------------------------------|-----|
| Ex. P7  | ---        | Photocopy of Aadhaar Card                                   | PW1 |
| Ex. P8  | ---        | Insurance Policy No.1-75HDAHP                               | PW1 |
| Ex. P9  | 31.10.2017 | Letter from BMS load man Sangam                             | PW1 |
| Ex. P10 | ---        | Medical Bills of Rathinam Ortho Centre at Theni             | PW1 |
| Ex. P11 | 15.09.2017 | Discharge Summary of Rathinam Ortho Centre, Theni           | PW1 |
| Ex. P12 | 22.08.2012 | Photocopy of RC Book of TN 60 T 5358                        | PW1 |
| Ex. P13 | ---        | Photocopy of Pan Card                                       | PW1 |
| Ex. P14 | 14.09.2017 | X Ray                                                       | PW1 |
| Ex. P15 | 17.09.2004 | Certificate Registration of Societies                       | PW1 |
| Ex. P16 | ---        | Photocopy of Palanivel's Aadhaar Card                       | PW2 |
| Ex. P17 | ---        | Photocopy of Members list                                   | PW2 |
| Ex. P18 | 06.06.2023 | Photocopy of Registration of Society                        | PW2 |
| Ex.X1   | 06.01.2025 | Authorization letter                                        | PW4 |
| Ex.X2   | 01.11.2017 | MV Report TN 60 T 5358                                      | PW4 |
| Ex.X3   | 15.09.2017 | Photocopy of Rathinam Ortho Centre at Theni outpatient note | PW5 |

**2<sup>nd</sup> RESPONDENT'S WITNESSES:**

RW1 – 04.11.2025 – Karthick  
cross examination on 22.01.2026

**2<sup>nd</sup> RESPONDENT'S Exhibits:**

| Exhibits | Date       | Description of the Exhibit                                                           | Proved by / Attested by |
|----------|------------|--------------------------------------------------------------------------------------|-------------------------|
| Ex. R1   | 08.12.2016 | Photocopy of Insurance Policy No. 1-75 HDAHP of vehicle bearing Reg.No. TN 18 C 5193 | RW1                     |
| Ex. R2   | ---        | Letter by 2 <sup>nd</sup> respondent to RTO                                          | RW1                     |
| Ex. R3   | 22.07.2020 | Acknowledgment card                                                                  | RW1                     |



|        |            |                                                                    |     |
|--------|------------|--------------------------------------------------------------------|-----|
| Ex. R4 | 08.07.2020 | Complaint to Superintendent of Police by R2                        | RW1 |
| Ex. R5 | 04.11.2020 | Acknowledgment card                                                | RW1 |
| Ex. R6 | ---        | Letter by 2 <sup>nd</sup> respondent to 1 <sup>st</sup> respondent | RW1 |
| Ex. R7 | 04.11.2020 | Acknowledgment card                                                | RW1 |

**COURT EXHIBITS:**

|       |            |                                                                                                 |
|-------|------------|-------------------------------------------------------------------------------------------------|
| Ex.C1 | 14.02.2023 | Disability certificate of the Petitioner issued by Government Medical College Hospital at Theni |
|-------|------------|-------------------------------------------------------------------------------------------------|

Chief Judicial Magistrate,  
Theni.

**OTHER IMPORTANT PARTICULARS**

|                                   |                |
|-----------------------------------|----------------|
| Date of filing of the petition    | 14.08.2019     |
| Date of Award                     | 31.07.2026     |
| Amount Claimed under Compensation | Rs.15,00,000/- |
| Amount Awarded as Compensation    | Rs.2,71,400/-  |
| Total Court Fees                  | Rs.2,087/-     |
| The Court Fee already paid        | Rs.380/-       |
| Balance Court Fee to be paid      | Rs.1,737/-     |

Chief Judicial Magistrate,  
Theni.



**Chief Judicial Magistrate,  
Theni.**

**MCOP No. 195/2019**

**Order Dated : 31.07.2026**