

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL PONNERI,
THIRUVALLUR DISTRICT.**

**(IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE
PONNERI, THIRUVALLUR DISTRICT**

Present : Tmt.P.Ezhilarasi, B.Com., LLM.

Motor Accident Claims Tribunal Judge/ Additional Sub Judge

Friday, 06th day of March-2026

MCOP.No.474 of 2019

CNR.No.TNTR0F0011872019

Sasikumar

..... Petitioner

// Vs //

1. Malik Basha

2. The National Insurance Company Limited,

Divisional Office,

No.46, Moore Street,

Chennai – 600 001.

..... Respondents

This petition came up before this tribunal for final hearing on 27.02.2026 in the presence of M/s MSLR Association, P.Murthy and G.Logu, learned counsels for the petitioner and Mr.K.Mohan, learned counsel for the 2nd respondent, and the 1st respondent remained exparte and upon perusing the records and on hearing both sides and having stood over for consideration till this day, this court passes the following:

ORDER

This petition has been filed under section 166 of Motor Vehicles Act 1988 r/w Rule 3 of Tamil Nadu Motor Vehicles Claims Tribunal Rules 1989, claiming compensation of Rs.15,00,000/- towards the injury sustained by the

petitioner in a road accident held on 22.04.2019 along with interest from the date of filing of the petition till the date of realization with costs.

2. BRIEF AVERMENTS OF THE PETITION:

The petitioner has contended that he was aged about 35 years and he was self employed and earning Rs.20,000/- per month at the time of accident and he further stated that on 22.04.2019 at about 9.25 p.m., from BDO office to Balaji Theater, Valluvar Nagar turning, while the petitioner was riding in a motor cycle bearing Regn.No.TN-18-AK-8080, proceeding from Ponneri to Valluvar Nagar, the driver of the 1st respondent Maruthi ECO car bearing Regn.No.TN-18-AH-2055, proceeding in the same direction, drove the said car in a rash and negligent manner and dashed against the petitioner's motor cycle and caused accident and the petitioner sustained grievous injuries in the said accident. The petitioner has further contended that the said accident occurred due to rash and negligent driving of the driver of the 1st respondent Maruthi ECO car bearing Regn.No.TN-18-AH-2055. The 1st respondent being the owner of the vehicle and the 2nd respondent being the insurer of the vehicle, both are jointly and severally liable to pay the compensation to the petitioner.

3. Notice served to the 1st respondent and he failed to appear before the tribunal either in person or through pleader hence the 1st respondent was called absent and set exparte on 03.11.2020.

4. BRIEF AVERMENTS OF COUNTER FILED BY THE 2ND RESPONDENT :

4.1. This respondent denied all the allegations made in the petition and has stated that this respondent is not liable to indemnify the 1st respondent herein as per the terms and conditions of the policy as the insured has allowed the person who did not possess any motor vehicle driving licence as contemplated in the M.V.Act to drive the vehicle involved in the accident.

4.2. This respondent further submits that the driver of the insured vehicle involved in the accident bearing Regn.No.TN-18-H-2055, did not possess the valid endorsement in his driving licence to drive the vehicle involved in the accident. Even assuming but not admitting that there was a valid driving licence and insurance policy covering the date and time of accident. The rider of the motor cycle bearing Regn.No.TN-18-AK-8080, without wearing helmet and without any valid driving licence drove the same in a rash and negligent manner dashed as against the on going vehicle and thereby sustained injuries. In order to get a wrongful gain, the petitioner herein in collusion with owner of the insured vehicle lodged a belated FIR as if he sustained injuries involving insured vehicle and hence this petition is liable to be dismissed as against this respondent.

4.3. This respondent submits that the 1st respondent is not co-operating with this respondent in contesting the above claim petition as per the terms and

conditions of the policy by not furnishing the vehicular records and other particulars with regard to the alleged accident. The above claim petition is misconceived and devoid of any merits and hence the same is liable to be dismissed with costs.

5. POINTS FOR CONSIDERATION :

(1) Who has attributed to the accident which has taken place on 22.04.2019 and whether the said accident took place due to the rash and negligent driving of the Maruthi ECO car bearing Regn.No.TN-18-AH-2055?

(2) Whether the respondents are liable to pay compensation to the petitioner?

(3) Whether the petitioner is entitled to compensation, if so, what is the quantum of compensation he is entitled to?

6. On behalf of the petitioner, the petitioner examined himself as PW.1, Ex.P1 to Ex.P11 were marked. On the side of 2nd respondent, neither oral evidence adduced nor documentary evidence produced. The Medical board Disability certificate was marked as Ex.C1. The 2nd respondent has filed an application under section 170 of Motor Vehicles Act and the same was allowed in I.A.No.01 of 2026 on 04.02.2026.

7. Heard the arguments advanced by the learned counsel for the petitioner as well as the learned counsel for the 2nd respondent and this tribunal perused the entire records carefully.

8. POINT NO : 1

“Who has attributed to the accident which has taken place on 22.04.2019 and whether the said accident took place due to the rash and negligent driving of driver of Maruthi ECO car bearing Regn.No.TN-18-AH-2055?”

NEGLIGENCE

8.1. In order to prove the case of the petitioner herein, he examined himself as PW.1 and Ex.P1 to Ex.P11 were marked on his side. On perusal of case records it can be seen that the petitioner has approached this tribunal seeking compensation of Rs.15,00,000/- towards the injuries sustained by him in the accident occurred on 22.04.2019 at about 9.25 p.m., from BDO office to Balaji Theater, Valluvar Nagar turning, while the petitioner was riding in a motor cycle bearing Regn.No.TN-18-AK-8080, proceeding from Ponneri to Valluvar Nagar, the driver of the 1st respondent Maruthi ECO car bearing Regn.No.TN-18-AH-2055, proceeding in the same direction, drove the said car in a rash and negligent manner and dashed against the petitioner’s motor cycle and caused accident and the petitioner sustained spiral fracture shaft of clavicle with multiple fracture on his left side and he took first aid at Venkat Rathinam Hospital, T.H.Road, thereafter he took further inpatient treatment at Aakash Hospital, Thiruvottiyur, for 1 week. Surgery was done to the petitioner. Subsequently the petitioner has taken treatment continuously as out patient. The petitioner has further contended that the said accident occurred due to rash and negligent driving of the driver of the 1st respondent Maruthi ECO car bearing

Regn.No.TN-18-AH-2055. The 1st respondent being the owner of the vehicle and the 2nd respondent being the insurer of the vehicle, both are jointly and severally liable to pay the compensation to the petitioner.

8.2. The court is of the view that, there is no doubt that to succeed in the claim petition in view of the Sec.166 of Motor Vehicle Act 1988 it is for the claimant to prove that the vehicle which caused the accident was being driven in a rash and negligent manner by its driver. Moreover in action founded on the principle of fault liability, proof of rash or negligent driving is sin qua non and the standard of proof is not to be applied stringently in criminal cases and that of proof beyond reasonable doubt in a claim on tort liability evidence is tested on preponderance of probabilities.

8.3. To support the case of the petitioner, the petitioner examined himself as PW.1, Ex.P1 to Ex.P11 were marked. On perusal of ExP.1 which is the Attested copy of FIR, it can be seen that a complaint was lodged and FIR was registered on 03.05.2019 in Cr.No.212/2019 against the driver of the Maruthi ECO car bearing Regn.No.TN-18-AH-2055, U/s 279 and 337 of IPC. Though there is 11 days delay in filing complaint and registering the FIR, it will not affect the claim of the petitioner. On perusal of Ex.P2 which is the Discharge summary, it is evident that the petitioner had taken treatment as inpatient at Aakash Hospital, Thiruvottiyur, from 22.04.2019 to 26.04.2019. On perusal of Ex.P3 which is the Copy of Registration certificate of the 1st respondent vehicle,

it is evident that the 1st respondent is the owner of the offending vehicle. On perusal of Ex.P4 which is the Copy of Insurance Policy, it is evident that the 1st respondent's vehicle is insured with the 2nd respondent's insurance company. On perusal of Ex.P5 which is the Copy of driving licence of the 1st respondent vehicle driver, it is evident the driver had valid driving licence at the time of accident. On perusal of Ex.P6 which is the Copy of Accident Register, it is evident that the said accident took place on 22.04.2019. On perusal of Ex.P7 which is the Copy of wound certificate, it is evident that the petitioner has sustained greivous injuries in the above said accident. On perusal of Ex.P8 which is the Medical Bills, it can be seen that the petitioner had spend a sum of Rs.2,43,849.50 for his medical expenses. On perusal of Ex.P9 Copy of Rough sketch, it is evident the accident was occurred towards Vallurvar Nagar Road. On perusal of Ex.P10 which is the final report filed in Cr.no.212/2019, it is evident that the case has been filed against the 1st respondent driver namely Gowtham S/o Murugesan. On perusal of Ex.P11 which is the X-ray, it is evident that the petitioner has sustained injuries in the above said accident.

8.4. Further on perusal of Ex.C1 Medical Board Disability Certificate issued by District Medical Board, Thiruvallur, it is evident that the petitioner has sustained 10% disability and the petitioner/PW.1 has reiterated and reaffirmed all the avermants made in the petition and though he was cross examined on the respondent's side the manner of accident was not shattered by

the respondent in the cross examination. The evidence of PW.1 and the documents Ex.P1 Copy of FIR clearly establishes that the offending vehicle namely Maruthi ECO car bearing Regn.No.TN-18-AH-2055, has caused the said accident.

8.5. The learned counsel of the 2nd respondent argued that the accident occurred due to the rash negligent act of the petitioner and he did not wear helmet and without any valid driving licence at the time of accident. Hence, this respondent is not liable to pay compensation to the petitioner. In order to prove the same, the 2nd respondent neither examined any witness nor marked any documents. Mere allegation in counter without proof could not be accepted. No doubt that the 1st respondent is fit person to say that the accident has not been taken place as alleged by the petitioner. But he remained exparte. Therefore, adverse inference has been drawn against the driver of the 1st respondent that due to his rash and negligence driving this accident had taken place.

8.6. Further it is pertinent to mention here that Ex.P1/FIR has not been challenged so far. In addition to this, 1st respondent has not taken any steps to quash the FIR and charge sheet registered against him. At this juncture, it is worth to refer the ruling of the Hon'ble Supreme Court in *Sunitha and others Vs. Rajasthan State Transport Corporation and another, 2019 AIR SCC 994*, wherein, it was held that if the FIR is not challenged before the Court of law and are not shown to be indeficient and are corroborated by the other evidence,

they can be considered to form an opinion that the accident occurred due to the negligence of driver/accused in the criminal case concerned, irrespective of the out-come of such criminal case. In this case on hand the respondent no:1 driver has not challenged Ex.P1/FIR and Ex.P10 Charge sheet though it was registered against him. Hence this tribunal comes to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the 1st respondent. If the 1st respondent driver had driven the vehicle with due care, diligent and caution, he could have avoided the accident. Hence, the 2nd respondent counsel's argument in this aspect could not be accepted and hence rejected. Even in Ex.P1/FIR, it is clearly stated that the accident took place due to rash and negligent driving of the 1st respondent vehicle driver. There is no proof filed by the 2nd respondent to prove that the accident took place due to negligent act of the petitioner. Hence, considering the evidence of PW.1 and petitioner side exhibits, this Tribunal comes to the conclusion that the said accident had taken place due to the rash and negligent driving of the 1st respondent vehicle driver who drove the Maruthi ECO car bearing Regn.No.TN-18-AH-2055. This point is answered accordingly.

9. POINT NO : 2

“Whether the respondents are liable to pay compensation to the petitioner?”

LIABILITY

The Court is of the view that on perusal of copy of Registration Certificate of the Maruthi ECO car bearing Regn.No.TN-18-AH-2055, which is marked as Ex.P3, it is evident that the said car stands in the name of the 1st respondent and on further perusal of copy of Insurance Policy which is marked as Ex.P4, it is evident that the said car is insured with the 2nd respondent Insurance company and there is also a valid insurance for the period from 23.05.2018 to 22.05.2019 and the date of accident is 22.04.2019 and the period of insurance covers the date of accident and the said policy is in force at the time of accident. The court is of further opinion that on perusal of Ex.P5 Copy of driving licence of the 1st respondent driver, it is evident that he had valid driving licence upto 29.05.2036. Hence, the 1st respondent's vehicle had valid policy and the 1st respondent driver had valid driving licence, hence the 2nd respondent is liable to pay the compensation to the injured petitioner/claimant. This point is answered accordingly.

10. POINT NO : 3

“Whether the petitioner is entitled to the compensation, if so, what is the quantum of compensation he is entitled to?”

10.1. AGE AND INCOME OF THE PETITIONER:

As per the petition the petitioner’s age is mentioned as 35 years at the time of accident. No rebuttal evidence has been adduced by the 2nd respondent

side to contradict the same. Therefore, the petitioner's age is taken as 35 years at the time of accident.

According to the petitioner he was a self employee and earned a sum of Rs.20,000/- per month at the time of accident, but however he has not produced any documents regarding his occupation and income. Considering the age and year of accident, the notional monthly income of the petitioner is fixed at Rs.10,000/- per month.

The petitioner has appeared before the District Medical Board Thiruvallur and on perusal of the Disability certificate/Ex.C1 issued by the Medical Board it is evident that the petitioner has been assessed with 10% disability. The 2nd respondent has not produced any evidence to contradict the same. Therefore, this court is inclined to fix the percentage of disablement of the petitioner as 10%.

10.2 QUANTUM

For the reason stated in point no:1 this tribunal has come to the conclusion that due to the rash and negligent driving of the 1st respondent driver only the accident has occurred therefore the petitioner's claim of compensation is acceptable. As the petitioner claims compensation under various heads this Tribunal for its convenience has proceeded to decide each head separately as under:

(i) LOSS OF INCOME: The petitioner has sustained fracture shaft of clavicle and multiple RIB fracture left side and he has taken treatment at Aakash Hospital, Thiruvottiyur, on 22.04.2019 to 26.04.2019. Surgery was done to the petitioner on 23.04.2019. Due to the said injury sustained by the petitioner in the accident he would have been prevented from attending his work to a maximum of 10 months. Hence a sum of **Rs.1,00,000/-** (Rs. 10,000 x 10) is awarded under this head.

(ii) LOSS DUE TO PERMANENT DISABILITY : As per medical records and disability certificate Ex.C1, the petitioner has sustained " Left clavicle # TENS Nail done " and his disability is 10% permanent. Considering the above as well as Ex.C1, this tribunal fixed at 10% permanent disability. The accident was occurred in the year 2019, the loss of the petitioner due to disability compensation is arrived at Rs.4000/- per percentage and for 10% it works out to **Rs.40,000/-** (Rs.4000X10%).

(iii) MEDICAL EXPENSES: On perusal of Ex.P2 Discharge summary, it is evident that the petitioner had taken treatment at Aakash Hospital, Thiruvottiyur, on 22.04.2019 to 26.04.2019 and the petitioner has produced medical bills for a sum of Rs.2,43,849.50. Some one bill is not taken for consideration. The petitioner is entitled for claim of **Rs.1,66,349/-** under this head.

(iv) **ATTENDER CHARGES:** The petitioner has filed Ex.P2 Discharge summary, it is evident that the petitioner had taken inpatient treatment at taken treatment at Aakash Hospital, Thiruvottiyur, on 22.04.2019 to 26.04.2019 (5 days). Hence the petitioner is taken treatment for 5 days. Hence, he is entitled 5 days attender charges at the rate of Rs.500/- per day (500x5)= **Rs.2,500/-**.

(v) **TRANSPORT CHARGES:** Considering the medical treatment taken by the petitioner, he would have incurred transporation expenses. Considering those facts and the accident was happened in 2019, transporation charges is arrived at **Rs.10,000/-**.

(vi) **EXTRA NOURISHMENT & DAMAGE TO CLOTHING & ARTICLES:** Considering the nature of accident and the injuries suffered by the petitioner and the period of treatment it will be just and necessary to provide a sum of **Rs.10,000/-** towards extra nourishment and **Rs.1,000/-** towards damages to clothing and articles.

(vii) **LOSS OF AMENTIES:** The petitioner definitely would not act as before the accident due to the injuries suffered by him. Hence considering these facts, it would be just and proper to grant a sum of **Rs.50,000/-** towards loss of amenties.

(viii) **PAIN AND SUFFERING** : Considering the nature of injury suffered, disability and the nature of treatment taken by the petitioner for sustained fracture on his right foot, hence, it is just and proper to award **Rs.50,000/-** towards pain and sufferings.

Therefore the compensation is assessed as follows :

CALCULATION:

1.	Loss of income	Rs. 1,00,000.00
2.	Loss of permanent disability	Rs. 40,000.00
3.	Medical Bills	Rs. 1,66,349.00
4.	Attender charges	Rs. 2,500.00
5.	Transport charges	Rs. 10,000.00
6.	Extra Nourishment & Damage to cloth and articles	Rs. 11,000.00
7.	Loss of amenities	Rs. 50,000.00
8.	Pain and suffering	Rs. 50,000.00

		Rs .4,29,849.00

In the light of the above discussions and assessment, the petitioner claimant is entitled to a just compensation of Rs.4,29,849/- (Rupees Four Lakhs

Twenty Nine thousand Eight hundred and Forty Nine only). This point no.3 is answered accordingly.

In view of the findings given in the above points the petitioner is entitled for compensation a sum of Rs.4,29,849/- together with interest at 7.5% from the date of presentation of petition till the date of realisation, together with cost. The interest for the period of dismissed for default (if any) stands excluded.

11. RESULT:-

In the result, this petition is allowed with costs.

(1) That the petitioner is entitled to get a sum of to Rs.4,29,849/- from the respondents as compensation along with subsequent interest at the rate of 7.5% p.a from the date of this petition to till its realization.

(2) That the 2nd respondent is hereby directed to deposit the award amount of Rs.4,29,849/- (Rupees Four Lakhs Twenty Nine thousand Eight hundred and Forty Nine only) (including interim award passed if any) with interest at 7.5% per annum from the date of filing the petition i.e. 13.06.2019 till the date of realization and with costs, within two months from the date of passing order.

(3) The above said award amount is directed to be deposited by the 2nd respondent in the court MACT account through the URL Link/QR Code



<https://www.onlinesbi.sbi/sbicollect/icollecthome.htm?saraID=912678056>

hosted in the Thiruvallur District Court website <https://tiruvalur.dcourts.gov.in/mact-award-deposits/> within two months from the date of order under due intimation to this tribunal Email ID: trlpon.sc-tn@indiancourts.nic.in with MCOP numbers.

(4) After deposit, the 2nd respondent is hereby directed to send bank deposit copies and inform to this tribunal and the petitioner or his counsel.

(5) That the petitioner is permitted to withdraw their entire award amount along with interest and award amount will be directly transferred into petitioner's Account mentioned in the bank details column through NEFT or RTGS on filing necessary and appropriate application.

(6) There is no default period in the case, hence, no deduction from the interest.

(7) The petitioner had paid Rs.110/- as court fees for the claim of a sum of Rs.15,00,000/- as court fees and the petitioner is directed to deposit the deficit court fee for the award amount of Rs.4,29,849/- (Rupees Four Lakhs Twenty Nine thousand Eight hundred and Forty Nine only) within 15 days and the petitioner is hereby directed to pay the advocate fee as fixed by rules.

Dictated by me to steno-typist, typed by her, corrected and pronounced by me in the open court on this 06th day of March -2026.

**MACT Judge/Additional Sub Judge,
Ponneri.**

PETITIONER'S SIDE WITNESSES:-

PW.1 – Mr.Sasikumar

PETITIONER'S SIDE EXHIBITS:-

S.No	Exhibits	Description of documents
1.	Ex.P1.	Copy of First Information Report
2.	Ex.P2.	Discharge summary
3.	Ex.P3.	Copy of Registration certificate of the 1 st respondent vehicle
4.	Ex.P4.	Copy of Insurance policy of the 1 st respondent vehicle
5.	Ex.P5.	Copy of driving licence of the 1 st respondent driver
6.	Ex.P6.	Copy of Accident Register
7.	Ex.P7.	Copy of wound certificate
8.	Ex.P8.	Medical Bills
9.	Ex.P9.	Copy of Rough sketch
10.	Ex.P10.	Copy of Charge sheet
11.	Ex.P11.	X-ray

RESPONDENT SIDE WITNESS AND EXHIBITS :- NIL

COURT SIDE EXHIBITS:-

Ex.C1 - Disability Certificate issued by District Medical Board,
Thiruvallur.

**MACT Judge /Additional Sub Judge,
Ponneri.**