

BEFORE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TENKASI

ADDITIONAL DISTRICT COURT(FTC), TENKASI

**PRESENT: Thiru. S. Manojkumar, M.A., M.L.,
Motor Accidents Claims Tribunal Authority,
Additional District Judge, Tenkasi.**

Wednesday, the 18th Day of March 2026

M.C.O.P. No.76/2020

(CNR No.TNTS01-000084-2020)

1. Srimounika, Aged 25 years, D/o. Late. Manickaraj, residing at Door No. 2/79, Water Tank Street, Velayuthapuram, Poigai, Urmelalagian Village, Kadayanallur Taluk, Tenkasi District.
2. Rajeswari, Aged 22 years, D/o. Late. Manickaraj, residing at Door No. 2/79, Water Tank Street, Velayuthapuram, Poigai, Urmelalagian Village, Kadayanallur Taluk, Tenkasi District.
3. Sethu, Aged 20 years, S/o. Late. Manickaraj, residing at Door No. 2/79, Water Tank Street, Velayuthapuram, Poigai, Urmelalagian Village, Kadayanallur Taluk, Tenkasi District.

...Petitioners

/Vs/

1. Marutharaj, driver, S/o. Ilangamani, residing at Door No. 112/172, Solaiseri, Karuvantha, V.K.Pudur Taluk, Tenkasi District.
2. Lincy Vinolia Pushpam, D/o. David Packiyaraj, residing at Door No. 3E/2, Highground North, Palayamkottai, Tirunelveli.
3. United India Insurance Company Ltd., having its office at Door No. 1, Post Office Road, Palayamkottai through its Divisional Manager.

.....Respondents

This Claim Petition came before this Tribunal for final hearing on 25.02.2026 in the presence of Thiru.N. Pandian, Advocate for the petitioners and Thiru.R.Veldurai, Advocate for 1st and 2nd respondents, Thiru.S. Mariappan, Advocate for 3rd respondent and on hearing the arguments of both sides and upon perusal of the entire case records and this petition having stood over for consideration till this day, this Tribunal delivered the following

ORDER

This Claim Petition was filed by the petitioners u/s 166 and 140 of the Motor Vehicles Act 59/1988 claiming compensation of Rs.80,00,000/- with interest for the death of their father namely Manickaraj, who died in a road accident that took place on 09.10.2019.

2) Briefly stated averments in the Petition are as follows:

On 09.10.2019 at 9.20 A.M. the victim was travelling in the two wheeler bearing Reg.No. TN 76 AL 0667 belonging to his brother Senthilkumar near Sundrapandiapuram vilakku on Surandai- Sambavarvadakarai main road from East to West direction with care and control, observing traffic rules and regulations on the left side of the road. At that time, ahead of victim's two wheeler, the 1st respondent drove the lorry bearing Reg.No. TN 72 BH 3664 belonging to the 2nd respondent in a rash and negligent manner and all of a sudden, the 1st respondent turned the lorry towards left side neither showing hand signal not putting the left side indicator, thereby the victim's two wheeler dashed against the rear side of the lorry and the victim sustained injuries on head, right knee and he was taken to Govt. Hospital, Tenkasi and after that for further treatment he was admitted in Tirunelveli Medical College Hospital as inpatient, but he died on 15.10.2019 due to the injuries sustained on the head. The accident happened due to the rash and negligent driving of the 1st respondent and FIR was registered against the 1st respondent in Surandai P.S.Cr.No. 343/2019 u/s 279, 337, 304(A) IPC. The 3rd respondent is the insurer of the 2nd respondent's lorry. The 1st and 2nd petitioners are

daughters and 3rd petitioner is the son of victim Manickaraj. Therefore, the respondents are liable to pay compensation to the petitioners and the petitioners have filed this petition for claiming compensation against the respondents.

3) Briefly stated averments in the Counter Statement filed by the 1st and 2nd Respondent are as follows:

The Claim petition filed by the petitioners is not maintainable either in Law or on facts. The 1st and 2nd respondent denied the age, income and occupation of the victim Manickaraj. The narration about the occurrence stated in the petition is absolutely false and frivolous and incorrect one. The accident happened due to the negligence of the victim who has crossed the road without noticing the 1st respondent's lorry. At the time of accident, the 1st respondent had valid driving license and the 2nd respondent had insured his vehicle with the 3rd respondent. Hence, the 1st and 2nd respondents are not liable to pay compensation to the petitioners and the petition is to be dismissed with cost.

4) Briefly stated averments in the Counter Statement filed by the 3rd Respondent are as follows:

The Claim petition filed by the Petitioners is not maintainable either in Law or on facts. The 3rd Respondent denied the age, income and occupation of the victim. The narration about the occurrence stated in the petition is denied by the 3rd respondent. As per the investigator's report, the victim rode the two wheeler in a rash and negligent manner without wearing helmet and not keeping sufficient distance between the lorry and his motorcycle and the 1st respondent drove the lorry in a careful manner and turned towards left side after showing proper hand signal and light indicator and the victim without observing the signals shown by the 1st respondent, dashed against the rear side of the lorry. Hence, the accident happened due to the rash and negligent riding of the victim only. The owner and insurer of the victim's two wheeler are not impleaded in the petition. Hence, the claim petition is bad for non joinder of necessary parties. The victim did not possess valid driving license to drive the two wheeler. Hence, contributory negligence is to be

fixed. The compensation amount claimed under various heads is highly excessive. Hence, this petition is to be dismissed with cost.

5) Points:

1	Whether the accident happened due to the rash and negligent driving of the 1 st respondent ?
2	Whether the petitioners are entitled to get compensation?
3	Who is liable to pay compensation?
4	What is the quantum of the compensation the petitioner are entitled to?

6) To prove the claim, the 1st petitioner was examined as P.W.1 and Ex.P1 to Ex.P5 were marked. On the side of 3rd respondent, Tr. Maruthuraj, the 1st respondent was examined as R.W.1 and Ex.R1 was marked through R.W.1 and Tr.Muthukumar, Assistant Manager of 3rd respondent's insurance company was examined as R.W.2 and Ex.R2, Ex.R3 were marked through R.W.2. On the side of 1st and 2nd respondents, no witness was examined and no exhibit was marked.

7) Point No.1,2 and 3:

(i) It is the case of the petitioners that on 09.10.2019 at 9.20 A.M. the victim was travelling in the two wheeler bearing Reg.No. TN 76 AL 0667 belonging to his brother Senthilkumar near Sundrapandiapuram vilakku on Surandai-Sambavarvadakarai main road from East to West direction with care and control, observing traffic rules and regulations on the left side of the road. At that time, ahead of victim's two wheeler, the 1st respondent drove the lorry bearing Reg.No. TN 72 BH 3664 belonging to the 2nd respondent in a rash and negligent manner and all of a sudden, the 1st respondent turned the lorry towards left side neither showing hand signal nor putting the left side indicator, thereby the victim's two wheeler dashed against the rear side of the lorry and the victim sustained injuries on head, right knee and he was taken to Govt. Hospital, Tenkasi and after that for further

treatment he was admitted in Tirunelveli Medical College Hospital as inpatient, but he died on 15.10.2019 due to the injuries sustained on the head. The accident happened due to the rash and negligent driving of the 1st respondent and FIR was registered against the 1st respondent in Surandai P.S.Cr.No. 343/2019 u/s 279, 337, 304(A) IPC. In order to prove the claim of the petitioners, the 1st petitioner was examined as P.W.1 and in her proof affidavit, she has stated regarding the manner in which the accident took place. On perusal of her evidence, it is established that she is not the eye witness to the occurrence. No eye witness was examined on the side of petitioners. Regarding accident, the petitioners have marked the copy of FIR which has been marked as Ex.P1 on the basis of the complaint given by the brother of victim Manickaraj and in Ex.P1, it is stated that,

"என் உடன் பிறந்த தம்பி எங்கள் ஊர் செந்தில் குமார் என்பவருடைய டி.என்.76 ஏஎல் 0667 என்ற பதிவு எண் கொண்ட டிவிஎஸ் எக்ஸ்எல் மோட்டார் சைக்கிளில் 09.10.2019ம் தேதி சுரண்டை சென்று விட்டு திரும்ப சுரண்டை-எஸ்விகரை மெயின் ரோட்டில் சுந்தரபாண்டியாபுரம் விலக்கில் கிழக்கிலிருந்து மேற்காக சென்றபோது அவருக்கு முன்னால் எண் TN 72 BH 3664 கொண்ட லாரியை அதன் டிரைவரான சோலைசேரி மருதுராஜா என்பவர் அஜாக்கிரதையாக திருப்பியதால் என் அண்ணன் சென்ற மோட்டார் சைக்கிள் லாரியின் பின்னால் மோதி விழுந்துள்ளார்."

From the above, it is evident that the accident happened due to the rash and negligent driving of the 1st respondent. The main contention of the 3rd respondent is that the victim rode the two wheeler in a rash and negligent manner, without wearing helmet and not keeping sufficient distance between the lorry and his motorcycle and he did not possess valid driving license thereby the victim also contributed to the accident and had examined the 1st respondent as R.W.1. On perusal of the evidence of R.W.1, it is established that he had admitted that FIR and Charge Sheet are filed against him and also deposed that he had not taken any steps to quash the FIR filed against him before the High Court. Therefore, from the above, it is established that the accident happened due to the rash and negligent driving of the 1st respondent. At the same time R.W.1 has also deposed that when he

had turned his lorry on the left side by putting indicator towards South, at that time Manickaraj, who came behind his lorry in the two wheeler negligently dashed against his mini lorry and if he rode the two wheeler by keeping sufficient distance between the two vehicles, he could have avoided the accident. The case of the petitioners is that at the time of accident, the victim rode his two wheeler behind the 1st respondent's vehicle. Therefore, as the victim was riding his two wheeler following the 1st respondent's vehicle, if he was a little cautious while driving the two wheeler in a normal speed, he could have avoided dashing against the 1st respondent's vehicle. And on the side of petitioners, no eye witness was examined to prove that the victim was not negligent. In such position, it transpires that the 1st respondent has suddenly turned the lorry and the victim who was following the 1st respondent's vehicle, by their acts have caused the accident. Thus, the major negligence is upon the 1st respondent and at the same time, the victim has also been negligent to some extent and as such the negligence is to be apportionment of both of them. In such circumstances, this Tribunal is inclined to deduct 20% of the award amount of petitioners towards contributory negligence.

(ii) The petitioners have marked the copy of legal heir certificate as Ex.P4. From Ex.P4, it transpires that the petitioners are the legal heirs of victim Manickaraj. Therefore, this Tribunal concludes that the petitioners are entitled to get compensation.

(iii) Regarding liability, from Ex.R2, copy of insurance policy of the 2nd respondent's vehicle, it is evident that the said vehicle was insured with the 3rd respondent for the period from 28.08.2019 to 27.08.2020. The accident happened on 09.10.2019 and thus the Insurance Policy was on force on the date of accident. Therefore, this Tribunal concludes that the insurer of the 2nd respondent's vehicle, i.e., the 3rd respondent is liable to pay compensation to the petitioners. Accordingly Point No. 1,2 and 3 are answered.

8) Point No.4: (i) The petitioner's learned counsel has argued that at the time of accident the victim was aged 46 years and he was a mason through which he earned Rs.18,000/- per month and therefore the compensation is to be fixed accordingly. But, except oral evidence, the petitioners have not produced any document to prove the age, income of the deceased. From Ex.P2 copy of postmortem certificate, it is established that the victim was 46 years old at the time of accident. Therefore, considering the age of the victim, year of accident, cost of living and facts of the case, this Tribunal is inclined to fix Rs. 12,000/- as notional income of the victim.

(ii) As per the decision in **Smt. Sarla Varma and Others – Vs – Delhi Transport Corporation and another reported in (2009(2) TNMAC 1 (SC)**, for the age of 46 years, the relevant Multiplier is 13 and **as per the decision in National Insurance Company Ltd., Vs Pranay Sethi Reported in 2017(2) TNMAC 609(SC)** 25% of income would be added towards future prospects and 1/3rd of the income would be deducted towards the personal expenses, since the victim had 3 dependants at the time of accident Accordingly, the loss of dependency is calculated as follows:

Notional Income	Rs.12,000/-
Add: Future Prospects at 25%	Rs.12,000/- + Rs.3,000/- = Rs.15,000/-
Deduct: 1/3rd of the Income.	Rs.15,000/- - Rs.5,000/-
Monthly Income	Rs.10,000 /-
Loss of Dependency	Rs. 10,000/- x 13 x 12 = Rs. 15,60,000/-

iii) As per the decision in **National Insurance Company Ltd., Vs Pranay Sethi Reported in 2017(2) TNMAC 609(SC)** a sum of Rs.15,000/- is fixed towards loss of estate and a sum of Rs.15,000/- is fixed towards Funeral Expenses and a sum of Rs. 40,000/- is fixed towards parental consortium to the each petitioner. And the compensation is fixed as below:

Description of Head	Amount in Rs.
Loss of Dependency	15,60,000/-
Loss of Estate	15,000/-
Funeral Expenses	15,000/-
Loss of Parental consortium to the petitioners in total	1,20,000/-
Total	17,10,000/-
Less: Contributory Negligence at 20%	3,42,000/-
Total	13,68,000/-

iv) In total, the petitioners are entitled to get a sum of **Rs.13,68,000/- (Rupees Thirteen Lakhs Sixty Eight Thousand Only)** as just compensation. Out of this amount, the petitioners are entitled to get a sum of Rs.4,56,000/- each. Thus Point No.4 is answered.

9) In the result,

(i) This petition is partly allowed with proportionate costs against the respondents.

(ii) The petitioners are entitled for the just compensation of **Rs.13,68,000/- (Rupees Thirteen Lakhs Sixty Eight Thousand Only)** payable with interest at 7.5% per annum from the date of filing of the petition i.e from 18.02.2020 till the date of realization with costs. Out of this amount, the petitioners are entitled to get a sum of Rs.4,56,000/- each.

(iii) The 3rd respondent is directed to deposit the said amount to the credit of the Bank account of the **Additional District Judge (MACT), Tenkasi in the Account No.6551027090** maintained at **Indian Bank, Tenkasi, IFSC Code No.IDIB000T009**, V.Collect No. V00602 directly by NEFT or RTGS mode within a period of thirty days from the date of this order and intimate the said deposit details to this Tribunal.

(iv) The compensation amount of the petitioners shall be transferred to the petitioners' Bank account on filing of appropriate petition before this Tribunal.

(v) In view of the direction issued by the Hon'ble Division Bench of the High Court of Madras in C.M.A. No. 428 of 2016 dated 11.03.2016, the petitioners are hereby directed to furnish copy of Adhar card, attested copy of the first page of Bank Pass Book and self attested copies of PAN Card to this Tribunal within a period of one month.

(vi) Advocate fee is fixed as **Rs.22,180/-**.

(vii) The Court fee paid by the petitioner along with the petition is **20/-**. The Court fee for the award amount is **Rs.13,052.50** The deficit court fee of **Rs.13,032.50** shall be paid by the petitioners within two weeks from the date of order.

(viii) The petitioners shall not be entitled to withdraw the sum deposited pursuant to the award unless balance of Court fee is deposited as directed by this Tribunal.

(ix) The 3rd Respondent is also directed to pay the Advocate fees, Court fees amount and the cost list amount to the petitioner and Advocate fee, Court fee amount to the petitioners.(Cost Rs.43.50).

(x) As per the Order of Hon'ble Madras High Court in Tr.Cmp.Nos.264 to 281 of 2020 M/s. Cholamandalam Ms General Insurance Company Ltd., Vs. Ayyanar and others, dated 11.5.2020, no separate Decree passed.

Cost

1.Vakkalat	Rs. 10.00
2.Stamp on Petition	Rs. 20.00
3.Batta memo	Rs. 13.50

Total	<u>Rs. 43.50</u>

Dictated to the Steno-Typist, directly typed by her in the computer, corrected and pronounced by me in the open court on this, the 18th Day of March 2026.

Motor Accident Claims Tribunal Authority,
Additional District Judge,
Tenkasi.

Petitioners' Side Witnesses:

P.W.1 Tmt. Srimounika (1st petitioner)

Petitioners' Side Exhibits:

Ex.P1	09.10.2019	Copy of FIR
Ex.P2	16.10.2019	Copy of postmortem certificate
Ex.P3	17.10.2019	Copy of M.V.I. Report
Ex.P4	12.12.2019	Copy of legal heir certificate
Ex.P5	--	Copy of Aadar cards of petitioners (compared with the original)

1st and 2nd Respondents' side Witnesses, Exhibits: Nil

3rd Respondent's side witnesses:

R.W.1 Tr. Maruthuraj (1st respondent)

R.W.2 Tr. Muthukumar, Asst. Manager, United India Insurance Company Ltd.,
Tenkasi

3rd Respondent's side Exhibits:

Ex.R1 Copy of Rough Sketch

Ex.R2 True copy of insurance policy of the vehicle TN 72 BH 3664

Ex.R3 Copy of investigator's report

Motor Accident Claims Tribunal Authority,
Additional District Judge,
Tenkasi.

Additional District court (FTC), Tenkasi M.C.O.P.Nos. 76/2020 Dt. 18.03.2026 Order Draft/Fair
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