

IN THE COURT OF MOTOR ACCIDENT CLAIMS TRIBUNAL /
PRINCIPAL DISTRICT COURT
TIRUNELVELI

PRESENT: THIRU.M.SAISARAVANAN, M.L.,
MOTOR ACCIDENT CLAIMS TRIBUNAL JUDGE /
PRINCIPAL DISTRICT JUDGE
TIRUNELVELI.

Dated this the 04th day of July 2025

M.C.O.P.No.29/2023
(CNR No. TNTL 0101 3935 2022)

1. Shenbagavalli, W/o.Karuthapandi, Aged about 58 years, Residing at Number 10/74 (1), North Street, Pandarakulam, Vengadampatti, Tirunelveli – 627 423.
 2. Karuthapandi, S/o.Namasivayam, Aged about 62 years, Residing at Number 10/74 (1), North Street, Pandarakulam, Vengadampatti, Tirunelveli – 627 423.
- ...Petitioners.**

//Vs.//

1. Rajesh, S/o.Nallathambi, Residing at Number 2, Thailakulam, Srivilliputhur.
2. Ramesh Kumar, Father's name and age not known to the petitioners, Residing at Number 108, Sivasubramaniam Road, R.S.Puram, Mettupalayam - 641 002.
3. Royal Sundaram General Insurance Company Limited, through its Branch Manager, Office at Number 4B, 4th Floor, "A" Block, Mena Kampala Arcade, Sir Theyagaraya Road, T.Nagar, Chennai.

4. Aravind Selvan, S/o.Uthandaraj, Residing at Number 29/1, Vadakkuratha Veethi, Sankarankovil.
5. United India Insurance Company Limited, through its Divisional Manager, Office at Number 1, Post Office Road, Palayamkottai.

...Respondents.

Date of Presentation : 30.09.2022 & 02.01.2023

Date of Filing : 05.01.2023

This petition is coming on 09.06.2025 before me for final hearing in the presence of Thiru.S.S.Vanamamalai, Learned counsel for Petitioners and Thiru.M.S.Jeganathan, Learned counsel for 3rd respondent and Thiru.K.Augustin, Learned counsel for 4th respondent and of Thiru.I.Xavier Rajareegam, Learned Counsel for 5th respondent and 1st and 2nd respondents remained exparte and upon perusing the material records and having the arguments of both side counsels and having stood over for consideration till this day, this court delivers the following:-

ORDER

Petition filed on 05.01.2023 U/S.166 of the Motor Vehicles Act claiming compensation of a sum of Rs.40,00,000/- towards the compensation to the petitioners with future interest at 12% p.a from the date of petition till payment and cost of this petition for the death of Petchimuthu in a road motor accident.

2. Brief averments of Petition:-

On 10.06.2022 at about 08.45 p.m., when the deceased was riding a Hero Honda motorcycle bearing Reg.No.TN 76 AC 8758 by wearing Helmet on the left side of the Tirunelveli – Sankarankovil main road near Subashree Kalyana Mandapam at Ramayanpatti, a Volkswagan Jetta Car bearing Reg.No.TN 37 CJ 3000 belonged to the 1st respondent insured with 3rd respondent came from south to north in a high speed rashly and hit against the motorcycle and fell down on the Alto Car bearing Reg.No.TN 76 F 2319 which came from North to South belongs to 4th respondent and the 5th respondent is the insurer of the said 4th respondent's vehicle and the deceased sustained injuries and died in the hospital.

A case has been registered in Cr.No.200/2022 by the Manur P.S., for the offences u/s. 279 & 304 (A) IPC. The accident happened due to the fault on the part of the 1st respondent's vehicle driver and the 2nd respondent is the previous owner of the vehicle and 1st respondent vehicle insured with 3rd respondent insurance company on the date of accident and is in force. Likewise, the 4th respondent is the owner of Alto car bearing Reg.No.TN 79 F 2319 and 5th respondent is the insurer of the said vehicle. The accident had taken place only due to the rash and negligent act of the drivers of both

the vehicles and hence the respondents are liable to pay the compensation to the petitioners herein.

3. Brief averments of counter filed by 3rd respondent:-

This petition is not maintainable either in law or on facts and liable to be dismissed. This Respondent denies each and everyone of the allegations except those that are specifically admitted and put the petitioners to the strict proof of the rest of the averments. It is true that the Volkswagen Jetta Car bearing Reg.No.TN 37 CJ 3000 belonged to the respondent was insured with this respondent at the time of accident and in fact the deceased and the 4th respondent driver the Maruthi Alto Car bearing Reg.No.TN 79 F 2319 were negligent and careless in causing the alleged accident. The claim made against this respondent is highly excessive. Hence the petition is liable to be dismissed as against the 3rd respondent.

4. Brief averments of the counter filed by the 4th respondent is as follows:

This petition is not maintainable either in law or on facts and liable to be dismissed. This Respondent denies each and everyone of the allegations except those that are specifically admitted and put the petitioner to the strict proof of the rest of the averments. In fact, the 4th respondent is

the owner of the Maruthi Alto Car bearing Reg.No.TN 79 F 2319 drove his vehicle towards North to South by observing the traffic rules very slowly and cautiously. At that time, the petitioners' deceased son was riding a Hero Honda motorcycle bearing Reg.No.N 76 AC 8758 on the left side of the Tirunelveli – Sankarankovil main road near Subashree Kalyana Mandapam Ramayanpatti, at that time a Volkswagan Jetta Car bearing Reg.No.TN 37 CJ 3000 belonging to the 1st respondent insured with the 3rd respondent came from South to North in a high speed rashly and hit against the motorcycle on right of the road and fell down on the vehicle of the 4th respondent caused injury to the driver of the 4th respondent and his mother. The Airbag of the 4th respondent vehicle was also opened caused damage to the vehicle of the 4th respondent. The driver of the 4th respondent and his mother taken treatment for injuries and incurred Rs.1 lakh. The 4th respondent incurred heavy amount to repair his vehicle also. But the petitioners suppressed the above facts, made a false claim against the 4th respondent. In the FIR, there was no allegations or averments stated against the 4th respondent. Hence the 4th respondent is not liable to pay any compensation to the petitioners. The petitioners have strictly prove the age, income and manner of accident through documentary evidences. The 4th

respondent is having valid policy coverage and the rider of the 4th respondent vehicle also having driving licence at the time of accident and hence if any award passed, the respondents 1, 2, 3, & 5 alone are liable to pay such compensation.

5. Brief averments of the counter filed by the 5th respondent is as follows:

This petition is not maintainable either in law or on facts and liable to be dismissed. This Respondent denies each and everyone of the allegations except those that are specifically admitted and put the petitioner to the strict proof of the rest of the averments. The 5th respondent does not admit the age, occupation and income of the deceased Petchimuthu. The petitioners are put to strict proof that they are the legal heirs of the deceased Petchimuthu. Regarding the manner of accident, the 5th respondent states that the deceased was first hit by the 1st respondent's Car bearing Reg.No.TN 37 CJ 3000 coming from South to North on the Tirunelveli – Sankarankovil Road, while the deceased Motor cycle rider negligently tried to cross the above road from East to West. On the impact, the deceased was thrown to the right side of the road. At that time, the vehicle insured with this 5th respondent was coming on a normal course

with observing the traffic rules, the deceased fell in front of the 4th respondent vehicle very close without any chance halt the vehicle from hitting the deceased Motorcycle. It is pertinent to note that the accident was a chain of hits, first caused by the hit of the 1st respondent Car. Therefore, the 4th respondent driver cannot be held guilty of any negligence act. The deceased had no driving licence to ride the motor cycle bearing Reg.No.TN 76 AC 8758 and the vehicle had no RC. If the deceased had wear the helmet at the time of accident, it would be avoid the head injuries. Hence, the deceased also contributed to the accident. Therefore, this petition has to be dismissed as against this 5th respondent.

6. Points for consideration:-

1. Whether the accident took place due to the rash and negligent driving of the 1st respondent's driver alone or due to the negligence of both 1st respondent's driver and the 4th respondent?
2. Whether the petitioners are entitled to any compensation and if so what is the quantum?
3. Who is liable to pay the compensation amount to the petitioners?

7. On the side of the Petitioners of P.W.1 and P.W.2 were examined and Exhibits Ex.P1 to Ex.P.7 were marked and on the side of the Respondents of R.W.1 was examined and Exhibits Ex.R1 and Ex.R2 were marked.

8. POINT No.1:-

The petitioners are claiming compensation of a sum of Rs.40 Lakhs for the death of the son of petitioners 1 & 2 in a road accident took place on 10.06.2022. The 2nd petitioner, who is the father of the deceased Pechimuthu, examined himself as P.W.1, and he has clearly and categorically deposed about the occurrence and negligence of the 1st respondent's driver, who had driven of the Car bearing Reg.No.TN 37 CJ 3000 and the 4th respondent who is the owner-cum-driver of the Maruthi Alto car bearing Reg. No.TN-79F-2315 and he has almost reiterated the narrations of the facts as set forth in the petition. Though PW1 is not an eye witness and not competent to speak about the rash and negligent driving of the 1st respondent's driver and the 4th respondent, PW2 viz. Tr.Anthony, who is an eye-witness, has clearly deposed about the rash and negligent act of the 1st respondent's driver and though he had stated in his proof affidavit that the accident had happened due to the negligence of both 1st respondent's driver and the 4th respondent, he had admitted in the cross examination that the accident had happened only due to the negligence of the 1st respondent's driver and he also admitted that, had the 1st respondent's driver was careful, the accident would not have occurred.

Ex.P1 is copy of F.I.R registered against the 1st respondent's driver namely Tr.Jebasingh who had driven the Car bearing Reg.No.TN 37 CJ 3000 for the offences u/s. 279 & 304(A) IPC. The motor vehicle inspector's report of all three vehicle involved in the accident have not been marked on either side, but however, none of the parties to the claim petition have blamed either the structure of the road or the mechanical defect,if any, of any of the vehicles as a cause for the accident and as such the non marking of the M.V.I's report does not render case of the claimant fatal.

9. The 1st respondent's driver viz. Tr. Jebasingh , who had driven the vehicle bearing Reg.No.TN 37 CJ 3000 was charged for the offence under section 279 & 304(A) IPC and the copy of the final Report is marked on the side of the 5th respondent, who is the insurer of the 4th respondent's vehicle, as Ex.R2. The contesting 3rd respondent/insurer of the vehicle bearing Reg.No.TN 37 CJ 3000 and 5th respondent/insurer of the 4th respondent's Alto car are not disputing the accident but blaming against each others driver for the cause of accident. The 3rd respondent/insurer would claim that the accident had happened only due to the negligence of the 4th respondent, who is owner-cum-driver of the Maruti Alto car bearing Reg. No.TN-79F-2315 besides claiming that the deceased has also

contributed to the accident as he was not wearing helmet at the time of accident and as such the head injury sustained by him ultimately caused his death. On the contrary 5th respondent, who is insurer of the 4th respondent's vehicle bearing Reg. No.TN-79F-2315, would claim that only because of the rash and negligent act of the 1st respondent's car driver in hitting the car on the motor bike driven by the deceased, the deceased was thrown away on the car of the 4th respondent who came in the opposite direction in the other end of the road and as such the accident had happened solely due to the negligence of the 1st respondent's driver. The rough sketch of the place of occurrence has not been marked as exhibit on either side. There is no clarity in the claim petition also as to from which direction to which direction the deceased had driven the motorbike. It is simply stated that the deceased had driven the motorbike in the Tirunelveli - Sankarankoil Main road by observing the traffic rules. The direction of the 1st and 4th respondent's car alone is mentioned in the claim petition and in the proof affidavit of the PW1. However, the only eye witness examined on the side of the claimant as P.W.2 had stated that the deceased had driven the Motorbike from East to west which means that the deceased while attempting to cross the North-South Tirunelveli - Sankarankoil main road,

the 1st respondent's car came from South towards North had hit the vehicle of the deceased . Admittedly the Maruti Alto car bearing Reg. No.TN-79F-2315 driven by the 4th respondent was coming from North towards South on the Eastern side of the road and only after the 1st respondent's vehicle hit the vehicle of the deceased it was thrown out on the Eastern side of the road and then hit by the car driven by the 4th respondent. When the deceased is crossing the North – South road from the Western side, the possibility of hitting the vehicle of the deceased by the vehicle coming from the southern side in the Tirunelveli - Sankarankoil Main road is more as the vehicle coming from Southern side alone, while keeping the left side , would drive on the Western side. The 4th respondent , who admittedly came in the other side of the road (Eastern side), cannot halt the vehicle anticipating that a vehicle came in the other end (western side) of the road would suddenly thrown out and fell on his car The only person who is competent to speak about the negligence on the part of the deceased or the 4th respondent is none other than the 1st respondent's driver and the 4th respondent himself but the 3rd respondent, who is entitled to take all the defenses available to the owner and driver of the said vehicle has not chosen to examine either the driver of the 1st respondent or any other

independent witness to prove the alleged negligence, if any, on the part of 4th respondent or the deceased. Therefore the first and last opportunity to avert the accident was with the 1st respondent's driver alone and not with any others. The 4th respondent has filed his counter narrating the accident and he had stated that after the 1st respondent's car hit the vehicle of the deceased, the deceased was thrown out and fell on the car of the 4th respondent. The final report is also filed by the police only against the 1st respondent's driver. The accident had happened due to chain of hits of which the first hit was admittedly by the 1st respondent's driver on the vehicle of the deceased which was a root cause for all the subsequent events. Had the 1st respondent's driver been careful and cautious the entire accident would have been averted. Even assuming that the deceased had drove the motor bike without wearing helmet, the same cannot be construed as a contributory negligence for causing the accident until it was proved. Therefore, the 3rd respondent miserably failed to prove the alleged contributory negligence on the part of the deceased and on the part of the 4th respondent. When there is no rebuttal evidence on the side of the 3rd respondent in respect of the negligence of the 1st respondent's driver and the evidence of P.W.1 and P.W.2 remains unchallenged, on the basis of the

available evidence and documents on record, I hold that the accident had happened only due to the rash and negligent driving of the 1st respondent's driver and this point is answered accordingly.

10. POINT No.2:

(i) The petitioners are claiming a sum of Rs.40,00,000/- towards compensation. The petitioners are the parents of the deceased Petchimuthu. The Postmortem report of the deceased Petchimuthu is marked as Ex.P2 wherein his age is noted as 20 years. The copy of Aadhar card of the deceased Petchimuthu is marked as Ex.P.7 wherein, his Date of Birth is mentioned as 14.01.2002. The accident took place on 10.06.2022. Therefore as on the date of accident, the deceased has completed 20 years and was running 21 years. The respondents have also not raised any serious objection with regard to the age of the deceased. Hence there is no impediment to rely upon the age mentioned in the Aadhaar Card of the deceased to fix the age of the deceased at the time of accident and accordingly I hold that the age of the deceased at the time of accident was 20 years.

(ii). So far as the income is concerned, according to the petitioners the deceased was doing Mason works and was earning a sum of

Rs.20,000/- per month. But the claimants have not examined any witnesses and not marked any documents to prove the alleged income of the deceased. The petitioners have also not marked any documents to prove the educational qualification of the deceased. However the deceased was indisputably aged about 20 years at the time of accident. The Hon'ble Apex court in **Syed Sadiq - Vs - Divisional Manager, United India Insurance Co., Ltd, 2014 (1) TNMAC page 459**, in the absence of any proof for income, determined the monthly income of the Vegetable vendor at Rs.6,500/-. The Hon'ble Division Bench of Our High court in **M.Sengbagam -Vs- Vinod Kumar and others 2013 (2) TNMAC page 450** took Rs.6,000/- as monthly income of the deceased in the absence of documentary evidence for the monthly income. The same view was expressed in another decision of our Hon'ble High Court in **TNSTC (Kumbakonam) Ltd. -Vs- Kalavathi and others 2015(1) TNMAC page 451**. Therefore, when there is no proof for income, following the dictum laid down in the above referred decisions considering the age of the deceased at the time of accident (20) the monthly income of the deceased can be safely fixed notionally at **Rs.8,000/-** per month and accordingly the Yearly income of the deceased arrived at **Rs.96,000/-** (Rs.8,000 X 12 =

96,000). The Hon'ble Apex court in Sarala verma's case reported in **2009 (2) TNMAC 1 (SC)** followed by the constitutional Bench of the Hon'ble Apex Court in **National Insurance Company Ltd., Vs. Pranay Sethi 2017 ACJ 2700 (SC)** held that, in addition to the notional income in case of deceased person was self employed or on fixed salary an addition of 40% of the established income should be added towards future prospects where the deceased was below the age of 40 years. Hence, applying the dictum laid down by the Hon'ble Supreme Court in above I am inclined to add 40% towards future prospects i.e., Rs.38,400/- (40%). Therefore, the yearly income of the deceased after adding the future prospets is Rs.1,34,400/-. ($96,000 + 38,400 = 1,34,400$).

11. The next aspect for consideration is out of the said earning what was the quantum contributed by the deceased to his family. The 1st petitioner is the mother, the 2nd petitioner is the father of the deceased. Since the deceased being Bachelor is survived by 2 dependents the deduction towards the personal and living expenses of the deceased should be $\frac{1}{2}$ of the income of the deceased as decided in Sarala Varma's case. Therefore, I am inclined to fix the deduction for the personal and living expenses of the deceased at $\frac{1}{2}$ of income of the deceased had he been

alive. Therefore, the yearly contribution by the deceased to his family has to be taken as Rs.67,200/- (1/2 of yearly income of Rs.1,34,400/-). The multiplier applicable for the age of the deceased (20 years) as contemplated by the Apex court in Sarala varma's case is '18'. Therefore, the compensation has to be computed as follows:

1.	Annual Income (12 X 8,000)	Rs	96,000/-	
2.	Add:- Future prospects @ 40%	Rs	38,400/-	
3.	Yearly income of the deceased for calculating compensation	Rs	Sl.No.(1 + 2)	1,34,400/-
4.	Less:- Yearly contribution of the deceased to his family is 1/2	Rs	67,200/-	
5.	Yearly Income arrived after the deduction of 1/2 contribution	Rs	Sl.No.(3 - 4)	67,200/-
6.	The applicable multiplier is 18			
7.	The compensation is	Rs	(67,200 X 18)	12,09,600/-

12. Besides the above compensation the 1st petitioner is the mother of the deceased and the 2nd petitioner is the father of the deceased are also entitled to compensation under the conventional heads of Loss of Estate, Loss of Consortium and Funeral Expenses. The Hon'ble Apex Court in **National Insurance Company Ltd,. Vs. Pranay Sethi 2017 ACJ 2700 (SC)** stated supra held that, the reasonable figures of compensation under the conventional figures may be loss of estate, loss of consortium and

funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively and also held that the aforesaid amount should be enhanced @ 10% for every three years. Accordingly, the petitioners are entitled to a sum of Rs.16,500/-, Rs.44,000/- and Rs.16,500/- for Loss of Estate, Loss of Consortium and Funeral Expenses respectively. The petitioners have not filed bills for medical expenses, if any, incurred by them. Therefore, the petitioners are not entitled to any compensation towards medical expenses. Therefore, the petitioners are entitled to the compensation as per the above Calculation as detailed below:

1.	Compensation towards loss of income	Rs.	12,09,600/-
2.	Compensation towards loss of consortium	Rs.	44,000/-
3.	Compensation towards funeral expenses	Rs.	16,500/-
4.	Compensation towards loss of estate	Rs.	16,500/-
	Total	Rs.	12,86,600/-

Therefore, the petitioners are entitled for total compensation of **Rs.12,86,600/-** and this point is answered accordingly.

13. POINT No.3 -

The first respondent is a owner and the 3rd respondent is the insurer of offending vehicle bearing Registration No. TN 37 CJ 3000. The vehicle

is insured by the 1st respondent with 3rd respondent insurance company on the date of accident. The 3rd respondent is also not disputing the insurance coverage for the offending vehicle as on the date of accident. In view of the decision arrived for the Point No.1, it has been decided that the accident had happened only due to the negligence of the 1st respondent's driver. Therefore, the 3rd respondent, being the insurer of the 1st respondent, is liable to pay compensation to the petitioners on behalf of the 1st respondent and this point is answered accordingly.

In the result, this petition is allowed in part with proportionate cost and the petitioners are awarded compensation of a sum of Rs.12,86,600/- (Rupees Twelve Lakhs Eighty Six Thousand and Six Hundred Only) together with interest @ 7.5% p.a., from the date on which the petition was taken on file till the date of deposit less the period of default, if any, and the 3rd respondent, on behalf of the 1st respondent, is directed to deposit the said amount **through NEFT or RTGS mode in the Virtual Account of Principal District Judge (MACT) Tirunelveli in Virtual Account No. VMACOP<MCOP29OF2023> of Indian Bank, Veeraraghavapuram Branch, Tirunelveli Junction, (IFSC Code IDIB000T105, MICR Code 627019004)** within one month from today and out of the award amount, the

1st Petitioner is entitled to Rs.7,86,600/- and the 2nd respondent is entitled to Rs.5,00,000/- along with interest as compensation and on such deposit, 50% of the compensation amount is ordered to be credited in to their respective Savings Bank accounts through NEFT/RTGS on payment of the balance court fee within the stipulated time and the balance amount is ordered to be deposited in any one of the Nationalized Bank for a period of 3 years and the petitioners 1 & 2 are permitted to withdraw interest from their respective share once in 6 months directly from the Bank. The Petitioners are directed to pay the balance court fee of Rs.11,866/- within 10 days from today. Counsel fee is fixed at Rs.21,366/-. **This claim petition is dismissed as against Respondents 2, 4 & 5.**

Dictated by me to my Steno-grapher for typed dictation and typed by her in the computer, Printed in the Printer, corrected and pronounced by me in the open court, on this the 04th day of July 2025.

**Motor Accident Claims Tribunal
Judge / Principal District Judge,
Tirunelveli.**

Petitioner's side witnesses :-

P.W.1 - Thiru.Karuthapandi (2nd petitioner)

P.W.2 - Thiru.Baskar

Respondent's side witness :-

R.W.1 - Tmt.Rajalakshmi

Petitioners' side Exhibits-

Ex.P.1	11.06.2022	Copy of FIR in Cr.No.200/2022 of Manur P.S.
Ex.P.2.	11.06.2022	Copy of Postmortem certificate of deceased Petchimuthu
Ex.P.3	08.03.2023	Computer copy of Death Certificate of deceased Petchimuthu
Ex.P.4	26.07.2023	Computer Copy of Legal heir certificate of deceased
Ex.P.5	–	Copy of Driving Licence of 1 st respondent's vehicle driver Jebasingh
Ex.P.6	–	Copy of Driving licence of 4 th respondent Arvind Selvan
Ex.P.7	–	Copy of Aadhaar card of deceased Petchimuthu

Respondent's side Exhibits:-

Ex.R.1	–	Copy of Insurance Certificate of the vehicle bearing Reg.TN 79 F 2319
Ex.R.2.	16.08.2022	Copy of Final report

**Motor Accident Claims Tribunal
Judge / Principal District Judge,
Tirunelveli.**

Principal District Court,

Tirunelveli.

M.C.O.P.No.29/2023

Dt: 04.07.2025

Draft / Fair Order.