

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
SPECIAL SUBORDINATE JUDGE, TIRUPATTUR.**

**Present: Tmt.J.Nagalakshmi @ Vijayarani,B.A.,B.L.,
Motor Accident claims Tribunal Authority,
Special Subordinate Judge, Tirupattur.**

Wednesday, the 29th day of April 2026

M.C.O.P. No.26/2025

(Old MCOP No.15/2025 on the file III ADJ, Tirupathur)

CNR.NO.TNTU04-000026-2025

1. Rajini, (42),
S/o. Mani,
Thamalerimuthur Village & Post,
Tirupathur Taluk & District.

..... Petitioner

VS

1. M.Sivakumar,
S/o. Mani,
No.221, Perumal Kovil Vattam,
Dhamalerimuthur Village & Post,
Tirupathur Taluk & District.

2. The Divisional Manager,
Chola MS General Insurance Company Limited,
New No.2, Old No.234,
Dare House, 2nd Floor,
N.S.C Bose Road, Parrys,
Chennai.

..... Respondents

The petition originally filed on 20.01.2025 before III ADJ, Tirupathur and taken as MCOP 26/2025 and as per the proceeding in Dis. No.7733/2015, A

dated.14.09.2015 of Principal District and Sessions Judge, Vellore transferred to this court and reassigned as MCOP 26/2025 on 14.02.2025 and came up for final hearing in the presence of **Thiru.A.Venkatesan,B.A.,B.L.**, learned counsel for the petitioner and 1st respondent sets exparte and **Tmt.K.Nirupama,B.A.,M.L.**, learned counsel for 2nd respondent, and heard both side arguments, perusing case records and having stood for consideration till this day, this tribunal passed the following:-

ORDER

This petition is filed by the Petitioner against the respondents under section 166 of the Motor Vehicles Act claiming claiming Rs.10,00,000/- (Rupees Ten Lakhs Only) as compensation against the respondents together with interest and costs from the date of the accident.

1. The averments of the petition in brief :-

On 01.04.2023 at about 11.00 A.M. the petitioner was lend his vessels for rental for cooking and he was travelling in Mahindra Bolero Pickup Van bearing Reg. No. TN 83 MB 4928 as goods owner, driven by its driver in rash speed on Thimmampettai to Kanakanachiyamman Kovil Road, while he was so proceeding at Pullur Moolakollai Vattam Junction, at that time, the driver of the 407 Bolero Pickup driven the same in a rash speed and negligent manner and without following the traffic rules driven the same in over speed and due to the impact the petitioner who was travelling along with his goods has felt down on the road, due to the impact the petitioner has sustained Traumatic Brain & Facial Injury, and sustained grievous injuries all over the body. After the accident the petitioner was taken to the Vignesh Hospital, Asiriyar Nagar, then

the petitioner was admitted in Vellore CMC Hospital and then the petitioner was taken to the Pondicherry Jipmer Hospital. Still the petitioner is taking treatment as outpatient in the private hospitals. The petitioner is doing Vessel lending rental business and also working as an Auto Driver and was earning more than Rs.20,000/- per month. The petitioner is maintaining the entire family from his income. A case U/s 279, 337 of IPC is registered by the Thimmampettai police in Cr.No.59/2023 against the driver of the Mahindra Pickup Van bearing Reg. No. TN 83 MB 4928 and the same is pending for investigation. Since the accident took place due to the negligence of the driver of the above said vehicle, the 1st Respondent is the owner of the Mahindra Bolero Pickup Van, 2nd Respondent is the insurer of the said vehicle are jointly and severally liable to pay compensation along with interest and cost.

2. The notice served to the 1st respondent and appeared before this court and hence set exparte on 10.06.2025.

3. The Counter of the 2nd respondent has follows:

The allegations made in the Petition are by denied except those specifically admitted herein. The petition filed after 6 month from the date of accident. The claim of the petitioner is barred by limitation as per the provisions of Motor Vehicle (Amendment) Act, 2019 and hence liable to be dismissed. The allegations in Para 23 are denied. The manner of the accident denied and the Petitioner is put to strict proof of the same. The accident had occurred due to the sole negligence of the Petitioner. Infact, the Petitioner along with his relatives travelled in the Goods vehicle by sitting on the back side of the Goods vehicle to go to Kanaganachivamman temple to clear the ritual impurity due to

the death of his relative Banumathi. W/O Venkatraman and he himself fallen from the said Goods Vehicle and sustained injuries. The 1st Respondent allowed the Petitioner to travel in the Goods Vehicle by sitting in the backside of the vehicle and violated the Policy conditions. Therefore the 2nd Respondent need not indemnify the 1st Respondent and hence the petition is not maintainable. The accident caused due to self- fall of the Petitioner. Due to that he had not given complaint immediately after the accident and after 14 days the Complaint was registered. The Nature of injuries, age, occupation, earnings, medical and transport expenses and disability caused to the Petitioner are denied and the petitioner has to prove the same. That the amount of compensation claimed is highly exorbitant and without any basis. The petition is liable to be dismissed with costs.

4. EXAMINATION OF WITNESS :

The petitioner filed proof affidavit in consonance with the claim petition and examined as Pw1, the documents Ex.P.1 to P7 were marked. The 1st respondent remained exparte. In the Court side, Exhibit Ex.C1 was marked. The 2nd respondent side examined the officer of the insurance company examined as RW1, Ex.R1 series marked, driver of the 1st respondent namely Sivakumar examined as RW2 and no documents were marked, the police officer namely Sethupathi examined as RW3, Ex.R2 and Ex.R3 were marked and the evidence of both sides closed.

5. Points for consideration:-

- a) Whether the accident occurred due to the rash and negligent driving of

the driver of the Mahindra Bolero Pickup Van bearing Reg. No. TN 83 MB 4928 belonged to the 1st respondent ?

b) Whether the Petitioner is entitled to get the compensation from the respondent? If so what is the quantum? from whom?

6. Heard the arguments advanced on both side and the connected materials are carefully considered.

7. POINT NO 1: -

(a) The petitioner's case is that, the accident occurred on 01.04.2023 at about 11.00 A.M, at Pullur Moolakollai Vattam Junction, situated in between Thimmampettai to Kanakanachiyamman Kovil Road. The petitioner was a COOKING MASTER, to lend his vessels for rental for cooking and he was travelling as goods owner, in the vehicle Mahindra Bolero Pickup Van bearing Reg. No. TN 83 MB 4928 belonged to the 1st respondent who is the owner cum driver of the vehicle along with others gone to the Kanaganachivamman temple in order to perform the ceremony to clear the ritual impurity/ due to the death of his relative Banumathi, at the time of accident.

(b) The contesting 2nd respondent not denied the factum of accident. The date, time, Place and manner of the accident also admitted. The disputed fact only that the petitioner travelled in the back side of the goods Vehicle instead of sitting in the front sheet of the cabin and the delay in lodging complaint itself shake the case of the petitioner.

(c) The petitioner filed proof affidavit in consonance with the claim petition and examined as PW1. He categorically deposed that, as narrated the

same facts contained in the petition. It is clear from his evidence that the 1st respondent drove the vehicle in a rash and negligent manner which resulted to the petitioner fell down from the vehicle. The said manner of the accident speaks itself the negligence of the 1st respondent on application of the principle *RES IPSA LOQUITUR*. The Criminal case also registered in Crime No.59/2023 on the file of Thimmampettai P.S. against 1st respondent marked as Ex.P1, also corroborates the ocular evidence of PW1.

(d) Though the 2nd respondent side point of the discrepancies contained in the petition as well as the evidence of Pw1 that the accident happened after attending the funeral ceremony instead of going to perform the death rituals would not affect the case of the petitioner. The medical records proves that the petitioner sustained head injuries as a result of an accident. At that circumstances, the petitioner cannot be expected lodge complaint first rather than to take the treatment in hospital. Hence the defense taken to delay of 14 days lodging FIR would not affects the case of the petitioner. The said evidenced of PW1 not shattered regarding treatment and hence the tribunal holds that the evidence of PW1 wholly relied upon. .

As discussed in detail, the oral testimony of PW1 and the documentary evidences clearly establish the case of the petitioner. The petitioner proved his case with probable defence as per the theory of preponderance of probability. Hence the tribunal concludes that, the accident happened due to the rash and negligence of the 1st respondent who is the Owner cum driver of the vehicle . The point No. 1 is answered accordingly.

8. POINT NO.2 :

The accident occurred due to the rash and negligence of the 1st respondent as decided in point No.1. The petitioner deposed that he had sustained severe head injuries and hence taken initial treatment in Vignesh hospital and after two days of the effects of injury being complicated taken treatment in JIPMER Hospital at puducherry. The discharge summary for the period of treatment taken as inpatient from 04.04.2023 –07.04.2023 in JIPMER marked as Ex.P.2. The medical bills for an amount of Rs. 12,891/- also marked as Ex.P.7. Since the petitioner proved his case that he had taken treatment for the injuries sustained in the accident and hence the tribunal holds that the petitioner entitled compensation.

The petitioner claimed Rs.10,00,000/- under various heads as compensation stating that the accident caused Permanent disability and hence it appropriate to discuss the same head by head:

(i) TOWARDS DISABILITY: (i) The petitioner also referred to Medical board and doctors of the medical board had assessed the disability of the petitioner and given **Ex.C1**, the disability certificate. It shows the percentage of disability is 22%. Though the petitioner sustained injury it is failed to prove that the same affects his day - day activities and routine work. Upon considering the factors that the disability is not functional this tribunal inclined to apply “**Percentage method**”. Being the accident took place in contemporary period, it is pertinent to read the judgment in

Future General India Insurance Company Limited Vs Manivannan and 2 others, 2024(1) TN MAC 598

The division bench of hon'ble madras high court granted Rs.7,000 per percentage for an accident occurred in the year 2017, towards disability certified by the qualified Doctor or Medical Board."

Relying the dictum laid down in the above judgment, the accident occurred in the year 2023 an enhanced sum of Rs.8,500/- per percentage of disability is herewith applied. **Considering the disability in this case fixed as 22%, it can be calculated at the rate of Rs.8,500/- = Rs.1,87,000/- is awarded towards Disability**

(ii) MEDICAL EXPENSES : The petitioner claimed Rs.2,00,000/- towards medical expenses. on thorough perusal of case records the petitioner taken private treatment in JIPMER hospital, Puducherry and treated as inpatient from 04.04.2023 – 07.04.2023 and undergone treatment in NEURO SURGERY department due to traumatic Left Frontal Contusion withy midline shift found in CT brain taken on 04.04.2023. It also reveals that the presence of 35 cc FRONTAL CONTUSION causing mass effect over the left frontal Horn of lateral ventricle and a misddle shift of 6 mm. It also reveals that subjected to Left FTP DE COMPRESSIVE CRANECTOMY and HEMATOMA EVACUATION with abdominal Bone flap placement on 05.04.2023 and then post operatively extubated. It also contained the staples to be removed after 14 days of surgery and to attend review in Neuro Surgery OPD .

In order to prove the medical expenses, the following set of medical bills (11 Nos) marked as Ex.P7.

(A) VMJ Hospital Pharmacy

Bill No.1 relates to the payment of Rs. 360/- towards purchase of

medicine , tablets and injection in VMJ Hospital Pharmacy on 02.04.2023. **Bill No. 8** relates to purchase of medicinal things for an amount of Rs.600/- on 09.11.2023.

(B) TREATMENT TAKEN IN CMC, VELLORE:

Bill No.2 reveals the taken of X ray for Chest, CT for Head and Cervical Spine, Serum electrolytes contained payment of Rs. 7560/- before CMC , Vellore on 03.04.2024. **Bill No.3** pertaining to Tax invoice / Bill of Supply containing payment of Rs.1119/- for purchase of medicine on 03.04.2023 **Bill No.4** relates to payment for an amount Rs.120/- towards glucometer . **Bill No.5** relates to registration slip in emergency department paid an amount of Rs.350/-. **Bill No.6** relates to Inpatient Bill for an amount of Rs.2065/- paid towards, Bed charges, treatment, Injection, ED Professional Fees. *Hence the petitioner entitled an amount of Rs.11,214 /- towards medical expenses for taken treatment in CMC, Vellore .*

(C) TREATMENT TAKEN IN JIPMER, PUDUCHERRY :

Bill No.7,8 relates to the bills paid to the pharmacy at JIPMER On 04.04.2023 for purchase of some medicinal item fro an amount **Rs.289/- + Rs.125/- for taken treatment as inpatient.** Bill No.10,11 relates to purchase of some medicinal item in the pharmacy containing payment of **Rs.222/- + Rs.99/- for taken treatment as out patient on 15.10.2023 & 04.12.2023.** *Hence the petitioner entitled an amount of Rs. 735 /- towards medical expenses for taken treatment in JIPMER, Puducherry .*

As discussed in detail, the petitioner entitled an amount of Rs. 12,909/- (A + B + C = Rs.960/ + Rs.11,214/- + Rs. 735/- = Rs. 12,909/-)towards medical expenses for taking treatment as in patient as well as out patient

(iii) LOSS OF INCOME: The petitioner claimed Rs.3,00,000/- for loss of income and Rs.100,000/- towards future loss of earnings. Though the petitioner deposed that, she was an self employed vessel lendings business and earned Rs.20,000/-per month, but there is no records produced to show the employment or earning. Though the petitioner proved that she sustained 22% Permanent partial disability and failed to prove that the same affected her normal day to day routine. Being Functional disability not proved and hence the tribunal holds that there is no loss of earning capacity arises as stated in the petition.

At the same time the petitioner treated in patient as well as out patient for the fracture caused in the said accident. Upon considering the treatment taken in three hospitals VMG Hospital Tirupathur, CMC , Vellore, and the period of treatment as inpatient in JIPMER Hospital, Puducherry for the head injury especially taken treatment for craniotomy, the petitioner ought to have absented from regular course of employment at least 2 months. Hence considering the period of accident he could have earned atleast Rs.400/- perday the notional income fixed as Rs.12,000/- per month in tribunal inclined to award compensation of Rs.12,000/- x 2 = Rs.24,000/- towards loss of income during the period of layoff.

(iv) With regard to the other claims made by the petitioner, no documents were filed. Considering the said fact,

(a) For Pain and Sufferings: Upon considering the pain & Sufferings undergone by the petitioner, nature of Injury, age, number of surgery undergone by the petitioner, and disability of 22 % **the tribunal inclined to award Rs.90,000/- as compensation under this head.**

(b) Towards Extra Nourishment: that would have been taken for speedy recovery, and upon considering the age of the petitioner was 42 at the time of accident and **hence the tribunal inclined to award Rs.15,000/- under this head.**

(c) Towards Attender Charges: Though the petitioner was hospitalized, there is no material produced that he was assisted by an attender. The period of treatment clarified that the petitioner treated as inpatient for the period from 04.04.2023 - 07.04.2023 as discussed in point No.2 . The petitioner would have been support of the family members for the said period. Though the same offered due to love and affection, if the accident would not happened he ought not to have hospitalized. Hence the considering the period of treatment & the head injury the court is inclined to award **Rs.10,000/-** towards attender Charges .

(d)Transport Expenses: Though the petitioner claimed Rs.15,000/- compensation for transportation charges. There is no trip sheet produced in order to prove the expenses incurred towards transportation. It reveals from the records the petitioner taken treatment in JIPMER HOSPITAL, PUDUCHERRY. The distance between his residence andPuducherry nearly about 202 k.m. (for up and down $202 * 2 = 404$) Upon considering the distance, nature of injury sustained, post operating consultation the tribunal inclined to award **Rs.10,000/-**

towards transportation expenses as per the evidence produced herewith .

(e) Loss of Amenities: It is clear from record that the petitioner was 42 years old at the time accident. Considering the nature of injuring and permanent disability of 15%, which he has to endure through out life, and hence tribunal inclined to award **Rs. 40, 000/-** for loss of Amenities and happiness.

(9) **Finally**, this tribunal award the following amount towards the claim of the petitioner under the given heads.

1	Towards Disability	Rs.1,87,000/-
2	Towards Medical Expenses	Rs. 12,909/-
3	Towards Loss of Income	Rs.24,000/-
4	Towards Future Expenses	NIL
5	Towards Pain & Suffering	Rs. 90,000/-
6	Towards loss of Amenities	Rs. 40,000/-
7	Towards Transport Expenses	Rs. 10,000/-
8	Towards Extra nourishment	Rs. 15,000/-
9	Attender charges	Rs. 10,000/-
	Total	Rs.3,88,909/-

10. Liability :

As already discussed in point No.1 the 1st respondent is the owner of the Mahindra Bolero Pickup Van bearing Reg. No. TN 83 MB 4928 at the time of

accident. The registration certificate stands in the name of 1st respondent marked as Ex.P3. The said vehicle insured with the 2nd respondent company as could be seen from Ex.P.5. The period of validity of policy is between midnight of 05.09.2022 to midnight of 04.09.2023. The premium paid for basic TP – Rs.16,049/-, Legal Liability (driver) – Rs.50/-. PA cover for owner cum driver – Rs.350/-. **Apart from that, the Premium of Rs.75/- paid for NFPP (Non Fair Paying Passengers).** The petitioner is third party to the 1st respondent vehicle. The accident happened on 01.04.2023. The policy was in force at the time of accident. The driving license of the driver of 1st respondent marked as Ex.P4. There is no violation of policy expressed on the side of 2nd respondent.

At the same time, 2nd respondent side examined its official namely Sangeetha RW1. It is revealed from her evidence that, the 1st respondent vehicle having the seating capacity of 2 but it has been wrongly mentioned as 7 instead of 2 in the Insurance policy. It is also stated that the said mistake is only a typographical error. The registration certificate contains the seating capacity 2. The Registration certificate contained the seating capacity 7. The evidence of Rw2/ 1st respondent reveals that the petitioner traveled in the back side of the Vehicle. Though Rw3 stated that the FIR did not contain the wording “ along with cooking Vessel” and the same is not an encyclopaedia and its mere omission in which the complaint lodged by the petitioner's wife will in no way affect the case of the petitioner. The evidence of PW1 is clear that the petitioner travelled in the vehicle belonged to the 1st respondent along with cooking vessel as a master of Cook in the backside. The evidence of PW1 is convincing and hence the tribunal relied upon the evidence of PW1.

Though the 2nd respondent side Pointed out the number of person mentioned in the registration Certificate & Insurance policy and the same no way affects the petitioners case. It is apparent from the records, that the petitioner traveled in the back side of the vehicle as the owner of goods and the save driven by owner cum driver at the time of accident. There is no other persons traveled in the vehicle more than admitted level (RC-2 : Insurance -7) . Admittedly, the petitioner comes under the category of Non fair paying passenger and hence the insurance company cannot disown liability quoting the number of person. Hence the 2nd respondent is liable to indemnify the 1st respondent as per the terms and conditions of insurance. The 2nd respondent is directed to pay compensation to the petitioner. Thus point No.2 is answered accordingly.

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

(a) The Petitioner is awarded **Rs.3,88,909/-- (Rupees Three lakh Eighty Eight Thousand Nine Hundred and Nine Only)** together with interest at 7.5% per annum from the date of petition till the date of deposit (Excluding the period for the dismissal for default if any).

(b) The 2nd respondent is directed to deposit the award amount within **one month** from the date of order by NEFT / RTGS mode directly into the account standing in the name of Special Subordinate Judge(MACT), Tirupattur at State Bank of India, Tirupattur Main Branch, Current Account No. **42888609189** under intimation to this Tribunal by way of sending pay advice slip.

(c) The petitioner is permitted to withdraw the deposit amount on condition that to pay the remaining Court Fee of **Rs.2,890/-** within 15 days from the date

of receipt of copy of order. If not paid within the stipulated time, the petitioner not entitled to claim interest for the aforesaid period. The disbursement of the amount shall be made by direct transfer to credit of his account by NEFT/RTGS mode.

(d) Advocate fee fixed as **Rs.10,779** /- shall be paid by NEFT/RTGS mode.

(e) The 2nd respondent is directed to pay a sum of **Rs.14,231/-** being the cost of petitioner tabulated there in.

11. Following the Judgment of the Hon'ble High Court of the Madras in M/s Cholamandal MS General Insurance Co.Ltd. /Vs/ Ayyanar and others reported in 2020(4) CTC 272, no decree is prepared. All the parties are entitled to free copies of award as per section 168(2) of Motor Vehicles Act.

Note: With regard to the defense taken on the side of 2nd respondent that the petition filed after 6 month from the date of accident cannot be entertained as per the M Vehicles Amendment Act, 2019 is herewith answered in view of the interim direction of the Hon'ble Supreme Court in the case of ICICI Lombard General Insurance Company Ltd Vs Ayiti navaneetha & Others that, “ a petition under MV ACT arises out of beneficial to the victims of road accident should not be dismissed solely on the basis of delay in filing the petition has been followed.

Other necessary Particulars

Date of petition	:	Respondent's side
Date of Award	:	29.04.2026
Amount of compensation claimed is	:	Rs.10,00,000/-

Amount of compensation awarded by this tribunal is	:	Rs.3,88,909/-
Court fee payable for the said amount is	:	Rs. 3,263/-
Court fee already paid is	:	Rs.373/-
Balance court fee to be paid is	:	Rs.2,890/-

Cost List for the Petitioner

Particulars	Petitioner side	Respondent's side
Court fees	Rs. 3,263.00	
Vakalath Nama Stamp	Rs. 50.00	
Process fee	Rs. 9.00	
Advocate fee	Rs. 10,779.00	----
Stamp of documents	Rs. 30.00	
Typing charges	Rs. 100.00	
Total	Rs. 14,231.00	

Dictated to Steno Typist and directly typed by him in my laptop, corrected, pronounced by me in the open Tribunal on **29th day of April 2026.**

Special Subordinate Judge (FAC),
Motor Accident Claims Tribunal,
Tirupattur, Tirupattur District.

Petitioner Side Witness:-

PW1 Rajini

Respondent side witness:-

RW1 Sangeetha

RW2 Sethupathi

RW3 Sivakumar

Petitioner side Exhibits:

Ex.P1 Copy of FIR

Ex.P2 Copy of Discharge Summary

Ex.P3 Copy of RC of the Mahindra Bolero Pickup Van bearing Reg. No. TN 83 MB 4928

Ex.P4 Copy of DL of the driver of the 1st respondent

Ex.P5 Copy of Insurance Policy of the Mahindra Bolero Pickup Van

Ex.P6 Copy of Aadhaar Card of the petitioner

Ex.P7 Original Medical Bills of Rs.12,890.50/-

Court side Exhibits :

Ex.C1 Medical Board report of the petitioner regarding disability.

Respondent side Exhibits:

Ex. R1 Copy of Insurance Policy of the Mahindra Bolero Pickup Van

Ex.R2 Copy of Authorisation Letter

Ex.R3 Copy of FIR, Charge Sheet and MVI Report

Special Subordinate Judge (FAC),
Motor Accident Claims Tribunal,
Tirupattur, Tirupattur District.