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 (FAC), Tirupattur.
Friday, the 24th day of April 2026
M.C.O.P. No.21/2026, M.C.O.P. No.22/2026
CNR.NO.TNTU04-000022-2026
CNR.NO.TNTU04-000023-2026

M.C.O.P. No.21/2026,

1. Yogalakshmi, (46),
W/o.Ravikumar,
No.38/20, Dhandabani Kovil Street,
Tirupathur Town & Taluk,
Vellore District.

...... Petitioner in MCOP. No. 21/2026

/vs/

1.Ramkrishna S Yadav,
S/o. Somnath Yadav,
Shop- 21, 1st Floor,
Kalamboli Panvel,
Kalamboli Node,
Raigarh,
Maharashtra – 410218.

2.The Divisional Manager,
Bajaj Allianz General Insurance Co. Ltd.,
New No.497 & 498, Old No. 276 & 277,
Isana Kattima Building, 5th Floor,
Poonamallee High Road,
Arumbakkam,
Chennai.

3.The Divisional Manager,
United India Insurance Co. Ltd,
Katpadi Road,
Vellore,
Vellore District.

....Respondents MCOP. No. 21/2026

<u>M.C.O.P. No.22/2026,</u>

1. Yogalakshmi, (46),
W/o.Ravikumar,
No.38/20, Dhandabani Kovil Street,
Tirupathur Town & Taluk,
Vellore District. ...... Petitioner in MCOP. No. 22/2026

/vs/

1.Ramkrishna S Yadav,
S/o. Somnath Yadav,
Shop- 21, 1st Floor,
Kalamboli Panvel,
Kalamboli Node,
Raigarh,
Maharashtra – 410218.

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United India Insurance Co. Ltd,
Katpadi Road,
Vellore,
Vellore District.

.....Respondents MCOP. No. 22/2026

This original petition filed U/S 166 of Motor Vehicles Act initially taken as MCOP No.279/2019, MCOP No.281/2019 on the file of III Additional District & Sessions Court, Tirupathur and the case transferred to this court as per the Proceedings dated 6.8.2015/G3/dt.7.09.2015 of Hon'ble High court and Dis No.7733/2015/A dated 14.09.2015 Principal District Judge, Vellore, and the case taken by this court on 12.06.2019 and came up for final hearing in the presence of **Thiru.S.Sundarrajan,B.A.,B.L.,** learned counsel for the petitioner, 1st Respondent set exparte, **Tmt. K.Nirupama,B.A.,M.L.,** learned counsel for the 2nd respondent and **Tmt.Sukanya Asaithambi, B.Sc., B.L.,** learned counsel for the 3rd respondent and heard both side arguments, perusing case records and having stood for consideration till this day this tribunal passed the following:-

COMMON ORDER

1. These two claim petitions were filed by the same Petitioner against the 1st, 2nd and 3rd respondents under section 166 of the Motor Vehicles Act claiming compensation for the death caused to her father & Mother in the road accident took place on 06.04.2019. Being the claim made due to cause of accident in the same course of transaction and hence all the petitions are clubbed together and tried jointly as per the order passed in Memo dated 03.11.2022.

2. The averments of the petition in MCOP No.21/2026 :-

The petitioner is the daughter of the deceased Sundaravel. The said deceased Sundaravel was aged only 71 years and doing real estate business was an Ex. MLA of Tirupattur and he was earning more than Rs.50,000/- per month. The petitioner was depending upon the income of the deceased and was contributing his entire income to the petitioner. The deceased was the only bread winner of the family. The deceased was hale and healthy and very active in his work and could have lived another 20 years and he could have maintained the petitioners till his death. Due to the death of the Sundaravel the petitioner's future is completely spoiled and she kept in dark.

On 06.04.2019 at about 5.30 A.M. the deceased Sundaravel and his wife Vijayalakshmi was travelling in his Innova car bearing Reg.No. TN 83 X 8485 driven by its driver on the extreme left side of the Bangalore to Chennai NH Road. While he was so proceeding near Vinnamangalam Village, at that time the Lorry bearing Reg. No.MH 04 DD 6250 carrying factory machinery goods in danger manner without any precautionary signals and going in front of the Innova car, driven by its driver in negligent manner, without any parking, stopping and glittering signals without following the traffic rules, has suddenly stopped the lorry, due to the impact the driver of the above said car has not able to control the car and dashed behind the lorry. Due to the impact the deceased Sundaravel, his wife Vijayalakshmi and driver of the Innova car are all sustained grievous injuries in his vital organs and all three of them died on the spot. The post-mortem was conducted on the body of said Sundaravel in Govt. Hospital at Ambur and the body of the deceased Sundaravel was taken to his native place Tirupattur Town for funeral by private car. The Petitioner has spent a sum of Rs.50,000/- for funeral expense and spent a sum of Rs.50,000/- for transport expenses.

Due to the accident the deceased Sundaravel, his wife Vijayalakshmi and driver of the Innova car are all died on the spot, taking advantage of that the police on the basis of the complaint given by the person who has not seen the accident, without any enquiry registered a false case U/s 279 & 304(A) of IPC in Cr.No.183/2019 against the driver of the Innova car and the same is pending for investigation. Since the accident took place due to the rash and negligent driving of the Lorry driver, the 1st Respondent is the owner of the Lorry bearing Reg. No. MH 04 DD 6250 and 2nd Respondent is the insurer of the Lorry and 3rd Respondent is the Insurer of the Innova car are jointly and severally liable to pay compensation along with interest and cost.

3. The averments of the petition in MCOP No.22/2026 :-

The petitioner is the daughter of the deceased Vijayalakshmi. The said Vijayalakshmi was aged only 65 years and was an agriculturist and earning more than Rs.25,000/- per month. The petitioner was depending upon the Income of the deceased. The deceased was contributing her entire income to the petitioner. The deceased was the only bread winner of the family. The deceased was hale and healthy and very active in her work she could have lived another 20 years and she could have maintained the petitioner till her death. Due to the death of the Vijayalakshmi the petitioner's future is completely spoiled and she kept in dark.

On 06.04.2019 at about 5.30 A.M. the deceased Vijayalakshmi and his husband Sundaravel was travelling in Innova car bearing Reg. No. TN 83 X 8485 driven by its driver on the extreme left side of the Bangalore to Chennai NH Road. While he was so proceeding near Vinnamangalam Village, at that time the Lorry bearing Reg. No. MH 04 DD 6250 carrying factory machinery goods in danger manner without any precautionary signals and going in front of the Innova car, driven by its driver in negligent manner, without following the traffic rules, without any parking, stopping and glittering signals has suddenly stopped the lorry, due to the impact the driver of the Innova car has not able to control the car and dashed behind the lorry. Due to the impact the deceased Vijayalakshmi, her husband Sundaravel and driver of the Innova car are all sustained grievous injuries in his vital organs and all three of them died on the spot. The post-mortem was conducted on the body of said Vijayalakshmi in Govt. Hospital at Ambur. After the post-mortem the dead body of said Vijayalakshmi was taken to his native place Tirupattur Town for funeral by private car. The Petitioner has spent a sum of Rs.50,000/- for funeral expense and spent a sum of Rs.50,000/- for transport expenses.

Due to the accident the deceased Vijayalakshmi, her husband Sundaravel and one Veeramani the driver of the Innova car are all died on the spot, taking advantage of that the police on the basis of the complaint given by the person who has not seen the accident, without any enquiry registered a false case U/s 279 & 304(A) of IPC in Cr.No.183/2019 against the driver of the Innova car and the same is pending for investigation. Since the accident took place due to the rash and negligent driving of the Lorry driver, the 1st Respondent is the owner of the Lorry bearing Reg.No.MH 04 DD 6250 and 2nd Respondent is the insurer of the Lorry and 3rd Respondent is the Insurer of the Innova car are jointly and severally liable to pay compensation along with interest and costs.

4. The notice served to the 1st respondent and not appeared and hence set

exparte as per docket order dated. 19.07.2019. The 3rd respondent side filed petition U/s.170 of MV Act in order to put forth defense on behalf of 1st respondent and the same allowed in IA No. 2/2022 in MCOP 21/2026 and IA No. 3/2022 in MCOP 22/2026 dated. 18.11.2022.

5. The counter filed on the side of 2nd respondent in MCOP.No.21/2026 & 22/2026 are one and same and hence the same taken in to consideration as common:

The allegations in the petition are false. It is admitted that the interest of the 1st Respondent, in the vehicle bearing No. MH04 DD6250 was covered at the material time of the accident under the Policy of insurance. The Respondent No.1 may kindly be directed to produce the original insurance policy. The petitioner is to put to strict proof of the allegation expect admitted herein. The Place, date, manner, time of accident are not admitted. The Age, Occupation, Income, state of health, both mentally and physically, nature of injuries, mode of treatment and manner of accident, expenses incurred towards transportation and funerals are denied. It is denied that the deceased Sundaravel sustained grievous injuries on his vital part and died on the spot and after Post-mortem the body was taken to his native place for funeral.

The manner of the accident and also denies that the accident occurred due to the negligent act of the driver of the Lorry bearing Reg.No MH-04-DD-6250, the petitioner is put to strict proof of the same. The accident had occurred only due to the sole negligence of the Driver of Innova Car bearing Reg. No TN-83-X-8485 which belongs to the deceased Sundaravel. The driver of the Innova Car without observing the front going Lorry in the Left side of the lane, without maintaining the traffic rules, driven in rash and negligent manner and dashed behind the front going lorry in the Left side of the lane and caused the accident. Hence the Negligence being only on the part of the above said Innova car for the alleged accident. The Complaint given by one Mr. Suresh Kumar, S/o Balashanmugam, who is the relative of the deceased, in the Ambur Taluk Police atation and the case registered in Cr.No. 183/2019, as against C.Veeramani who is the driver of the Innova Car bearing Regn No TN-83-X-8455. Then the final report also filed against veeramani and due to his death Charge Abated as per order in iFR-RCS No. 410/2019.

The 1st and 2nd Respondents are unnecessary parties to the proceedings and it is liable to be dismissed. since the accident had occurred only due to the sole negligence of the Innova Car driver, the 3rd Respondent alone has to pay the Compensation to the Petitioner. The accident spot is the 6 ways road and the lengthy Trailer Lorry belongs to the 1st respondent was proceeding with all precautions. There was more than sufficient space on the right side for the Innova Car to proceed. But due to careless, rash and negligent driving of Driver of Innova Car, the said accident had occurred. The Driver of Innova Car had not followed the traffic rules and drove the Car in a high speed and dashed behind the lorry. There is no Fitness Certificate to the 1st Respondent's Lorry bearing Regn No MH-04-DD-6250, on the date of accident. The Fitness Certificate was expired on 23-3-2019 and the same was not renewed on the date of accident. Hence this Petition as against the 2nd Respondent is liable to be dismissed.

Without prejudice to the above contentions and without admitting any liability this respondent submitted that the person driving the vehicle has no relation in force" as on the date of accident. The Petitioners are put to strict proof and documentary evidence that the driver of the above said lorry was holding a valid RC, FC, Road Tax, Permit etc., in compliance of the provision of the MV Act. The Petitioner being married daughter of the deceased, Petitioner doesn't come under the purview of dependent on the deceased, in turn she is dependent on her husband or herself and not on the deceased. It is denied that the deceased died due to accidental injuries sustained due to the involvement of the vehicle bearing No. MH-04-DD-6250. There is no any nexus between the death and the injuries sustained. The Petitioner is put to strict proof of the same with cogent and reliable evidence. This Respondent specifically denies that the Petitioner has demanded an amount of Rs.1 Crore in column 21 & 21A part I & part II of the petition, The said Claim is ex aggregated one.

The respondent submitted that if the Court comes to the conclusion that the Petitioner is entitled for any compensation, there shall be no interest on future prospects. Future prospects is with regard to the probable income to be received in the future and as such there is no requirement to compensate the Petitioner by way of future interest, for the loss that is to occur in the future, as the future is yet to happen. Thus, with regard to future prospects, this Court must not grant any interest on future prospects, as the same relates to an income to be given in the future. It is denied that the Respondents are jointly and severally liable to pay the compensation to the petitioner.

<u>6. The counter filed on the side of 3rd respondent in MCOP.No.21/2026 and 22/2026 are one and same and hence the same taken in to consideration as common:</u>

This petition is false either in law or on the facts of this case. The allegation that the accident was due to the rash and negligent driving of the Lorry bearing Regn. No. MH 04 DD 6250 by the driver is not true. The petitioner is put to strict proof of the allegation that the death caused due to accident, monthly income, contribution of income to the petitioner, loss to the estate etc. Infact, the accident was caused due to the rash and negligent driving of the 1st Respondent's Lorry bearing Reg. No. MH04DD6250 only and not by the driver of the deceased. The driver of the car had driven his vehicle with care and caution observing traffic rules whereas the 1st Respondent lorry driver had stopped his vehicle abruptly without making any signs or signals, thereby the following car driver did not anticipate the sudden stopping of the said lorry had to hit behind the lorry resulted in the death of three persons. ie., the car driver, the owner of the car Sundaravel and his wife Vijayalakshmi all the three were died. Taking advantage of the death of all the occupants of the car complaint was given by some unknown person who was not an eyewitness even implicated the car driver as an accused in the FIR is unjust. The claim made by the petitioner only against owner and insurer of the lorry and not against the the 3rd respondent. Therefore the 1st and 2nd Respondents are only liable to pay compensation to the petitioner. Further the petitioner did not file Legal Heir certificate to prove that she is the only Legal heir of the deceased. <u>The owner of the Innova car involved in this accident not covered under the policy of Insurance. The occupants of the car alone covered and the owner even if he</u>

travelled in the car is not a third party. Therefore the petitioner is not entitled to make any claim against this respondent. In any event, the petitioner/deceased had been guilty of contributory negligence. The drivers of both vehicles are guilty composite negligence. The amounts claimed under various heads in the petition, have been grossly exaggerated and without basis and hence the petition is liable to be dismissed.

7. The 1st petitioner is daughter of the deceased Sudaravel examined as PW1 and the documents Ex.P1- P14 was marked and eyewitness Vijayakumar examined as PW2 and the documents Ex.P15-20 were marked. On the respondent side, 2nd respondent side Officer of the Bajaj Alliance Insurance Company namely Bharathiraja examined as RW1 and the documents Ex.R1 to R3 were marked, the police namely Iyyanar examined as RW2 and Ex.R4 is marked. On the 3rd respondent side, officer of the United India Insurance Company namely Seenivasan examined as RW3 and the documents Ex. R5-R7 was marked.

8. Points for consideration:-

1) Whether the accident occurred due to the rash and negligent driving of the Innova car driver (or) due to the negligence of the driver of the stationary lorry?

2) Whether the Petitioner is entitled to get the compensation for the death of deceased Sundaravel from the respondents? If so what is the quantum?

3) Whether the Petitioner is entitled to get the compensation for the

death of deceased Vijayalakshmi from the respondents? If so what is the quantum? From whom?

4) Who is liable to pay compensation?

9. POINT NO.1:

(a) The petitioner's case is that, the accident occurred on 06.04.2019 at about 5.30 A.M., near Vinnamangalam Village, in Bangalore to Chennai National High ways Road. Admittedly, the accidental Spot is the SIX WAY TRACK which is divided into 2, there are 3 lanes on either side of a central median or barrier. It reveals from the records, the deceased Sundaravel and his wife Vijayalakshmi was travelling in his Innova car bearing Reg.No. TN 83 X 8485 along with their driver namely Veeramani in Bangalore – Chennai highways. At that time the Goods lorry bearing Reg. No.MH 04 DD 6250 belonged to the 1st respondent carrying factory machinery goods was driven by its driver, in the same direction, before/ in front of the innova car.

(b) It is also gathered from the documentary evidence that the innova car belonged to the deceased Sundaravel, insured with the 3rd respondent. The Goods lorry stands in the name of 1st respondent was insured with the 2nd respondent. It is also an admitted fact that the driver of the lorry as well as the innova car had holding Valid driving license at the time of accident. The FIR registered in Cr.No.183/2019, U/s 279 & 304(A) of IPC on the file of Ambur Taluk Police station clearly proves the factum of the Accident. The death of 3 persons including driver of the innova car not disputed. There is no doubt that the accident happened on the date, time, place as stated supra. The disputed fact with regard to the manner of accident. Hence the tribunal has to decide whose negligence the accident caused ? based on the evidences and materials placed before it.

(c) In order to prove the case, the Petitioner who is the daughter of the deceased Sundaravel & Vijayalakshmi was examined as PW1. She is not the eye witnesses and she came to know about the incident later. She deposed the same facts as narrated in the petition regarding death caused due to that accident. The Postmortem report (EX.P15) of the deceased Vijayalakshmi clearly shows that the death caused due to the nervous shock due to that Crush Injury to face , Multiple fracture & hemorrhagic Shock. The Postmortem report of Sundaravel marked as EX.P2 reveals that the death caused due to the hemorrhagic Shock and Multiple Leacture, crush injury to mandible,RTA. Hence the tribunal holds that the death caused due to accidental injuries in the accident.

(d) The petitioner side also examine eye witness namely Vijaykumar as Pw2. It reveals from his evidence that he had proceeded in the car behind the vehicle of deceased and he had seen the occurrence at 150 feet distance. It is clear from his evidence that the driver of the stationary lorry had suddenly applied brake/stopped the vehicle without sufficient indication and therefore the Innova driver was constrained to hit the rear side of the lorry and the accident was caused. The said evidence of not shatter even elaborated cross examination. Though the criminal case was registered against the Innova car driver, it is the specific evidence of PW2 that, the accident caused due to the negligence of the driver of Lorry bearing Regn No .MH 04 DD 6250.

(e) At the same time, the real contesting the 2nd respondent company wholly relied upon the investigation made by Ambur Taluk Police. For that purpose the SI of police Ambur Taluk Police station who appeared on summons examined as RW2. He deposed based on documentary evidence. It revealed from his evidence that the FIR that has been registered against the driver of the innova car who died in the accident on the basis of complaint given by the relative of the deceased. The Motor Vehicles report of the car (Ex.R4) reveals that the car contained damages in the front portion of the car. The MV report of lorry (Ex.R3) reveals the rear portion got damaged. It is the case of the petitioner that the innova car dashed in the rear portion of the lorry and the documentary evidence also reveals the same.

(f) There is no doubt that , the FIR and criminal case were registered against the Innova driver. However, it is well settled that the registration of FIR or filing of charge sheet is not conclusive proof regarding negligence in a claim petition under the Motor Vehicles Act and the Tribunal has to independently assess the evidence available on record based upon the principle of preponderance of probabilities.

At this juncture, it is useful to refer to the decision of the Hon'ble High Court of Madras **in Metropolitan Transport Corporation vs. O.Rakesh, dated 10.01.2019**, wherein it has been held that:

"It is well settled that FIR, charge sheet, criminal investigation as well as judgment rendered by the Criminal Court are not binding on the Tribunal. The Tribunal can take these documents for consideration, but has to fix the negligence only by appreciating the evidence let in by the parties before the Tribunal."

Further, the investigation report (Ex.R2) reveals, the criminal proceedings against the Innova driver abated on account of his death and therefore there was no final adjudication by the criminal court regarding negligence. Hence the tribunal finds that evidence put forth in this regard by 2nd respondent is no way useful to determine the negligence.

(g) Based on the oral as well as the documentary evidence putforth on both side the accident caused due to the collusion of the two vehicles viz. Stationary lorry and Innova Car (LMV) and hence the THEORY OF REAR-END VEHICLE COLLISION will be applicable. Ordinarily, when a moving vehicle hits the rear side of another vehicle, a presumption would arise against the driver of the rear vehicle for failure to maintain safe distance and control. At the same time, if the vehicle stationed in front was abruptly stopped or negligently parked without proper signal or indication, the driver of such vehicle cannot escape liability.

(h) In the present case, except the FIR, no independent evidence has been adduced to establish that the entire negligence rested solely upon the Innova driver. On the other hand, the ocular testimony of PW1 & PW2 probabilises the case that the lorry driver had also contributed to the occurrence by suddenly applying brake/stopping the vehicle. The driver of the stationary lorry is the competent witness to speak about that what happened at the time of accident. There is no steps taken to examine either the lorry driver (or) its cleaner attracts adverse inference u/s 114(g) Evidence Act. Though the 2nd respondent side stated that there is no shops or house in the accidental spot and hence there is no necessity to stoppage of lorry on applying sudden brake and the same not established by documentary evidence such as Rough sketch or Mahazar..

(i) At the same time the contents of FIR speaks itself the accident occurred near by the Landmark hotel in Vinnamangalam. The RW2/ SI of Police also admitted the said fact during cross examination. A driver entering a National Highway from a shoulder/parking place has a mandatory statutory duty to give way to vehicles already proceeding on the highway. He must stop, observe, and enter only when it is absolutely safe to do so. Whereas, the present case is concern, the lorry driver suddenly entered or attempted to enter the 6-lane NH from the mud road without ensuring the road was clear, thereby directly coming in the path of the Innova car which was lawfully proceeding in its lane as could revealed the cross examination of PW2. This act amounts to gross negligence and rashness.

Note : The Hon’ble Supreme Court in Nishan Singh vs. Oriental Insurance (2018) 6 SCC 765 held that ‘when a vehicle enters a main road from a side lane/shoulder, the entire onus is on that vehicle to ensure no accident occurs.

(j) Even assuming the Innova was following close, the lorry driver had the last opportunity to avoid the accident to keep safe distance, the lorry who stops suddenly using left lane to stop from the mid where innova car proceeds ought to have, Giving hazard light/indicator. The materials on evidence reveals the other 2 lanes the vehicle were proceeding and hence the innova car not able to move on either side constrained to dashed the rear portion of the lorry. The driver of the lorry also failed to do the indication before stoppage is also the main cause for an accident.

(k) The petitioner side relied upon the evidence of Pw1 and 2. The respondent relied upon the evidence of Rw1 & 2. While evaluating the both side evidence the probability of truth lies only on the evidence of PW1 who is also the victim of the accident. Though the petitioner not holding the driving license there is no in roads expressed during cross examination that his negligence also contributed in the accident. The investigation report of the insurance company is concerned only self supporting document and there is no eye witness examined on that basis and hence it could not be relied upon with regard to the manner of accident. At the same time other documents /the motor vehicle report of the vehicles involved in the accident marked as Ex.R4/P4 & P5 and the damages contained also strengthen the case of the petitioner.

As discussed in detailed, the oral testimony as well as documents clearly established the case of the petitioner. The respondent attributing negligence on the part of the deceased had failed to rebutted their case by substantive evidence. Therefore, it is concluded that the accident occurred only due to the negligence of the driver of Stationary lorry bearing Reg.No. MH 04 DD 6250 belonging to the 1st respondent and insured with the 2nd respondent. The point No.1 is answered accordingly.

10) Point No.2 (Entitlement) :-

It is stated that petitioner is the only daughter of the deceased Sundaravel (Ex.M.LA) & Vijayalakshmi (Ex.M L.A's Wife). Photo copies of

Aadhaar cards of the Petitioner, Legal Heirship Certificate etc., are all filed by the petitioners. The legal heirship Certificate Ex.P11 & P17 respectively reveals that the petitioner alone the heir of the said deceased parents. The respondent side contended that the petitioner is the married daughter cannot be considered as dependent. Though the petitioner is a married daughter, the evidence available on record reveals that her husband had already died very longer period in the year 2008. It is also clarified that the petitioner is the only daughter who became widow had been living along with her children under the love and care of her Parents.

It is a trite and well-settled proposition of law that the expression "***dependency"*** employed under the beneficial provisions of the Motor Vehicles Act, 1988 is not susceptible to a restrictive or pedantic construction. The Hon'ble Apex Court has, in a catena of decisions, enunciated that dependency is a concept of wide amplitude, encompassing not merely pecuniary assistance or financial contribution, but also the multifarious services, care, protection, guidance, consortium, and emotional sustenance that the deceased was rendering to the claimants during his lifetime. There is no doubt that the petitioner is EMOTIONALLY DEPENDENT upon her parents for all purposes. Hence the petitioner definitely entitled compensation.

11) Point No.3:

FINDING REGARDING DEPENDENCY AND INCOME

(In the claim relating to the death of Ex-MLA namely Sundaravel)

. Under the provisions of the Motor Vehicles Act, a married daughter is also entitled to maintain a claim petition as a legal representative and the question of dependency has to be decided based upon the facts and circumstances of each case. Whereas, the present case is concern, the evidence of PW1 probabilities that after the death of her husband, she had been receiving support and assistance from her parents. Therefore, the tribunal is of the considered view that the petitioner was substantially dependent upon the deceased, though it cannot be said that she was wholly dependent upon him. There is no materials placed that the petitioner had an independent substantial source of income. Therefore, merely because she is a married daughter, it does not automatically disentitle her from claiming compensation.

A the same time the defense taken on the side of contesting respondents cannot be overlooked. That 2nd respondent side suggested during cross of PW1 that even if the deceased had died during the lifetime of his wife, only the wife would have been entitled to receive family pension and the petitioner would not have been entitled to any pensionary benefit. A mere admission made in response to a hypothetical query is not sufficient to decide the fact of dependency. The assessment of dependency is a mixed question of fact and law, to be adjudicated on the touchstone of preponderance of probabilities. Hence the tribunal considers that the said factors are not decisive for the following reasons:

- dependency under the Motor Vehicles Act is not confined only to succession to pension;
- loss of dependency includes financial support, assistance, care, maintenance and contribution actually extended by the deceased

during his lifetime;

- family pension payable to spouse is a statutory benefit and cannot extinguish the claim for dependency compensation.

It is also pertinent to note that, the entitlement to family pension is altogether different from dependency under the Motor Vehicles Act. The question to be considered by this Tribunal is not whether the petitioner had a legal right to receive pension after the death of the deceased, but whether she was receiving financial and personal support from the deceased during the lifetime of the deceased. The evidence on record reveals that the petitioner had become a widow long prior to the occurrence and was receiving support from her parents. Therefore, merely because the petitioner was not entitled to family pension does not destroy the dependency claim of the petitioner. Hence the tribunal holds that the petitioner is PARTIALLY DEPENDENT upon the income of the deceased parents.

12. (Quantum):-

The quantum of compensation for the above claim petition is decided as per the guidelines given in the decision of the Honourable Supreme Court of India, reported in 2009(6) Supreme Court Cases at Page 121 Smt.Saralaverma and others /v/ Delhi Transport Corporation and another.

13. Multiplicand :-

It is stated in the petition that the deceased Sundaravel was Ex.M.L.A received Rs.20,000/- monthly Pension and also he was doing real estate business earning Rs.50,000/- per month. There is no dispute that the earlier status of the deceased as the member of legislative assembly. With regard to prove the pensionary benefit the letter issued by secretariat marked as Ex.P12. It reveals that he had received monthly pension of Rs.20,000/- at the time of accident. The Income Tax Return for the assessment year 2018-2019 has been produced marked as Ex.P13 clearly reveals the same has been shown in the statement of Account. Hence the tribunal holds that the deceased actually received the Pension in the Cadre of Ex. M.L.A as stated in the petition is genuine one.

Whereas, the real estate business is concern, title, official name, functional address of the employment not stated any where in the petition as well as evidence. There is no proof filed to prove the existence of the real estate business (or) income. Though the income tax return shows Rs. 1,25,600/- income from business for the assessment year 2018- 2019 and there is no specific mention he derived the source from real estate Business Further income tax return filed only subsequent to the accident. Admittedly, no earlier income tax returns or independent business records have been filed before this Tribunal.

It is settled proposition of law that the income tax returns for three consecutive assessment years as mandated to prove the income especially business income. In the absence of the best evidence, there could be an adverse inference deserves to be drawn in terms of Section 114(g) of the Indian Evidence Act. Hence the tribunal holds that the income from real estate not proved by the petitioner.

Hence, the tribunal holds that the Pension income is reliable because

documentary proof exists. *The monthly income of the deceased Sundaravel fixed as* as Rs.20,000/- per month.

14) Future Prospects :-

Admittedly, the deceased is aged about 71 years at the time of accident. So as per the Sarala Varma case, there is no percentage of future prospects prescribed in case of the age of deceased above 60 years. The tribunal is of view that future prospects need not be added, particularly when the income is purely pensionary in nature. Hence future prospects not added in this case. Hence Total Monthly income remains Rs.20,000**/-.**

15) Deduction :-

It is apparent that the petitioner was a bachelor at the time of accident. In view of the Judgment in the case between United India Insurance Co.Ltd., Divisional Office, No.73-C, M.T.H. Road, Ambattur, Chennai 600 053 /v/ Mumtaj , 2014 (1) TN MAC 127, the petitioner is the only legal heir of the deceased, 1/2 deduction has to be done and out of the monthly income of **Rs.20,000/**- 1/2th amount of **Rs.10,000/-** is deducted for personal and living expenses and after deduction the monthly income fixed as **Rs.10,000/-.**

16) Multiplier :-

The deceased is said to be 71years at the time of the death as per the petition. The Postmortem report of deceased reveals her age 71. The Aadhaar reveals the date of birth 05.08.1948. The income tax return (Ex.P12) reveals the date of birth 15.04.1951. The date of accident on 06.04.2019. Hence the actual age of deceased fixed by the tribunal as 71. Hence, as per Saralaverma Case, the proper multiplier is **5**. Thus the compensation is worked out as follows :-

17) Loss of Dependency :-

The annual contribution to the family when multiplied by such multiplier gives the 'Loss of Dependency' to the family. So by multiplying the annual contribution with the multiplier 5, the entitled loss of dependency to the family is arrived as i.e., **Rs.10,000/- x 12 x 5 = Rs.6,00,000/-.**

Age	Multiplier	Monthly Income + Future prospects	After deduction of 1/2 Personal Expenses monthly income is	Annual Contribution	Loss of Dependency (Annual Income x multiplier)
71	5	Rs.20,000/-	Rs.10,000/-	Rs.10,000/- x 12 = Rs.1,20,000/-	Rs.1,20,000 x 5= Rs.6,00,000/-

18) Loss of estate, Loss of consortium and funeral expenses :

The Honorable Apex court in National Insurance Company limited /Vs/ Pranaysethi and others (2017) has held that under the conventional heads of Rs.33,000/- for loss of estate and for funeral expenses and the aforesaid amount to be enhanced at the rate of 10% every three years. Being the accident happened in the year of 2019 and hence there is no hike applied, the petitioner is awarded a total sum of Rs.40,000/- towards loss of Parental consortium. The tribunal also inclined to award compensation towards Funeral expenses and loss of estate a sum of Rs.30,000/-. The trip sheet dated 06.04.2019 shows transits from Ambur GH to Tirupathur containing an amount of Rs.15,000/- marked as Ex.P14. Hence the tribunal inclined to award an amount of Rs.15,000/- towards Transport expenses.

Loss of Dependency	Loss of Spousal Consortium	Loss of parental consortium	Loss of filial consortium (2)	Funeral Expenses & loss of estate	Transport Expenses	Total Compensation
Rs.6,00,000/-	Nil	**Rs.40,000/-**	**Nil**	**Rs.30,000/-**	**Rs.15,000/-**	**Rs.6,85,000/-**

19) This tribunal is empowered to award higher compensation than the claimed considering the facts and circumstances of the case. Thus the petitioner is entitled for a sum of **Rs.6,85,000/-** as compensation towards dependency, loss of parental consortium, loss of estate and for funeral expenses.

20) POINT NO.4

FINDING REGARDING INCOME

(In the claim relating to the death of wife of Ex-MLA)

Under the Motor Vehicles Act a legal representative can maintain the claim petition even if not fully dependent; however, for awarding compensation under the head "***loss of dependency***", the Tribunal must examine actual or substantial dependency. The Hon'ble Apex Court has repeatedly held that, married daughters, widowed daughters, and even major children can be treated as dependents depending upon facts and economic realities. The petitioner who is the daughter depending emotionally and financially upon aged parents is not uncommon in Indian social conditions.

It is the case of the petitioner that the deceased mother namely Vijayalakshmi was earning through agriculture and rental income. The alleged independent income from agriculture and rental business has not been satisfactorily proved by acceptable documentary evidence. However, PW1 cross admitted that the petitioner received money from the rental shop & there is no monetary loss. But there is no iota evidence such as village, Survey Number, extent of the land put forth regarding the agriculture income. At the same time the said Agriculture income shown in the income tax return of the deceased Sundaravel. It is understood from the evidence of Pw1 that there is no agriculture benefits extracted at present due to non maintenance of the land.

Nevertheless, merely because the deceased Vijayalakshmi was a homemaker, her contribution to the family cannot be ignored. The services rendered by a homemaker have substantial pecuniary value and such contribution cannot be treated as nil. Even a homemaker's services have pecuniary value. The evidence shows that the

**deceased mother managed the house,*
** supported the widowed daughter and grandchildren,*
** rendered domestic assistance,*
** supervised family affairs,*
** take care of her grand children*

and hence the compensation for gratuitous services of homemaker can still be considered. Though the petitioner is a major married daughter, evidence reveals that she became a widow long prior to the accident and was residing with emotional and financial support of the deceased parents. Hence, she can reasonably be treated as substantially dependent upon the deceased." The accident occurred due to the rash and negligence of driver of the 1st respondent as decided in point No.1. Hence the petitioner entitled compensation for the death of her parents. The point No.2 is answered accordingly.

21) (Quantum):-

The quantum of compensation for the above claim petition is decided as per the guidelines given in the decision of the Honourable Supreme Court of India, reported in 2009(6) Supreme Court Cases at Page 121 Smt.Saralaverma and others /v/ Delhi Transport Corporation and another.

22) Multiplicand :-

The petitioner herein, being the daughter of the deceased, have been rendered destitute of the care, protection, guidance, and emotional sustenance of their mother. The grandchildren also loses the same. The deceased, apart from managing the entire household, was also contributing to the family corpus through her personal management. The untimely demise has not only resulted in pecuniary loss but has also caused grave deprivation of parental consortium, the value of which cannot be measured in monetary terms but deserves to be compensated as per the dictum of the Hon'ble Supreme Court in Magma General Insurance Co. Ltd.. The domestic service of the deceased has to be respected. Considering the age, status and family background of the deceased, this Tribunal fixes the notional monthly contribution of the deceased as homemaker **Rs.9,000/-** per month.

It could revealed from the income tax return for the assessment year 2018- 2019 (Ex.P18) shows the deceased Vijayalakshmi was running the Business of Wholesale and retail trade (09028) under the AO Code CHE W 146 -2, shows the Net profit of Rs.3,47,600/- during the year 2017-2018 after deducting the necessary expenses salary to staffs, Bonus, Electricity main, Telephone charges, Travelling expenses, Priniting & Stationary, Postage & Courier, Pooja Expenses, Donation etc., Though the consecutive return for three years not filed and the facts stated in the return apparently reliable in nature and hence the tribunal taken into account for calculation of the income of deceased as per the decision of the hobble Apex Court in *Anita Sharma vs. New India Assurance Co. (2021) 1 SCC 171* held that 'ITR filed prior to accident is the best evidence of income and Tribunal cannot discard it without cogent reasons'.

Monthly Income Based on ITR

The documentary evidence produced by the claimants themselves is the Income Tax Return showing annual net profit of Rs.3,47,600/-.

Applying formula for monthly income = Net profit per year / month
Monthly income = Rs.3,47,600/- ÷ 12 = Rs.28,966/- per month
and rounded off as Rs.29,000/- per month from his business activities.

Therefore, the income disclosed in the Income Tax Return being the best available documentary evidence is taken as the basis for determining the income of the deceased. In a death claim, if the ITR is genuine and unchallenged and hence this tribunal inclined to fix the Notional Income as **Rs.29,000 /-** per month.

23) Future Prospects :-

Admittedly, the deceased is aged about 65 years at the time of accident. So as per the Sarala Varma case,there is no percentage of future prospects prescribed in case of the age of deceased above 60 years. The tribunal is of view that future prospects need not be added, particularly when the income is purely pensionary in nature. Hence future prospects not added in this case. Hence Total Monthly income remains **Rs.29,000/-.**

24) Deduction :-

It is apparent that the petitioner was a bachelor at the time of accident. In view of the Judgment in the case between United India Insurance Co.Ltd., Divisional Office, No.73-C, M.T.H. Road, Ambattur, Chennai 600 053 /v/ Mumtaj , 2014 (1) TN MAC 127, the petitioner is the only legal heir of the deceased, 1/2 deduction has to be done and out of the monthly income of **Rs.29,000/**- 1/2th amount of **Rs.14,500/-** is deducted for personal and living expenses and after deduction the monthly income fixed as **Rs.14,500/-.**

25) Multiplier :-

The deceased is said to be 65 years at the time of the death as per the petition. The Postmortem report of deceased reveals her age 65. The Aadhaar (Ex.P20) reveals the date of birth 03.04.1954. The date of accident 06.04.2019 Hence the actual age of deceased fixed by the tribunal as 65. Hence, as per

Saralaverma Case, the proper multiplier is **7**. Thus the compensation is worked out as follows :-

26) Loss of Dependency :-

The annual contribution to the family when multiplied by such multiplier gives the 'Loss of Dependency' to the family. So by multiplying the annual contribution with the multiplier 7, the entitled loss of dependency to the family is arrived as i.e., **Rs.14,500/- x 12 x 7 = Rs.12,18,000/-.**

Age	Multiplier	Monthly Income + Future prospects	After deduction of 1/2 Personal Expenses monthly income is	Annual Contribution	Loss of Dependency (Annual Income x multiplier)
65	7	Rs.29,000/-	Rs.14,500/-	Rs.14,500/- x 12 = Rs.1,74,000/-	Rs.1,74,000 x7= Rs.12,18,000/-

27) Loss of estate, Loss of consortium and funeral expenses :

The Honorable Apex court in National Insurance Company limited /Vs/ Pranaysethi and others (2017) has held that under the conventional heads of Rs. 33,000/- for loss of estate and for funeral expenses and the aforesaid amount to be enhanced at the rate of 10% every three years. Being the accident happened in the year of 2019 and hence there is no hike applied, the petitioner is awarded a total sum of Rs.40,000/- towards loss of Parental consortium. The tribunal also inclined to award compensation towards Funeral expenses and loss of estate a sum of Rs.30,000/- and Transport expenses a sum of Rs.15,000/-.

Loss of Dependency	Loss of Spousal Consortium	Loss of parental consortium	Loss of filial consortium (2)	Funeral Expenses & loss of estate	Transport Expenses	Total Compensation
Rs.12,18,000/-	Nil	**Rs.40,000/-**	**Nil**	**Rs.30,000/-**	**Rs.15,000/-**	**Rs.13,03,000/-**

28) This tribunal is empowered to award higher compensation than the claimed considering the facts and circumstances of the case. Thus the petitioner is entitled for a sum of **Rs.13,03,000/-** as compensation towards dependency, loss of parental consortium, loss of estate and for funeral expenses.

29) POINT NO.5:

The registration certificate of the offending Vehicle/ Lorry bearing Reg. No. MH 04 DD 6250 stands in the name of 1st respondent marked as Ex.P4. Being the accident happened due to the rash and negligence of the driver of the 1st respondent as decided in point No.1. The policy of insurance of the offending vehicle stands with the 2nd respondent insurance company revealed from Ex.P.6. The said Insurance valid in force from the midnight of 21.09.2018 to the midnight of 20.09.2019. The DOA is 06.04.2019. The Insurance was valid in force at the time of accident. The driving license of the driver of the lorry namely Sunil kumar marked as Ex.P5. At the same time the 2nd respondent side stated that the MV report (Ex.P3) Contains that the FC of the lorry expired on 23.03.2019 and hence seeking to apply the theory of pay and recovery method.

It is settled law that ‘Pay and Recover’ can be ordered only for fundamental breaches that contributed to the cause of accident, as per National Insurance Co. Ltd. vs. Swaran Singh (2004) 3 SCC 297. Expiry of Fitness Certificate is a mere technical breach and not a fundamental breach, unless R2 proves that the vehicle was plying without FC due to mechanical defect which caused the accident. In Amrit Paul Singh vs. TATA AIG (2018) 7 SCC 558, the Supreme Court held that if the vehicle was otherwise roadworthy, mere expiry of FC will not exonerate insurer. The said MV Report has not revealed any mechanical defect and has only noted ‘FC expired’, then no breach is made out. Hence, the 2nd respondent is liable to pay and cannot even claim recovery."

At this juncture, it is pertinent to rely upon a judgment of Hon'ble Supreme Court in ***(2004) 3 SCC 297 National Insurance Company Ltd., -Vs- Swaran Singh***. As per the dictum laid down in the said Judgment, the 2nd respondent insurance company cannot disown its liability. Based on the above said judgment, this tribunal direct the 2nd respondent insurance company to pay the award amount to the petitioner and thereafter they are entitled to recover the same from the 1st respondent by taking recourse as per section 174 of MV Act. Hence, it is concluded that the 2nd respondent shall pay the compensation to the petitioner. This point is answered accordingly.

In the result, this petition is partly allowed as against the 1st and 2nd respondent with costs in the following terms:-

1. The petitioner in MCOP No. 21/2026 is awarded a compensation of **Rs.6,85,000/-** due to death of Sundaravel (there is no period of DFD

shown on thorough perusal of records). with interest at the rate of 7.5% from the date of the petition till the date of realization within 2 month from the date of order.

2. The petitioner in MCOP No. 22 /2026 is awarded a compensation of **Rs.13,03,000/-** due to death of Vijayalakshmi (there is no period of DFD shown on thorough perusal of records). with interest at the rate of 7.5% from the date of the petition till the date of realization within 2 month from the date of order.

3. The 2nd Respondent is directed to deposit the award amount in MCOP 21/2026 & 22/2026 on the file of this court within two months 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, Account No. **42888609189** under intimation to this Tribunal by way of sending pay advice slip. Then the 2nd respondent has to recover the same from the 1st respondent as per the principle of PAY AND RECOVERY METHOD

4. The petitioner in MCOP: 21/2026 is directed to pay the balance court fee of **Rs.5,850/-** if any within one month otherwise the petitioner is not entitled any interest for the default period.

5. The petitioner in MCOP: 22/2026 is directed to pay the balance court fee of **Rs.12,030/-** if any within one month otherwise the petitioner is not entitled any interest for the default period.

6. That the eligible Advocate fee for MCOP No.21/2026 fixed as **Rs.13,850/-.**

7. That the eligible Advocate fee for MCOP No.22/2026 fixed as **Rs.20,030/-.**

8. The 2nd respondent is directed to pay a sum of **Rs.20,321/-** being the cost of petitioner in MCOP No.21/2026 tabulated there in.

9. The 2nd respondent is directed to pay a sum of **Rs.32,596/-** being the cost of petitioner in MCOP No.22/2026 tabulated there in.

10. The claim against 3rd respondent is dismissed as the accident not occurred due to rash and negligence of the driver of the innova car as decided in point No.1.

Note: At the same time, the claim of the petitioner due to death of deceased namely Sundaravel/ who was the owner of the innova car involved in the accident regarding his PA Claim is mandatory one in case of Package policy and the same would not be affected by this award.

30. That there is no need to prepare or draft the decree for this Award and further all the parties are entitled to get free copies of the award as per the Section 168(2) of the Act and Rules 20(6) of the Rules, as per order passed by the Hon'ble High Court of Madras in M/s Cholamandalam MS General Insurance Co., Ltd., Vs. Ayyanar and others – Judgment dated 11.05.2020 in Tr.CMP Nos.264 to 281 of 2020.

Other necessary Particulars

MCOP No. 21/2026

Date of petition	**:**	**Respondent's side**
Date of Award	:	24.04.2026
Amount of compensation claimed is	:	Rs.1,00,00,000/
Amount of compensation awarded by this tribunal is	:	Rs.6,85,000/-
Court fee payable for the said amount is	:	Rs. 6,223/-
Court fee already paid is	:	Rs.373/-
Balance court fee to be paid is	:	Rs.5,850/-

Cost List for the Petitioner for MCOP No. 21/2026

Particulars	**Petitioner side**	**Respondent's side**
Court fees	Rs.6,223.00	
Vakalath Nama Stamp	Rs. 42.00	
Process fee	Rs. 21.00	
Advocate fee	Rs. 13,850.00	----
Stamp of documents	Rs. 85.00	
Typing charges	Rs. 100.00	
Total	**Rs. 20,321.00**	

Other necessary Particulars

MCOP No. 22/2026

Date of petition	**:**	**Respondent's side**
Date of Award	:	24.04.2026
Amount of compensation claimed is	:	Rs.50,00,000/
Amount of compensation awarded by this tribunal is	:	Rs.13,03,000/-
Court fee payable for the said amount is	:	Rs. 12,403/-
Court fee already paid is	:	Rs.373/-
Balance court fee to be paid is	:	Rs.12,030/-

Cost List for the Petitioner for MCOP No. 22/2026

Particulars	**Petitioner side**	**Respondent's side**
Court fees	Rs.12,403.00	
Vakalath Nama Stamp	Rs. 42.00	
Process fee	Rs. 21.00	
Advocate fee	Rs. 20,030.00	----
Stamp of documents	----	
Typing charges	Rs. 100.00	
Total	**Rs. 32,596.00**	

Dictated to Steno Typist and directly typed by her in computer, corrected, pronounced by me in the open Tribunal on 24th day of April 2026.

NAGALAKSHMI VIJAYARANI

Digitally signed by NAGALAKSHMI VIJAYARANI
DN: cn=NAGALAKSHMI VIJAYARANI, ou=GOVERNMENT OF TAMILNADU, o=TAMIL NADU STATE JUDICIAL SERVICE, st=Tamil Nadu, c=IN
Date: 2026.04.24 17:45:03 +0530

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

Petitioner Side Witness:-

PW1 Yogalakshmi

PW2 Vijaykumar

Respondent side witness:-

RW1 Bharathi Raja (Legal manager of the 2nd respondent company)

RW2 Iyyanar (SI of Police, Ambur Taluk P.S)

RW3 Seenivasan (Asst Manager of 3rd respondent Company)

Petitioner side Exhibits:

Ex.P1	Copy of FIR
Ex.P2	Copy of Postmortem Certificate of the deceased Sundaravel
Ex.P 3	Copy of Insurance Policy of the Lorry bearing Reg.No.MH04DD6250
Ex.P 4	Copy of RC Book of the Lorry
Ex.P 5	Copy of DL of the driver of the Lorry
Ex.P 6	Copy of Insurance Policy of the Innova car bearing Reg.No.TN 83 X 8485
Ex.P 7	Copy of RC Book of the Innova Car
Ex.P 8	Copy of DL of the driver of the Car
Ex.P 9	Copy of Aadhaar Card of the petitioner
Ex.P 10	Copy of Death Certificate of the deceased Sundaravel

Ex.P 11	Copy of Legal Heirship Certificate
Ex.P 12	Copy of the pension letter issued by the Legislative Assembly Secretariat dated 2.01.2019.
Ex.P 13	Copy of the Assessment book where income tax was paid for the pension of the deceased Sundaravel
Ex.P 14	Original Trip Sheet of Rs.15,000/- from Ambur GH to Tirupathur
Ex.P 15	Copy of Postmortem Certificate of the deceased Vijayalakshmi
Ex.P 16	Copy of Death Certificate of the deceased Vijayalakshmi
Ex.P 17	Copy of Legal Heirship Certificate of the deceased Vijayalakshmi
Ex.P 18	Copy of the Assessment book where income tax was paid of the deceased Vijayalakshmi
Ex.P 19	Copy of the Aadhaar Card of the deceased Sundaravel
Ex.P 20	Copy of the Aadhaar Card of the deceased Vijayalakshmi

Court side Exhibits :

NIL

Respondent side Exhibits:

Ex.R1	Copy of Insurance Policy of the Lorry bearing Reg.No. MH04DD6250 dated 19.09.2024	RW1
Ex.R2	Copy of Charge Sheet	
Ex.R3	Copy of M.V. Report of goods lorry	
Ex.R4	Copy of M.V. Report of car/RW2	RW2
Ex.R5	Copy of RC Book of the Innova Car bearing Reg. No. TN83 X 8485 dated 06.03.2025	RW3
Ex.R6	Copy of DL of the driver of the Innova Car	
Ex.R7	Copy of Insurance Policy of the Innova Car	

Note : The rank of RW3 corrected and the documents marked through him has rearranged as Ex.R5 -R7 as per the docket order dated 24.04.2026

NAGALAKSHMI VIJAYARANI

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DN: cn=NAGALAKSHMI VIJAYARANI, ou=GOVERNMENT OF TAMILNADU, o=TAMIL NADU STATE JUDICIAL SERVICE, st=Tamil Nadu, c=IN
Date: 2026.04.24 17:45:14 +0530

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