

**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 27th day of March 2026
M.C.O.P. No.195/2022 CNR.NO.TNTU04-000436-2022**

1. Radha, (45),
W/o.Sivaji,
No.2/168, Naidu Vattam,
Pedukallupalli, Nekkunthi Post,
Vaniyambadi Taluk,
Tirupattur District.

..... Petitioner

/vs/

1.M.Gopinath,
S/o. Muniyappan,
No. 1/5B Kanvaipudur Village,
New Town Post, Vaniyambadi,
Tirupattur District.

2.United India Insurance Company Ltd.,
Katpadi Road,
Vellore District.

..... Respondents

The petition filed on 10.10.2022 and came up for final hearing in the presence of **Thiru.V.V.Shivaji. B.A., B.L.**, learned counsel for the petitioner. 1st Respondent set exparte and **Thiru. Sukanya Asaithambi, B.Sc., B.L.**, learned counsel for the 2nd respondent after hearing both side arguments, perusing case records and having stood for consideration till this day, this tribunal passed the following:-

ORDER

1. This petition was filed by the Petitioner against the respondent under section 166 of the Motor Vehicles Act claiming compensation of Rs.5,00,000/- as compensation against the respondent together with interest and cost from the date of accident.

2. The averments of the petition in brief :-

On 31.03.2022 about 08.50. A.M. in front of Shalimar Shoe Company at Solur in between vaniyambadi - Ambur NH Road, the Maxi Cab Van bearing Reg.No.TN23/BT 4729 belonged to the 1st respondent was driven by its driver namely Raman in the course of his employment under the 1st Respondent rashly and negligently manner towards Ambur from Vaniyambadi and met with an accident, the said Maxi Cab was hit against the right side center median and also dashed against the lorry bearing Reg.No.KL12/H8516 which was proceeding on the Ambur - Vaniyambadi NH Road towards Vaniyambadi slowly and cautiously in the opposite direction. Due to impact the petitioner and some others who were travelling in the Maxi Cab Van bearing Reg.No. TN23/BT4729 as an occupants sustained grievous and multiple injuries, and accused driver Raman and one occupant namely Pownammal died on the spot, and another occupant namely Poornima also died in the hospital subsequently. The petitioner sustained grievous injuries on her left elbow, left forehead, right shoulder, and all over the body, and sustained fracture on her right clavicle bone in the above said accident. The petitioner and other injured persons were taken to Govt. Hospital, Ambur and admitted as in-patient for treatment. The

petitioner was taken treatment in the Govt. Hospital, Ambur as in-patient for some days. Afterwards the petitioner was taken treatment in the above said hospital, and private hospitals as out-patient. The petitioner completely bed-ridden and she becomes permanently disabled. The petitioner has lost her earnings and her earning capacity by the said accident. The petitioner had spent more than Rs.50,000/- towards medical expenses. A case U/s. 279 & 304(A) IPC was registered by the Tirupattur Taluk Police Station in Cr.No. 128/2022 and the same is pending for investigation. The 1st respondent is the owner of the vehicle TN23/BT4729 Maxi cab and the 2nd respondent is the insurer of the vehicle. So, both the respondents are jointly and severally liable to pay the compensation to the petitioner for the injuries sustained by her in the above said accident.

3. The notice served to the 1st respondent and not appeared and hence set exparte as per docket order dated. 16.11.2025. The 2nd 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. 1/2026, dated. 23.06.2026.

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

The petitioner is to put the strict proof of the allegation that the nature of injury, treatment period, medical expenses, disability, monthly income and loss of earning power and income etc. It is true that the accident occurred on 31.03.2022 at 8.50 A.M. in Vaniyambadi to Ambur National Highways, opposite to Solur Shalimar Shoe company and criminal case was registered against the Maxi cab driver in Cr.No.128/2022 U/s.279, 337, 304(A) IPC and

then altered U/Sec 279, 337, 338, and 304 (A) IPC on the file of Ambur Taluk P.S. It is mentioned in FIR and charge sheet totally 32 persons were travelled in the Maxi Cab and out of that 16 persons including the petitioner sustained grievous injuries and 10 persons were sustained simple Injuries. The RC, FC and Tax of the Maxi cab bearing Regn.no. TN 23-BT-4729 is Valid and the driving license of its driver is also valid. The said vehicle insured with the 2nd respondent. As per permit only 13 persons including the driver allowed to travel. Whereas, there were 32 persons including the driver traveled in the vehicle at the time of accident as against the terms and conditions of Insurance policy. Except the permitted level of 13, those who were traveled unauthorized sustained injuries are not eligible to claim compensation. Being the petitioner is an unauthorized passenger 1st respondent and its driver who had permitted the excess passengers are only liable to pay compensation. The opposite vehicle Lorry was under validity and insured with M/s. Choramandalam General Insurance Co. Ltd, Ernakulam. The driver of the Maxi Cab shown as accused and subsequently died and hence the charge sheet filed in JM Court, Ambur as "Charge abated". The 2nd respondent breached the policy condition and hence 2nd respondent is not liable to pay compensation to the petitioner. The amount claimed as max aggregated and hence the petition is liable to be dismissed with costs.

The 1st petitioner is the passenger of Maxi Cab van/injured examined as PW1 and the documents Ex.P1- P13 was marked. The 2nd respondent side examined Senior asst manager of the company namely Seenivasan as Rw1 and the documents Ex. R1-R7 was marked.

5. Points for consideration:-

1) Whether the accident occurred due to the rash and negligence of the driver of the Maxi Cab Van bearing Regn No.KL12/H8516 who is under employment of 1st respondent ?

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

6.POINT NO 1: -

(1) The petitioner's case is that, the accident happened on 31.03.2022 at about 8.50 A.M. near Shalimar Shoe Company at Solur in between Vaniyambadi-Ambur NH Road. It is gathered from records, the petitioner & others employed in the said Shoe company and the Maxi cab van bearing Reg. No. TN 23 BT 4729 belonged to the 1st respondent provided for transportation purpose. The petitioner is the resident of Vaniyambadi availed the said facility for up and down to Solur. There is no dispute that the said maxi cab van driven by its driver namely Raman in the course of employment of the 1st respondent met with an accident and the second respondent is the insurer of vehicle of the 1st respondent.

It is an admitted fact that the petitioner along with other occupants nearly 32 persons were accompanied and met with an accident, out of which 2 were died on the spot, subsequently one person died despite treatment not working, 16 persons were grievously injured and 10 persons were sustained simple injury. The 2nd respondent who contesting the case not denied the manner of accident. There is no dispute that the accident occurred due to the

rash and negligence of the driver of the Maxi Cab and hence the criminal case in Cr.No.128/2022 U/s.279, 337, 304(A) IPC @ U/Sec 279, 337, 338, 304 (A) IPC on the file of Ambur Taluk P.S and the said driver died and charge sheet filed in Judicial Magistrate, Ambur as **“CHARGE ABATED”**.

The disputed fact is that violation of policy of condition that the 1st respondent permitted to travel excess persons (32) instead of (13). The owner of the vehicle 1st respondent remained exparte and the 2nd respondent side filed petition U/ Sec 170 of MV Act in order to put forth the defense would have been taken on the side of 1st respondent and allowed in IA No.1/2025. The said defense entirely revolves around the number of persons traveled in the maxi cab. There is no adverse remarks pointed out with regard to the date, time, manner of the accident. Hence the tribunal finds that the **FACTUM OF ACCIDENT** admitted.

In order to prove the case, the petitioner filed proof affidavit in consonance with the petition and examined as PW1. She categorically deposed that, the driver of the 1st respondent drove the above maxi cab Van TN 23 BT 4729 in a rash and negligent manner, towards Ambur from Vaniyambadi and hit against center median, and then dashed against the lorry bearing Registration No. KL12/H8516 came from opposite direction towards Vaniyambadi slowly and cautiously in the extreme left side of the road and caused the accident. The manner of accident itself proves that the accident only occurred due to the rash & negligent driving of the driver of the Maxi Cab/ 1st respondent's driver.

It is evident from the accident register/Wound Certificate Ex.P6 also

contains the injuries sustained by the petitioner which corroborates the oral testimony of Pw1 & 2. The motor vehicle report Ex.P4/ Ex.R6 reveals that the front portion of the maxi cab was damaged and that the accident occurred in the manner stated in the petition. The petitioner proved her case by probable evidence in which the standard of proof required. The ocular as well as documentary evidence also strengthen the case of the petitioner. Hence, it is concluded that the accident occurred only due to the negligence of the driver of the Maxi Cab (TN 23 BT 4729) under the employment of 1st respondent. The point No. 1 is answered accordingly.

7. POINT NO.2 :

(A) The petitioner deposed that, they had sustained grievous injuries especially in her right fore arm and left arm due to the accident as could be seen from the medical records marked as Ex.9, 10, 11 & 12. The accident occurred due to the rash and negligence of the driver of the Maxi cab van as decided in point No. 1. The said vehicle stands in the name of 1st respondent involved in the accident termed as offending vehicle. The said offending vehicle insured with the 2nd respondent as per Ex.P3. Hence the petitioner is entitled to compensation from the 1st and 2nd respondents. This point No. 2 is answered accordingly.

(B) The 1st petitioner claimed Rs.5,00,000/- under various heads as compensation stating that the accident caused Permanent disability and hence it is appropriate to discuss the same head by head:

(i) **DISABILITY:** The petitioner claimed an amount of Rs.50,000/- as

compensation for permanent disability. Though the petitioner deposed that he sustained permanent disability, the petitioner side failed to taken steps to refer him to medical board for assessment of disability. The nature of disablement not been proved and hence the tribunal not inclined to award compensation towards disability.

(ii) MEDICAL EXPENSES:

The 1st petitioner claimed Rs.50,000/- towards medical expenses. The Accident occurred on 31.03.2022 at 8.50 A.M. The petitioner taken in to Ambur Govt Hospital immediate to the accident as contained in Accident register (Ex.P2). The entries contained in accident register reveals that she sustained fracture in right clavicle and laceration in left elbow and left forehead. The discharge summary issued by Sri Lakshmi Multispeciality hospital, Ambur marked as Ex.P.9. It reveals that she had treated as in patient from 31.03.2022 – 06.04.2022 and undergone surgery 02.04.2022 under the procedure ORIF CLAVICLE DEBRIDEMENT AND PRIMARY CLOSURE OF LACERATION. She had advised to take medication and attend review on 10.04.2024.

(A) In order to prove the medical expenses, the petitioner filed medical Bills (13 Nos) inpatient bill dated. 07.04.2022 shows the amount of Rs.76519/- towards bed charges, nursing charges, ward consultation, Theatre charges, C Arm charges, Anesthetic charges, surgery fee, Orif and implant charges marked as Ex.P11. The Bill dated. 02.04.2022 shows payment of Rs.5019/- towards implantation of nail in the right shoulder marked as Ex.P.10. Though the

separate bill produced and the same is the part and parcel of IP Bill (EX.P11 and hence the petitioner claim the said amount 2nd time and hence the tribunal not inclined to award the amount contained in Ex.P10. The payment as per separate medical bills dated. 31.03.2022, 02.04.2022, 06.04.2022 in consonance with the IP medical bill. Hence the tribunal holds that the petitioner entitled of Rs.76,519/- towards medical expenses Ex.P.11.

(B) The petitioner side also filed bills (4 nos.) Bill No.1 dated.31.03.2022 shows payment of Rs.1900/- towards Lab ECG. Bill No.2 dated..02.04.2022 shows payment of Rs.15,750/- towards admission, operation, Xray. The Bill No.3 & 4 reflects purchase of disposable gloves, surgical CT, Eclaris, tablets on 31.03.2022 & 16.05.2022 for an amount of Rs. 30/- and Rs.680/- were marked as Ex.P.12. It is apparent on the face of record that Bill No. 2 is included in the IP Bill (Ex.P10) and hence the petitioner entitled only an amount contained in Bill No.1,3,4 and hence the tribunal inclined to award an amount of Rs. 2,610/- alone as per Ex.P12.

As discussed in detail, the tribunal inclined to award an amount of Rs. A+ B = 76,519/- + Rs.2,610 /- = Rs.79,129/- towards Medical expenses.

(iii) LOSS OF INCOME: The Petitioner side has stated that he worked as coolie in Atsan Shoe company, Kannika puram and earned Rs.20,000/- p.m. But there is no document produced in order to prove the income of petitioner. The petitioner taken inpatient only from 31.03.2022 - 06.04.2022. The wound certificate reveals that she sustained Grievous injury. There is no disability proved. Hence the tribunal not inclined to award compensation for Loss of

income. At the same time considering the disability and period of treatment as inpatient as 7 days she ought to have absented from regular employment for the period of 2 months. Being no income proof filed and the notional income taken as Rs.9,468/- and rounded off as Rs.9468/- . For the said period of absenting from regular work the petitioner entitled a sum of Rs.9,500/- towards Loss of income during the period of Lay off.

(iv).PAIN AND SUFFERINGS: It is apparent from medical records that the petitioner underwent surgery on 02.04.2022 for FRACTURE OF RIGHT CLAVICLE. It is evident from rom discharge summary that nails implanted and detailed instruction given for review for removal of Nail. The petitioner treated in two hospitals GH Ambur and Sai Lakshmi Hospital as in patient for the period of 7 days. It is apparent that the injury Grievous in nature. Upon considering the nature of injuries, duration of treatment, the pain and sufferings undergone by the petitioner, the tribunal inclined to award a sum of Rs. 50,000/- as compensation under this head.

(v).TRANSPORTING EXPENSES: The petitioner undergone treatment in Government Hospital in Ambur and Sai lakshmi Hospital Vellore. Though the Trip Sheet not produced it is apparent that incurred some expenses towards Transportation expenses. The residence of the petitioner situated in Vaniyambadi which is too far away from Vellore approximately 84 Km. Upon Considering the distance between her residence to hospital in Bangalore TO AND FRO (55 x 2 = 110 Km) and hence the tribunal inclined to award Rs. 10,000/- towards transport expenses.

(vi).EXTRA NOURISHMENT: For the injury sustained the petitioner would have given extra nutritious food for speedy recovery and incurred some expenses in this regard and hence the tribunal inclined to award Rs.10,000/- towards extra nourishment.

(vii)ATTENDER CHARGES: As the petitioner was hospitalized for period for fifteen days and hence naturally attender would have been there and for the attender also some expenses would have been occurred. Upon considering the period of treatment undergone by the petitioner the tribunal inclined to award Rs. 10,000/- towards attender Charges.

8.Finally, this tribunal award the following amount towards the claim of the petitioner under the given heads.

1	Towards disability	Nil
2	Towards Medical Expenses	Rs.79,129/-
3	Towards loss of future expenses	Nil
4	Loss of Income	Rs. 9,500/-
5	Towards Pain & Suffering	Rs. 50,000/-
6	Extra Nourishment	Rs. 10,000/-
7	Attender Charges	Rs. 10,000/-
8	Transportation expenses	Rs.10,000/-
	Total	Rs.1,68,629/-

(9) The 1st respondent is the owner of the Maxi cab vehicle bearing

registration No. TN 23 BT 4729 as could be seen from a copy of Registration Certificate (Ex.P3). Being the owner of the said vehicle, the 1st respondent is liable to pay the compensation for the negligence on his part of his driver under the course of employment as decided in Point No.1. The copy of insurance policy (Ex.P4) reveals that the policy was valid from 04.01.2022 to the midnight of 03.01.2023. The accident occurred on 31.03.2022. The Insurance was in force at the time of accident. The copy of driving license of the driver of the maxi cab van namely Raman marked as Ex.P6. It is appropriate to discuss the defense put forth regarding violation of policy stated on the side of 2nd respondent.

Being the the petitioner is an unauthorized passenger, the 1st respondent and its driver who had permitted the excess passengers are only liable to pay compensation. It is extracted from Insurance policy that the petitioner paid premium of Rs. 14,494/- towards Basic – TP, the premium of Rs. 50/- LL to paid driver , **the premium amount of Rs.10,632/- paid for legal liability to passengers.** In order to clarify the number of passenger covered under Insurance policy, the official/Asst Manager of the 2nd respondent company namely Seenivasan examined as RW1. The said witness deposed that, there were 13 persons only permitted as per permit ; but the said vehicle carried 32 persons including driver at the time of accident and hence the 1st respondent violated the terms of Policy. At the same time the permit is not produced before the court on either side.

The said RW1 also deposed that, there were 13 cases filed before the court and 1 fatal case due to death of maxicab driver namely Raman filed before Tirupathur District court and also 15 cases filed before Vaniyambadi sub court.

The 2nd respondent side failed to clarify the details of the case, particulars of award, payment of compensation to the injured or deceased as per the terms and conditions contained in Ex.R3. Admittedly, the premium paid for the passengers and hence the insurance company cannot disown liability quoting the number of person. The 2nd side not produced any materials regarding payment of compensation to the injured victim in order to minimize the scope of its liability. Hence, The tribunal finds that the 2nd respondent is liable to pay compensation to the injured/ petitioner as per the Insurance Policy marked as Ex.P4/Ex.R3.

At the same time, the other factors stated on the side of 2nd respondent cannot be overlooked. It is apparent on the face of case records that the vehicle bearing vehicle No. TN 23 BT 4729 carried excessive passengers and is nothing but violation of condition of insurance policy. 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. The point No.2 is answered accordingly.

In the result, the petition's is partially allowed as follows:-

(a) The Petitioner is awarded Rs.1,68,629/- (**Rupees One Lakh Sixty Eight Thousand Six Hundred and Twenty Nine Only**) together with interest

at 7.5% per annum from the date of petition till the date of deposit (The petitioner not entitled interest for the period for the date of dismissed on default to the restore 13.06.2025-18.12.2025).

(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 and thereafter taken recourse against the 1st respondent as Per PAY and RECOVERY METHOD.

(c) The petitioner is permitted to withdraw the deposit amount on condition that to pay the remaining Court Fee of Rs. 687/- 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 given below.

(d) Advocate fee fixed for as Rs. 6373/- shall be paid by NEFT/RTGS mode.

(e) The respondent is directed to pay a sum of **Rs.7666/-**being the cost of petitioner tabulated there in.

10. 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

Other necessary Particulars

Date of petition	:	Respondent's side
Date of Award	:	27.03.2026
Amount of compensation claimed is	:	Rs.5,00,000/-
Amount of compensation awarded by this tribunal is	:	Rs.1,68,629/-
Court fee payable for the said amount is	:	Rs. 1060/-
Court fee already paid is	:	Rs.373/-
Balance court fee to be paid is	:	Rs.687/-

Cost List for the Petitioner

Particulars	Petitioner side	Respondent's side
Court fees	Rs.1060.00	
Vakalath Nama Stamp	Rs. 50.00	
Process fee	Rs. 28.00	
Advocate fee	Rs. 6373.00	----
Stamp of documents	Rs. 55.00	
Typing charges	Rs. 100.00	
Total	Rs. 7666.00	

Dictated to Steno Typist and directly typed by him in my laptop, corrected, pronounced by me in the open Tribunal on 27th day of March 2026.

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

Petitioner Side Witness:-

PW1 Radha

Respondent side witness:-

RW1 Seenivasan

Petitioner side Exhibits:

- Ex.P1 Copy of FIR
- Ex.P2 Copy of Accident Register
- Ex.P 3 Copy of Registration Certificate of Maxi Cab Van TN 23 BT 4729
- Ex.P 4 Copy of Insurance Certificate of Maxi Cab Van TN 23 BT 4729
- Ex.P 5 Copy of Motor Vehicle Inspector's Report of Maxi Cab Van TN 23 BT 4729
- Ex.P 6 Copy of Driving License of the Maxi Cab Van Driver TN 23 BT 4729
- Ex.P 7 Copy of Petitioner Aadhaar Card
- Ex.P 8 Copy of the Petitioner Bank Pass Book
- Ex.P 9 Copy of Discharge Summary Issued by Sai Lakshmi Hospital
- Ex.P 10 Copy of Medical Bill Issued by Sri Vaibhav Specialty Hospital, Vellore
- Ex.P 11 Original IP Medical Bill Issued by Sai Lakshmi Specialty Hospital
- Ex.P 12 Original Medical Bill Issued by Sai Lakshmi Specialty Hospital
- Ex.P 13 Copy of the Petitioner Salary Certificate

Court side Exhibits :

NIL

Respondent side Exhibits:

- Ex.R1 Copy of RC Book
- Ex.R2 Copy of Fitness Certificate
- Ex.R3 Copy of Permit
- Ex.R4 Copy of Insurance Certificate
- Ex.R5 Copy of Driving Licence
- Ex.R6 Copy of M.V. Report
- Ex.R7 Copy of Final Report

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