

**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.
Tuesday, the 28th day of April 2026
M.C.O.P. No.19/2024
CNR.NO.TNTU04-000059-2024**

Sudharsan, (48 years)
S/o.Gopal,
No.131, Pooncholai Nagar,
Poosariyan vattam,
Elagiri Village,
Vakanampatti,
Jolarpet,
Tirupathur Taluk & District.

..... Petitioner

/vs/

1. R. Boopalan,
S/o.Rajagopal,
No.337, HIG TNHB Phase – I,
Tirupathur Taluk & District.

2. M/s. The Reliance General Insurance Co. Ltd.,
Old No.398, New No.824/1, 3rd floor,
R.N.G Tower, Nandanam,
Anna Salai,
Chennai – 600 035.

..... Respondents

The petition filed on 08.11.2023 and came up for final hearing in the presence of **Thiru.B. Elango, M.L.**, learned counsel for the petitioner. The 1st respondent set exparte and **Tmt.K.Nirupama, B.A., M.L.**, learned counsel for 2nd respondent, and 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 under section 166 of the Motor Vehicles Act claiming Rs.6,00,000/- as compensation against the respondent together with interest and cost from the date of accident.

2. The averments of the petition in brief:-

On 18.05.2023 at about 8.00 a.m. while the petitioner was riding in his two wheeler TVS XL Super vehicle bearing Reg. No. TN 23 BH 7033 to his job on left side of the Road near Pakrithaka cross road, he crossed the road slowly and cautiously, while the 1st respondent vehicle bearing the Reg. No. TN 83 R 3108, TVS Jupiter, headed over from Tirupathur – Jolarpet, hit the petitioner and his vehicle and caused the grievous injuries to him. When the 1st respondent drove his vehicle in a rash and negligent manner without following the traffic rules and regulations and dashed against the petitioner and caused the accident. The accident occurred only due to the rash and negligent act of the 1st respondent and caused the grievous injuries to the petitioner. Due to the accident the petitioner sustained grievous injuries in left hand fracture, blood in his face and immediately he was taken to the Tirupathur govt. hospital through 108 ambulance, the first aid was given to the petitioner and referred the petitioner for higher treatment for his left leg fracture and immediately he took treatment in Vijaya hospital, Vaniyambadi and the surgery was made for the fracture in left left of the petitioner and admitted as an inpatient for 5 days, he was treated as out-patient for his wound. The petitioner was hale and healthy at the time of accident and he was only 48 years old at the time of the accident. The petitioner doing Carpenter work and he earned Rs.25,000/- per month. Due to the accident he had become permanently disabled and lost his earning capacity. The petitioner spent more money towards medical

and transports expenses and other incidental expenditure arise out of the accident. The 1st respondent is the owner cum driver and the 2nd respondent is the insurer of the vehicle are jointly and several liable to pay compensation to the petitioner along with interest and costs.

3. The notice served to the 1st respondent and not appeared before the tribunal and hence set exparte as per docket order Dated 19.12.2025. The 2nd respondent side filed petition U/Sec 170 of Mv Act to putforth defense on behalf of the 1st respondent an allowed in IA No. 3/2026 dated 28.04.2026.

4. The counter filed on the side of 2nd respondent as follows:-

On 18.05.2023 at about 8.00A.M, the petitioner was riding the TVS XL Super two wheeler bearing Reg. No. TN 23 BH 7033 on left side of the road near Pakirithaka cross road and he cross the road slowly, at that time, the 1st respondent's TVS Jupiter vehicle bearing Reg. No. TN 83 R 3108 was driven by the 1st respondent in rash and negligent manner and dashed against the petitioner and due to the said impact the petitioner sustained grievous injuries. The petitioner is put to strict proof of the same. The petitioner rode the motor cycle in rash and negligent manner and without DL and without insurance to his motor cycle and suddenly crossed the road and dashed against the 1st respondent's two wheeler and caused this accident. Hence the petitioner pleads contributory negligence. The alleged nature of injuries to the petitioner are denied. It is denied that the petitioner sustained grievous injuries and fracture on his left hand, bleed in his face and immediately the petitioner was taken to G.H. Tirupathur and after that the petitioner had taken treatment at Vijaya hospital, Vaniyambadi and due to this accident the petitioner became permanently disabled and lost his earning capacity

and spent huge amount towards medical expenses. Without prejudice and without admitting any liability this respondent submits that if there is any disability to the petitioner with regard to the occupation, the petitioner may be directed to approach the medical board to get the disability certificate and the disability certificate from the other doctors can not be relied upon as per new amendment and otherwise it will be treated as there is no disability to the petitioner and the petitioner sustained only simple injuries. This respondent submits that the 1st respondent rode the motor cycle without DL and violated the police conditions. Hence this respondent need not indemnify the 1st respondent and this petition as against this respondent is liable to be dismissed.

5. On behalf of the petitioner, the petitioner was examined as Pw1, Ex.P1 to Ex.P11 were marked. The 2nd respondent side witness examined as Rw1 and documents Ex.R1 to R4 were marked and official of insurance company examined as RW2 and documents Ex.R5 to 8 were marked .

6. Points for consideration:-

1) Whether the accident occurred due to the rash and negligence of the 1st respondent who is the owner cum driver of the TVS Jupiter vehicle bearing the Reg. No. TN 83 R 3108?

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

7. POINT NO. 1: -

(i) The petitioner's case is that, the accident occurred on 18.05.2023 at

about 8.00 a.m, near Pakrithaka cross cut road, situated in between Tirupathur – Jolarpet. It is gathered from the documents that the petitioner proceeded in the Motor Cycle TVS XL Super two wheeler bearing Reg. No. TN 23 BH 7033 and the 1st respondent who is the owner cum driver of the vehicle proceeded in his TVS Jupiter, bearing Reg. No. TN 83 R 3108 at the time of accident. The date, time and place of accident not disputed. The factum of the accident admitted. The dispute arises with regard to the manner of accident alone. Hence the tribunal inclined to appreciate the oral as well as documentary evidence produced in this regard.

(ii) The petitioner filed proof affidavit in consonance with the claim petition and examined as PW1. He categorically deposed that, he was riding in his two wheeler TVS XL Super vehicle to his job slowly, cautiously in the left side of the Road, when nearing to Pakrithaka cross road, he turn the road after necessary indication, the 1st respondent drove vehicle bearing the Reg. No. TN 83 R 3108, came from Tirupathur to Jolarpet, in a rash and negligent manner without following the traffic rules and dashed against the petitioner and caused the accident. He also deposed that he had taken into GH Tirupathur through 108 Ambulance with the help of the person surrounded in the accidental spot and the same tallied with medical records and hence the tribunal holds that he had sustained injuries due to that accident.

(iii) It is clear from the testimony of Pw1 that the accident caused due to the negligence of the driver of the 2nd respondent. Though Pw1 elaborately cross examined the manner of accident not shattered by the contesting 2nd respondent. It is also suggested that the respondent followed the traffic rules

and he replied that the accident occurred beyond the the white line and it occurred only due to the sole negligence of the 1st respondent. The petitioner who is the victim of the accident is competent witness to depose about the incident. At the same time, the driver of the 1st respondent side not adduced any rebuttal evidence in order to shake the evidence of the petitioner. There is no iota of evidence that the accident not occurred due to the negligence of the 1st respondent. Hence, the tribunal holds that the accident occurred as per the manner stated in the petition.

(iv) It is pertinent to note that the criminal case in Cr.No.169/ 2023 U/s 279,337 IPC on the file of Jolarpet P.S. registered against the driver of the two wheeler/ 1st respondent marked as Ex.P.1. It revealed from accident register that the petitioner admitted in Tirupathur G.H. immediate to the accident and the fact not thrown away on the side of respondents. The MV Report (Ex.P4 & Ex.R2) also reveals that the involvement of the Vehicle in the accident and got damages. The said documentary evidence also corroborates the evidence of the Pw1 that the accident only occurred due to the rash & negligent driving of the driver of the 1st respondent.

As discussed in detail, the petitioner proved his case as per the theory of preponderance of probability. Hence, the tribunal concludes that the accident caused only by the negligence of the driver of the TVS Jupiter, bearing Regn No.TN83 R 3108 belonged to the 1st respondent and termed as “offending vehicle.” The point No.1 is answered accordingly.

8. POINT NO.2 :

(1) The petitioner deposed that he had sustained fracture in his left leg and all over the body due to the impact of accident as could be seen from medical records Ex.P 2,3,4,6&7. The referral Slip (Ex.P2) reveals that the petitioner initially taken first aid in Tirupattur Government Hospital and then referred for higher treatment to Vellore Government College Hospital. But the petitioner taken treatment in Vijaya hospital, Vaniyambadi considering the injury and pain suffered by him. The discharge summary issued by Vijaya hospital, Vaniyambadi thereby taken treatment as inpatient there from 18.05.2023 – 23.05.2023 was marked as Ex.P6. The original medical Bills for an amount of Rs. 76,601/- marked as Ex.P7. The accident occurred due to the negligence of the 1st respondent as could have decided in point No.1. There is no doubt that the petitioner sustained serious injuries due to that accident. Hence the tribunals holds that the petitioner is entitled for compensation from the respondents. This point is answered

(2) The petitioner claimed Rs.6,00,000/- under various heads as compensation stating that the accident caused Permanent disability and hence it appropriate to discuss the same head by head:

(3) **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 **12%**. 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.9,000/- per percentage of disability is herewith applied. **Considering the disability in this case fixed as 12%, it can be calculated at the rate of Rs.9,000/- = Rs.1,08,000/- is awarded towards Disability.**

(ii) MEDICAL EXPENSES :

The petitioner side further claimed Rs.80,000/- towards medical expenses. It is also reveal from the records that the petitioner had initially taken treatment in Tirupattur GH and then admitted in Vijaya Hospital Vaniyambadi. The medical records contained the injury : Laceration in posterio – medical aspect of tibia 3 x 1x 0.5 c.m, Tenderness + Deformity + ROM painful and restricted. The discharge summary of Vijaya hospital for taken treatment as in patient from 18.05.2023 – 23.05.2023 marked as Ex.P6. It also reveals that he had undergone Surgery on 18.05.2023 on his FRACTURED LEFT LEG. Then after discharge from hospital advised to take Medication and to attend review with ortho OPD on prior appointment. It is apparent that the injury is Grievous in nature.

In order to prove the medical expenses incurred, the consolidated cash Bill (Ex.P7) containing an amount of Rs.76,601/- paid towards Anesthetist fees, Bed Charges, Lab and X Ray Charges, Equipment charges, Implant and Removal Charges, Nursing Charges, Operation Theater Charges, Professional charges, Surgeon Charges, pre and post operative medicine, Discharge medicine. There is no adverse facts expressed regarding the said Medical expenses. **Hence, the tribunal inclined to award an amount of Rs.76,601/- towards medical charges .**

(iii) PAIN AND SUFFERINGS :

It is apparent on the face of records that, the petitioner sustained fracture On his Left Leg. He initially taken treatment in Tirupathur GH and admitted in Vaniyambadi Vijaya Hospital and treated as inpatient from 18.05.2023 – 23.05.2023 and thereby undergone surgery on 18.05.2023 for LEFT SHAFT OF TIBIA OPEN FRACTURE (GUSTILLO AND ANDERSON TYPR I). He also subjected to procedure ***CRIF WITH IMIL OF LEFT SHAFT OF TIBIA WITH PRIMARY SUTURING***. It is also extracted that the nails were implanted in the level of 10 x 380 mm used to fix left shaft of tibia under C Arm guidance. For that he could suffered a pain lot and also constrained with mental agony. Considering the nature of injuries, percentage of disability, duration of treatment, a sum of **Rs.50,000/-** awarded under the head of PAIN & SUFFERINGS.

(a) TRANSPORTING EXPENSES

The petitioner undergone treatment in Government Hospital, Tirupathur

and Vijaya Hospital, Vaniyambadi. Though the Trip sheet (3 Nos) produced and marked as Ex.P11. It reveals that the petitioner had a trip from Tirupathur GH to Vaniyambadi on the sate of accident 18.05.2024 nealy about 20 K.m and then he availed the trip from Vaniyambadi to Jolarpet nearly 20 km at the time of discharge on 23.05.2023 and then again availed the same service from Jolarpet to vaniyambadi on 15.08.2023 at the time of taken treatment as out patient on 28.03.2023 - 13.08.2023 nearly about 20 K..m n(each time) . It also reveals that he had paid an amount of Rs. 1750/-+ Rs.1750/- + Rs.10,000/- on the said dates. It is also apparent that the petitioner having resident at Pooncholai Nagar, in the hill area Elagiri village is too remote to the tirupathur & Vaniyambadi Town and hence he incurred some considerable expenses towards transportation. Upon considering the distance, nature of injury sustained, post operating consultation the tribunal inclined to award **Rs.13,500/-** towards transport expenses.

(b) EXTRA NOURISHMENT:- As the petitioner would have given nutritious food for speedy recovery hence towards extra nourishment **Rs.15,000/-** is awarded.

(c) ATTENDER CHARGES: As the petitioner was hospitalized for period for several days naturally attender would have been there and for the attender also some expenses would have been occurred. Upon considering the period of treatment undergone the tribunal inclined to award **Rs.15,000/-** towards attender Charges.

(d) LOSS OF AMENITIES : It is clear from record that the petitioner was 48 years old at the time accident. Considering the nature of injuring and permanent

disability is of 12% as decided as functional disability , which he has to endure through out life with this permanent total disablement, and hence tribunal inclined to award **Rs.40,000/-** for loss of Amenities and happiness.

CONCLUSION : (iv) In the result , this tribunal award the following amount towards the claim of the petitioner under the given heads.

1	Towards Permanent disability	Rs. 1,08,000/-
2	Towards Medical Expenses	Rs.76,601/-
3	Towards Future Expenses	NIL
4	Towards Pain & Suffering	Rs. 50,000/-
5	Towards loss of Amenities	Rs. 40,000/-
6	Towards Transport Expenses	Rs. 13,500/-
7	Towards Extra nourishment	Rs. 15,000/-
8	Towards Attender Charges	Rs. 15,000/-
	Total	Rs. 3,18,101/-

(9) Admittedly, the 1st respondent is the owner of the vehicle TVS Jupiter, bearing Regn No.TN 83 R 3108 as Could revealed from Registration Certificate (Ex.P3). Being the accident happened due to the negligence of the 1st respondent who is the owner cum driver of the vehicle and the petitioner is entitled to the compensation as decided in Point No. 1. The policy of Insurance of the offending vehicle marked as Ex.P 5 . The said policy was valid from the

midnight of 03.01.2019 till the midnight of 02.01.2020 The insurance was in force at the time of accident. There is no violation of policy of insurance. At the same time, the driving license of the 1st respondent who is the owner cum driver of the vehicle not produced along with petition and thereafter at the time of trial.

Whereas, the 2nd respondent side made defense that the DL of the 1st respondent is not produced at the time of inspection and before tribunal and hence violated the conditions of insurance. In order to substantiate the fact, the official of the MV Inspector, Tirupathur who appeared on summons and examined RW1. He deposed that the driver of the TVS Jupiter vehicle namely Boopalan S/O Rajagopal Iyer, 337 HIG, TNHB, Phase – I , Tirupathur was not produced driving license and at the same time of inspection. The online search regarding issuance of driving licence to the 1st respondent marked as Ex.R4. The MV Report (Ex.P2) also contained that the DL of Boopalan N ot produced and CF collected. Though the 1st respondent contested the case there is no steps to produce the said driving licenser and there is no reasonable explanation offered and hence adverse inference against him. Hence tribunal holds that the 2nd respondent established that the 1st Respondent hold no driving license at the time of accident.

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 is partly allowed as follows:-

(1) The Petitioner is awarded **Rs. 3,18,101/- (Rupees Three Lakhs Eighteen Thousands One hundred and One 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).

(2) 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.

(3) The petitioner is permitted to withdraw the deposit amount on condition that to pay the remaining Court Fee of **Rs. 2,181/-** within 15 days from the date of receipt of copy of order. If not paid within the stipulated time, the petitioner is 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.

(4) Advocate fee fixed as **Rs.9,362/-** shall be paid by NEFT/RTGS mode.

(5) The 2nd respondent is directed to pay a sum of **Rs.12,120/-** being the cost of petitioner tabulated there in.

10. Following the Judgment of the Hon'ble High Court of the Madras in M/s Cholamandalam 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	:	28.04.2026
Amount of compensation claimed is	:	Rs.20,00,000/-
Amount of compensation awarded by this tribunal is	:	Rs.3,18,101/-
Court fee payable for the said amount is	:	Rs.2,554/-
Court fee already paid is	:	Rs.373/-
Balance court fee to be paid is	:	Rs.2,181/-

Cost List for the Petitioner

Particulars	Petitioner side	Respondent's side
Court fees	Rs.2,554.00	
Vakalath Nama Stamp	Rs. 50.00	
Process fee	Rs. 14.00	
Advocate fee	Rs. 9,362.00	----
Stamp of documents	Rs. 40.00	
Typing charges	Rs. 100.00	
Total	Rs.12,120.00	

Dictated to Typist and directly typed by him in my laptop, corrected, pronounced by me in the open Tribunal on 28th day of April 2026.

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

Petitioner Side Witness:-

Pw1 Sudharsan

Petitioner side Exhibits:

- Ex.P1 Copy of FIR
- Ex.P2 Copy of Accident Register referral report
- Ex.P 3 Copy of RC (Vehicle reg. No. TN 83 R 3108)
- Ex.P 4 Copy of MVI report (Vehicle reg. No. TN 83 R 3108)
- Ex.P 5 Copy of Insurance policy (Vehicle reg. No. TN 83 R 3108)
- Ex.P 6 Original Discharge summary
- Ex.P 7 Original medical bills of Vijaya hospital (Rs.76,601/-)
- Ex.P 8 Copy of the Aadhaar card of the Petitioner
- Ex.P 9 Original photo of the petitioner
- Ex.P 10 Copy of Bank passbook of the petitioner
- Ex.P 11 Original Trip sheet 3 nos. (Rs.13,500/-)

Court side Exhibits :

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

Respondent Side Witness:-

RW1 Maruthachalam

RW2 Saravanabhavan

Respondent side Exhibits:

Ex.R1 Authorization letter

Ex.R2 Copy of MVI report (Vehicle reg. No. TN 83 R 3108)

Ex.R3 Copy of Insurance policy (Vehicle reg. No. TN 83 R 3108)

Ex.R4 Copy of online search related to DL of Poobalan

Ex.R5 Copy of Insurance of the Two Wheeler of the 1st respondent

Ex.R6 Copy of Investigation Report of the insurance company

Ex.R7 Copy of MV Report of the Two Wheeler of the 1st respondent

Ex.R8 Copy of MV Report of the Two Wheeler of the petitioner

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