

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

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

Monday, the 8th day of April 2026

M.C.O.P. No.21/2024
(Old MCOP No.28/2024 on the file III ADJ, Tirupathur)

CNR.NO.TNTU04-000063-2024

1. Nagammal, (55),
W/o. Selvam,
Kuravar Colony,
Pachal Village & Post,
Tirupattur Taluk,
Tirupattur District.

..... Petitioner

VS

1.G. Yuvarajan,
S/o. Govindhaswamy,
No.441, Arasiyar Nagar,
Pachal Road,
Tirupattur Taluk
Tirupattur District.

2. The Divisional Manager,
New India Asssurance Company Ltd,
Commercial Complex,
C.S.I. Building, 2nd Floor,
Officer Line,
Vellore-632 001.

..... Respondents

The petition originally filed on 09.10.2023 before III ADJ, Tirupathur and taken as MCOP 21/2024 and as per the proceeding in Dis. No.7733/2015, A dated.14.09.2015 of Principal District and Sessions Judge, Vellore transferred to this court and reassigned as MCOP 21/2024 on 12.03.2024 and came up for final hearing in the presence of **Thiru.K.UdhayaKumar,B.Sc.,B.L.**, learned counsel for the petitioner and 1st Respondent set exparte and **Thiru.K.Muthusamy, M.A.,M.L.**, learned counsel for 2nd respondent, and heard both side arguments, perusing case records and having stood for consideration till this day, this tribunal passed the following:-

ORDER

This petition is filed by the Petitioner against the respondents under section 166 of the Motor Vehicles Act claiming claiming Rs.50,00,000/- (Rupees Fifty Lakhs Only) as compensation against the respondents together with interest and costs from the date of the accident.

1. The averments of the petition in brief :-

On 18.08.2023 at about 03.00 P.M., the petitioner after purchasing the bangles from a shop adjacent to the Rajan Ice Parlar, near Tirupattur Bus Stand, the petitioner standing the left side of the road to cross from east to west, at that time one **Bolero Maxi Truck Plus bearing Regn.No.TN-83-MA-5166**, a gas cylinder loaded four wheeler coming from Vaniyambadi to Tirupattur and driven by its driver in a very rash and negligent manner without following any traffic rules and hit against the petitioner. Due to that accident, the petitioner got fracture on both legs and also sustained blood injuries in all over the body. The petitioner initially taken treatment in Government Hospital, Tirupattur and

then admitted in MIOT Hospital, Chennai and treated as inpatient from 18.08.2023 to 16.09.2023 and undergone surgery on the following dates: 19.08.2023, 23.08.2023, 29.08.2023, 29.03.2023, 01.09.2023, 04.09.2023 & 14.09.2023. The petitioner did seasonal business to sell vegetables and fruits and earned Rs.30,000/- p.m, The petitioner become permanently disabled and unable to do daily routine and also lost her earning capacity. The petitioner spent huge amount for her medical expenses. A case also registered in Cr.No.319/2023 on the file of Tirupathur Town P.S. against the driver of the 1st respondent. The accident had occurred only due to the rash and negligent driving of the driver of the **Bolero Maxi Truck Plus** and hence the 1st Respondent being the owner and the 2nd Respondent is the Insurer are jointly and severally liable to pay the compensation to the petitioner along with interest and costs.

2. The notice served to the 1st respondent and appeared before this court and hence set exparte on 29.08.2024.

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

The respondent denied the allegations in the petition and puts the petitioner to strict proof of all allegations. It is denied that the vehicle was insured with the respondent. Either the petitioner or the owner of the vehicle have not produced or furnished the copy of the insurance policy of the 1st respondent vehicle. The petitioner has to prove the accident, nature of injury, disability alleged, and the period of treatment, medical expenses incurred, income and alleged loss of earning power of the petitioner. The petitioner who purchased bangles from the shop nearby Rajan Juice Parlor suddenly crossed the road from east to west without seeing the passage of vehicle in the road and dashed

against the Bolero Maxi truck carrying the gas and herself invited the accident. The alleged accident place is not working place / pedestrian pathway and there is no marks to cross the road and the same clearly mentioned in MV Report. The FIR was launched after 2days from the date of accident and the delay not properly explained. The accident took place only due to the mistake and carelessness of the petitioner which she did not seen the vehicles were passing on the NH Road. The driver of the truck did not possessed badge and DL at the time of accident and hence the owner of the vehicle is alone to pay compensation. The claim is excessive. The 2nd respondent is not liable to pay any compensation to the petitioner. The petition is liable to be dismissed with costs.

4. EXAMINATION OF WITNESS : The petitioner filed proof affidavit in consonance with the claim petition and examined as Pw1, the documents Ex.P.1 to P23 were marked. The 1st respondent remained exparte. The 2nd respondent side examined the SI of Police, Town Police station, Tirupathur as Rw1, Ex.R1 series marked, the Assistant of RTO, Tirupathur examined as Rw2, Ex.R2 to R6 were marked and the witness Balaji examined as Rw3 and no documents marked through Rw3 and the evidence of both sides closed.

5. Points for consideration:-

a) Whether the accident occurred due to the rash and negligent driving of the driver of the **Bolero Maxi Truck Plus bearing Regn.No.TN-83-MA-5166 ?**

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

6.POINT NO 1: -

6.1. It is the case of the petitioner that, the accident happened on 18.08.2023 at about 03.00 P.M., near Tirupathur Bus Stand in Vaniyambadi – Tirupathur highways. It is stated in the petition that the petitioner is the pedestrian who attempted to cross the road from east to west, after purchasing the bangles from a shop adjacent to the Rajan Ice Parlor and at the time the gas lorry bearing Reg. No. **TN-83-MA-5166** belonged to the 1st respondent in a rash and negligent manner dashed against the petitioner and caused the accident.

The entire defense of the contesting 2nd respondent revolves round the violation of traffic rules that the petitioner not crossed the road as specified for that purpose rather than the manner of accident. It is also pointed out the discrepancies found in the petition that “standing in the left of the road to cross from east to west” and in the proof affidavit of PW1 that “attempted to cross the road”. It is also pointed out that the SOC mentioned in the Rough sketch 8 meter away from the left corner of the road and hence the petitioner who carelessly crossed the road liable for contributory negligence.

Upon hearing the both side submission reveals that the factum of accident is an admitted fact and the manner of accident alone disputed. Hence the tribunal finds that it is enough to decide the question of disputed fact that, “Whose Negligence the accident caused?” on the basis of the materials and evidence placed before the tribunal.

In order to prove the negligence, the petitioner filed proof affidavit in consonance with the claim petition examined as PW1. She categorically

deposed that, she was standing in the left corner of the road in order to cross the road from right to west near Rajan juice parlor and at that time the driver of the **Bolero Maxi Truck Plus bearing Reg.No.TN-83-MA-5166** drove the vehicle in a rash and negligent manner gone towards Vaniyambadi dashed against the petitioner and sustained fracture in her left leg and right Knee and thus the accident caused.

It is clear from the evidence of Pw1 that the accident caused due to the rash and negligence of the driver of the 1st respondent. It is significant to note that, a criminal case in Cr.No.319/2023, Tirupathur Town P.S registered against the driver of the 1st respondent namely Balaji marked as Ex.P1. The admission made before court in STC No..802/2024 on the file of Judicial Magistrate No.1, Tirupathur on payment of fine of Rs.2,000/- corroborates the evidence of Pw1. But during the course of cross examination of Pw1 some questions raised that there was no white lines found in the accidental spot on the side 2nd respondent. It is appropriate to mentioned relevant portion of cross of Pw1 that,

“நான் சாலையை கடக்க முயன்ற இடத்தில் வெள்ளை கோடு எதுவும் போடப்படவில்லை என்றால் சரிதான். அந்த சாலையில் மக்கள் சாலையை கடப்பதென்று வெள்ளை கோடுகள் போடப்படாத இடத்தில்தான் நான் சாலையை கடக்க முற்பட்டேன் என்றால் சரிதான். அந்த சாலையில் எப்போதும் வண்டிகள் வந்து சென்றுகொண்டிருக்கும் என்றால் சரிதான். அந்த சாலையில் லாரி வருவதை நான் கவனிக்கவில்லை என்றால் சரியல்ல. நான் கை காண்பித்தேன், ஆனால் வண்டி நிற்கவில்லை. நான் கை காட்டியும் வண்டி நிற்கவில்லை என்ற விவரத்தை முதல் விசாரணையிலோ மனுவினாலோ தெரிவித்தேன் என்றால் சரிதான். நான் தெரிவித்த விவரங்களுக்கு மாறாக காவல் துறையினர் எதுவும் எழுதவில்லை என்றால் சரிதான். நான் கொடுத்த வாக்குமூலம் சரியானது என்றால் சரிதான். காவல் துறை விசாரணையில் தெரியவந்த உண்மை விவரங்களுக்கு மாறாக விவரங்களை குறிப்பிட்டு இம்மனுவை தாக்கல் செய்துள்ளேன் என்றால் சரிதான். சாலையை கடக்கவேண்டிய உரிய இடத்தில் சாலையை கடக்க முற்பட்டிருந்தால் விபத்து ஏற்பட்டிருக்க வாய்ப்பில்லை என்றால் சரிதான்”.

The learned defence counsel tried to suggest PW1 was careless and crossed the road at the non pedestrian spot. PW1 fairly admits that there was no zebra crossing there and the vehicles are always on that road. But she categorically denies her carelessness stated that signaled with her hand, the driver of the 1st respondent didn't stop, and that caused the accident. Though she admits some discrepancies between the statement before police and the proof affidavit, but maintains that the accident not occurred due to her fault. The minor discrepancies in trivial matters not touching the core of the case can be appreciable. Hence the tribunal holds that the evidence of PW1 contained in a natural way with minor discrepancies can be be relied upon.

At the same time, the 2nd respondent side examined the driver of the 1st respondent namely Balaji as Rw1 who appeared on summon and he deposed that the petitioner who was in a careless manner suddenly cross the road and the accident is happened, but there is no reliable materials placed in order to substantiate the version of RW1. The materials placed before the court through RW1 such as Rough sketch, final report, observation Mahazar etc. marked as Ex.R2 (series) also no way supports the testimony of RW1. The rough sketch and other documents do not conclusively fix the point of impact so as to attribute fault to the injured petitioner. There is no independent eye witness or documents corroborated the evidence of RW1. Hence the evidence of RW1 made afterthought and hence cannot be relied upon.

The evidence of PW1, coupled with the registration of the criminal case against the driver of the 1st respondent, probablizes that the accident occurred only due to the rash and negligent driving of the driver of the 1st respondent. The respondent side relied upon the evidence of Rw1 not corroborated by any

other evidence. The probability of truth lies only upon the evidence of PW1. It is well settled that mere absence of a designated pedestrian crossing does not ipso facto amount to negligence on the part of the pedestrian. In order to fasten contributory negligence, there must be clear and cogent evidence to show that the act of the pedestrian directly contributed to the occurrence of the accident.

With regard to the stand of contributory negligence raised on the side of 2nd respondent is concern, the place of occurrence is near a bus stand area where pedestrian movement is expected, a higher degree of care is cast upon the driver of 1st respondent. The tribunal considers that the evidence of RW1 is only self supporting one is not sufficient to fix the liability upon the petitioner. The every driver of vehicle much watch out the pedestrians. The evidence of PW1 shows that the petitioner/ pedestrian signalled and the driver did not stop 100% negligence cast upon the driver. Hence the tribunal holds that the plea of contributory negligence raised is devoid of merits and is liable to be rejected.

As discussed in detail, the tribunal concludes that the accident occurred only due to the negligence of the driver of the **Bolero Maxi Truck Plus bearing Regn.No.TN-83-MA-5166** belonging to the 1st respondent and termed as offending vehicle. The point No.1 is answered accordingly.

7. POINT NO.2 :

The accident occurred due to the rash and negligence of the driver of the Lorry as decided in point No.1. The petitioner deposed that she had sustained injuries due to the accident and the same tallied with the medical records such as Accident register, medical bills, discharge summary, out patient Bills etc. The accident register and wound certificate of the petitioner issued by

the Tirupathur G.H. marked as Ex.P.3,P5. The discharge summary for the period of treatment taken as inpatient from 18.08.2023 – 16.09.2023 and for further period of 16.10.2023 – 18.10.2023 and the subsequent period of 30.04.2025 – 12.05.2025 marked as Ex.P.7,9 & P24. The medical bills also marked as Ex.P.16, 17 & 18, 24 – 26. The wound certificate issued by MIOT hospital, Chennai marked as Ex.P.6. The nature of injury as “GRIEVOUS “.

Since the petitioner proved his case that he had taken treatment for the injuries sustained in the accident and hence the tribunal holds that the petitioner entitled compensation.

The petitioner claimed Rs.50,00,000/- under various heads as compensation stating that the accident caused Permanent disability and hence it appropriate to discuss the same head by head:

(i) 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 15%. Though the petitioner sustained injury it is failed to prove that the same affects his day - day activities and routine work. Upon considering the factors that the disability is not functional this tribunal inclined to apply “**Percentage method**”. Being the accident took place in contemporary period, it is pertinent to read the judgment in

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

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

Relying the dictum laid down in the above judgment, the accident occurred in the year 2023 an enhanced sum of Rs.8,500/- per percentage of disability is herewith applied. **Considering the disability in this case fixed as 15%, it can be calculated at the rate of Rs.8,500/- = Rs.1,27,500/- is awarded towards Disability**

(ii) MEDICAL EXPENSES : The petitioner claimed Rs.15,00,000/- towards medical expenses. on thorough perusal of case records the petitioner taken private treatment in MIOT hospital, Chennai and treated as inpatient from 18.08.2023 – 16.09.2023 and undergone surgery on the following dates 19.08.2023, 23.08.2023, 29.08.2023, 01.09.2023, 04.09.2023 14.09.2023 and thereafter discharge from the hospital on 16.09.2023. It reveals from the records the petitioner diagnosed hereunder :

(a) SEVERELY COMMUTED PROXIMAL TIBIA FRACTURE WITH IMPENDING COMPARTMENT SYNDROM ON LEFT SIDE:

(b) CRUSH DEGLOBING INJURY GREAT TOE WITH COMPOUND GRADE III B COMMUNITED,

(c) META TARCAL PROXIMAL AND DISTAL PHALANX FRACTURE OF GREAT TOE WITH MTP JOINT DISLOCATION EHL TENDENT AVULSION INJURY WITH SEVERE CONDOMINATION RIGHT FOOT

SURGERY ON 19.08.2023 : under the procedure of Knees panning Exfix, Posterio lateral fasciotomy – left wound debridement right great toe under regional anasthesia by Orthopaedic surgeon.

Wound debridement plus necretomy plus K wire fixation in right great toe

UNDER TIBIA BY PLASTIC SURGEON.

SURGERY ON 23.08.2023 : Wound debridement and SSG for RAW AREA OVER DARSOM OF FOOT AND GREAT TOE – RIGHT FOOT UNDER NERVE BLOCK BY PLASTIC SURGEON

SURGERY ON 29.08.2023 : ORIF PROXIMAL TIBIA LATERAL LOCKING PLATE OSTEO SYNTHESIS LEFT PROXIMAL TIBIA AND REGIONAL ANASTHESIA BY ORTHO PAEDIC SURGEON

SURGERY ON 01.09.2023: ADVANCEMENT FLAP AND SECONDARY CLOSURE FACIOTOMY WOUND AND GENERAL ANASTHESIA BY ORTHO PAEDIC SURGEON.

SURGERY ON 04.09.2023: HEMATOMA EVACUATION PROXIMAL TIBIA LEFT SIDE AND GENERAL ANASTHESIA BY ORTHO PAEDIC SURGEON.

SURGERY ON 14.09.2023: BELOW KNEE COST APPLICATION RIGHT SIDE BY ORTHO PAEDIC SURGEON.

TESTS & REPORTS :

(i) It also revealed from records the Xray taken on chest, pelvis with both hips AP, leg including knee and ankle AP and lateral leg, foot AP and oblique right, femal tibia and AP and LAP left on 18.03.2023 and then taken Xray for knee with femur and tibia AP and LAP left, foot AP and oblique, Echo cardiogram on 19.03.2023.

(ii) CT scan taken for left knee on 22.08.2023, knee with tibia proximal left taken on 28.08.2023, knee with femur and tibia AP and LAP left taken on

29.08.2023. The petitioner also advised to take physiotherapy exercised and also advised to retain cast for 4 weeks (14.10.2023 and to attend review before plastic surgeon OPD and advised to take medication on discharge.

(iii) The report of OPD initial assessment on 23.09.2023, 01.11.2023, 04.01.2024, 07.02.2024, 08.04.2024, 18.11.2024 also marked as Ex.P. 8,9,10,11,12,13,14,15.

Thereafter the petitioner admitted 2nd time in the same hospital and treated as in patient from for further period of 16.10.2023 – 18.10.2023 and then 3rd time for REMOVAL OF IMPLANTATION for the subsequent period of 30.04.2025 – 12.05.2025 marked as Ex.P.7,9 & P24. It is just and necessary to discuss the bill one by one.

THE INITIAL TREATMENT IN MIOT HOSPITAL

PHASE -I :

(A) The consolidated final bill for the period of taken treatment as inpatient from 18.08.2023 – 16.09.2023 along with brake of details shows the payment of amount of Rs.6,27,506/- marked Ex.P.16. *Hence the tribunal holds that the petitioner entitled only Rs.6,27,506/- for taking treatment as IN PATIENT as per PHASE -I*

(B) A set of medical bills (9 nos.) during the treatment as outpatient for the period 16.10.2023 – 18.11.2024 marked as Ex.P.17 which is subsequent to the treatment after discharge from hospital on 16.09.2024.

The Bill No, 2 , 9 relates to purchase of medicine in pharmacy for an amount of Rs.343/-+ Rs.1242/- on 01.04.2024 & 18.11.2024. The Bill No.3,

6, 7 the petitioner consulted the doctor 01.04.2024, 15.04.2024, 18.11.2024 and payment of Rs.800/- for each consultation shows the payment Rs.800/- x 3 = Rs.2400/-. The Bill No.4 is a payment regard to culture pus and gram stain shows an amount of Rs.1900/- on 01.04.2024. The Bill No.5 is nothing but payment of Rs.1000/- regard to fixation of knee with femur and tibia AP and LAT on 01.04.2024. ***Hence the tribunal holds that the petitioner entitled only Rs. 6,885/- for taking treatment as OUT PATIENT***

At the same time the question raised regarding the genuinity of the bill cannot be overlooked. Though the Bill No. 1 contained an amount Rs.126/- issued by pharmacy in the name of Nareshkumar issued on 14.10.2023 and Bill No. 8 pertaining to payment of advance amount of Rs.50,000/- issued in the name of Akilan made on 18.11.2024 which is not related to the treatment taken by the petitioner and also admitted during the course of cross examination that not aware of that the said person and found not genuine. ***Hence the tribunal holds that the petitioner not entitled an amount contained in Bill No.1 & 8***

As discussed in detail, the petitioner entitled an amount of Rs. 6,34,391/- (A + B = Rs. Rs.6,27,506/- + Rs. 6,885/-)towards medical expenses for taking treatment as in patient as well as out patient PHASE -I

PHASE -II :

A set of medical bills (17 nos.) for the period of treatment from 09.09.2023 – 07.02.2024 shows an amount of Rs.57,135/- marked as Ex.P.18. On thorough perusal of records it has been mingled with the period of treatment taken as inpatient as well as outpatient. The said treatment taken on discharge

from the hospital as discussed in Phase – I and then taken admission 2nd time and treated as inpatient in the same hospital on 16.10.2023 to 18.10.2023 and discharge from hospital which could be discussed hereunder in the Phase – II.

(A) The Bill No.1, 2 , 3, 4, 5 relates to purchase of medicine in pharmacy for an amount of Rs.32/- + Rs.90/- + Rs.20/- + Rs.161/- + Rs.3960/- made on 09.09.2023, 12.09.2023, 16.09.2023, 18.10.2023 and hence the petitioner entitled an amount of Rs.4283/- for taken treatment as outpatient in between the period of Phase – I & II.

(B) The Bill No. 7 is the IP cash bill for the period of taking treatment as inpatient from 16.10.2023 – 18.10.2023 shows an amount Rs.39,295/- towards consultation, diet, documentation, dressing, emergency charge, equipments, Facility charges, Lab, Removal of external fixator, procedure charges, room services and X-ray and also contains the payment particulars of Rs.20,000/- + Rs.19245/- dated. 16.10.2023 & 18.10.2023 tallied with the payment particulars. The Bill No.6 concerning about purchase of medicine for an amount of Rs.2940/- on 18.10.2023. The amount contained in Bill No.6 is an inclusion of the consolidated medical bill No.7 and hence the same cannot be claimed for 2nd time. *Hence the tribunal holds that the petitioner entitled an amount of Rs.39,295/- for taken treatment as inpatient as per Phase – II.*

(C) The remaining bills 9 – 17 are outpatient bills after discharge from hospital on 18.10.2023. The Bill No.9, relates to payment of Rs.1209/- towards pharmacy charges on 01.11.2023. The Bill No.10 dated. 04.01.2024 pertaining to the payment of Rs.850/- towards physiotherapy and quadriceps and Harmstring exercise. The Bill No.11, 12, 13 dated. 04.01.2024 is concerned

about Xray taken for knee with femur and tibia AP and LAT left shows the payment of Rs.1000/- and payment of pharmacy charges of Rs.346/- & Rs.2441/-. The Bill No.14 issued on miscellaneous charges of Rs.50/- . The Bill No. 15, 16, 17 concerned about Xray taken for X foot AP and oblique knee with femur, consultation charges and tibia AP and LAT left and purchase of medicines of Rs.641/- + Rs.800/- + Rs.1700/- in the pharmacy on 07.02.2024 . Hence the tribunal holds that the petitioner entitled an amount of Rs.6,696/- for taken treatment as outpatient as per Phase – II.

As discussed in detail, the petitioner entitled an amount of Rs. 50,274/-
(A +B + C = Rs.4283/ + Rs.39,295/- + Rs. 6,696 = Rs. 50,274/-)towards
medical expenses for taking treatment as in patient as well as out patient

PHASE -II

THE SUBSEQUENT TREATMENT IN MIOT HOSPITAL

(a) It reveals from the records the petitioner 3rd time admitted in MIOT hospital and treated as inpatient from 30.04.2025 – 12.05.2025 as could revealed from discharges summary marked as Ex.P.24. The discharge summary reveals that the petitioner after one year 8 months following ORIF with lateral locking plate of left proximal tibia undergone surgery on 01.05.2025 under the procedure IMPLANT REMOVAL – LEFT PROXIMAL TIBIA AND SPINAL ANESTHESIA done by Orthopaedic surgeon and then the petitioner advised to attend review after one week in Ortho OPD and also advised to taking medication on discharge. The OPD summary containing investigation and result marked as Ex.P.25.

(B) A set of medical bills (6 nos.) for the period of treatment from 03.05.2025 – 19.05.2025 shows an amount of Rs./- marked as Ex.P.26. On

thorough perusal of records it has been mingled with the period of treatment taken as inpatient as well as outpatient. The Bill No.1, 2, 3 relates to pharmacy bills for an amount of Rs.2227/-, 336/- , Rs.2816/- purchase of medicine on the following dates. 03.05.2025, 09.05.2025 & 12.05.2025 . The said amount is an inclusion of the consolidated Bill No.4 and hence the tribunal holds that the petitioner not entitle the amount contained in BILL 1-3

(C) The Bill No.4 relates to IP cash bill for taking treatment as inpatient from 30.04.2025 – 12.05.2025 paid an amount of Rs.1,97,972/- towards cardiology investigation consultation, diet, document dressing, lab, lap package, nursing, implant removal, pharmacy, physiotherapy, procedure charges, pulmonology, room rent and Xray. The tribunal holds that the petitioner entitled the said In patient cash bill amount as Per BILL NO.4

(D) The Bill No.5 relates to payment of Rs.850/- drain tube removal and suture removal. The Bill No.6 payment of Rs.250/- towards consultation charges on 19.05.2025. The Bill No. 1, 2, 3 relates to inpatient bill which is inclusion of Bill No.4, but the Bill No.5, 6 are out patient bills not inclusion of the amount contained in Bill No.4. Hence the tribunal holds the petitioner entitled Rs.1,99,072/- as compensation (C+ D =1,97,972+1100) for taking treatment in order to removal of implantation during the subsequent treatment as contained in Ex.P.26.

Therefore the tribunal concluded that the petitioner entitled compensation as per Phase – I + Phase – II + subsequent treatment for removal of implantation = 6,34,391/- + Rs. 50,274/- + Rs.1,99,072/- = Rs.8,83,737/- (rupees eight lakh eighty three thousand sevenhundred and thirty seven only) towards total medical expenses

(iii) LOSS OF INCOME: The petitioner claimed Rs.10,00,000/- for loss of income and Rs.15,00,000/- towards future loss of earnings . Though the petitioner deposed that, she was an self employed to sell vegetables and fruits and earned Rs.30,000/-per month, but there is no records produced to show the employment or earning. Though the petitioner proved that she sustained 3% Permanent partial disability and failed to prove that the same affected her normal day to day routine. Being Functional disability not proved and hence the tribunal holds that there is no loss of earning capacity arises as stated in the petition. At the same time the petitioner treated in patient as well as out patient for the fracture caused in the said accident. Upon considering the period of treatment as inpatient in MIOT Hospital the petitioner ought to have absented from regular course of employment at least 3 months. Hence the notional income fixed as Rs.9,000/- per month in tribunal inclined to award compensation of Rs.9,000/- x 3 = Rs.27,000/- towards loss of income during the period of layoff.

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

(a) For pain and sufferings: The petitioner taken treatment in three hospitals for the longer period viz., Tirupathur G.H., MIOT hospital, treated as inpatient for three times 18.08.2023 – 16.09.2023 and 16.10.2023 – 18.10.2023 and also the subsequent period of 30.04.2025 – 12.05.2025 as could revealed from discharge summary marked as Ex.P.7,9 & P24. The petitioner also taken as outpatient up to 12.05.2025 . Upon considering the pain & Sufferings undergone by the petitioner, nature of Injury, age, number of surgery undergone by the petitioner, tests & reports and disability the tribunal inclined

to award Rs.80,000/- as compensation under this head.

(b)Towards extra nourishment: that would have been taken for speedy recovery, and upon considering the age of the petitioner 20 at the time of accident and **hence the tribunal inclined to award Rs.25,000/- under this head.**

(c) Towards attender charges: Though the petitioner was hospitalized, there is no material produced that he was assisted by an attender. The period of treatment clarified that the petitioner treated as inpatient for three times as discussed in point No.2 . The petitioner would have been support of the family members for the said period. Though the same offered due to love and affection, if the accident would not happened she ought not to have hospitalized. Hence the considering the period of treatment the court is inclined to award **Rs. 25,000/-** towards attender Charges .

(d)Transport expenses: Though the petitioner claimed Rs.25,000/- compensation for transportation charges. There is no trip sheet produced in order to prove the expenses incurred towards transportation. It is apparent on the face of the record that the petitioner treatment as in patient for 3 times as contained in Phase – I , II & subsequent treatment as discussed supra. In the meanwhile and after discharged from the hospital consulted the doctor on the following dates : 01.04.2024, 15.04.2024, 18.11.2024 and 19.05.2025 The distance between his residence and MIOT Hospital. Chennai nearly about 225 k.m. (for up and down $225 * 2 = 450$) Upon considering the distance, nature of injury sustained, post operating consultation the tribunal inclined to award **Rs.20,000/-** towards transportation expenses as per the evidence produced herewith .

(e) Loss of Amenities: It is clear from record that the petitioner was 55 years old at the time accident. Considering the nature of injuring and permanent disability of 15%, which he has to endure through out life, and hence tribunal inclined to award **Rs. 60, 000/-** for loss of Amenities and happiness.

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

1	Towards Disability	Rs.1,27,500/-
2	Towards Medical Expenses	Rs.8,83,737/-
3	Towards Loss of Income	Rs.27,000/-
4	Towards Future Expenses	NIL
5	Towards Pain & Suffering	Rs. 80,000/-
6	Towards loss of Amenities	Rs. 60,000/-
7	Towards Transport Expenses	Rs. 20,000/-
8	Towards Extra nourishment	Rs. 25,000/-
9	Attender charges	Rs. 25,000/-
	Total	Rs.12,48,237/-

In fine the tribunal holds that the petitioner entitled 80% of the Compensation amount (after deducting contributory negligence) as discussed in Point No.1

Liability :

As already discussed in point No.1 the 1st respondent is the owner of the **Bolero Maxi Truck Plus vehicle bearing Regn.No.TN-83-MA-5166** at the time of accident. The registration certificate stands in the name of 1st

respondent marked as Ex.P19. The said vehicle insured with the 2nd respondent company as could be seen from Ex.P.20. The period of validity of policy is between midnight of 31.08.2022 to midnight of 30.08.2023. The petitioner is third party to the 1st respondent vehicle. The accident happened on 18.08.2023. The policy was in force at the time of accident. The driving license of the driver of 1st respondent marked as Ex.P21. There is no violation of policy expressed on the side of 2nd respondent.

At the same time, 2nd respondent side made defense that, the 1st respondent vehicle carried gas cylinder at the time of accident without Badge and hence violated the conditions of insurance. The summons issued to the MV Inspector, Tirupathur at that instance of RS and its official examined RW2. It is clear from his evidence that laden weight of 1st respondent only 2700 Kg and the Badge is necessary only for the vehicle having the laden weight of more than 7000 K.g. It is apparent that the 1st respondent vehicle comes under the category of LMV. The driving license also issued for LMV being in force at the time of accident as could be revealed from Ex.R4. Since the vehicle of the 1st respondent does not come under the coverage of Badge (Ex.R2) and hence the defense taken in this regard is hereby rejected.

As discussed in detail, the tribunal holds that the 2nd respondent is liable to indemnify on behalf of 1st respondent as per the terms contained in Contract of Insurance. Hence the tribunal ordered to pay the said percentage of compensation to the petitioner for the injuries sustained in the accident. This point No.2 is answered accordingly.

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

- (a) The Petitioner is awarded **Rs.12,48,237/- (Rupees Twelve lakhs**

Forty Eight Thousand Two Hundred and Thirty Seven Only) together with interest at 7.5% per annum from the date of petition till the date of deposit (Excluding the period for the dismissal for default if any).

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

(c) The petitioner is permitted to withdraw the deposit amount on condition that to pay the remaining Court Fee of **Rs.11,479** /- within 15 days from the date of receipt of copy of order. If not paid within the stipulated time, the petitioner not entitled to claim interest for the aforesaid period. The disbursement of the amount shall be made by direct transfer to credit of his account by NEFT/RTGS mode.

(d) Advocate fee fixed as **Rs.19,482** /- shall be paid by NEFT/RTGS mode.

(e) The 2nd respondent is directed to pay a sum of **Rs. 31,551/-** being the cost of petitioner tabulated there in.

24. 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	:	08.04.2026

Amount of compensation claimed is	:	Rs.50,00,000/
Amount of compensation awarded by this tribunal is	:	Rs.12,48,237/-
Court fee payable for the said amount is	:	Rs. 11,855/-
Court fee already paid is	:	Rs.376/-
Balance court fee to be paid is	:	Rs.11,479/-

Cost List for the Petitioner

Particulars	Petitioner side	Respondent's side
Court fees	Rs. 11,855.00	
Vakalath Nama Stamp	Rs. 50.00	
Process fee	Rs. 14.00	
Advocate fee	Rs. 19,482.00	----
Stamp of documents	Rs. 50.00	
Typing charges	Rs. 100.00	
Total	Rs. 31,551.00	

Dictated to Steno Typist and directly typed by him in my laptop, corrected, pronounced by me in the open Tribunal on **8th day of April 2026.**

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

Petitioner Side Witness:-

PW1 Nagammal

Respondent side witness:-

RW1 Karunanidhi
RW2 Sathish Kumar
RW3 Balaji

Petitioner side Exhibits:

- Ex.P 1 Copy of FIR
- Ex.P 2 Copy of Charge Sheet
- Ex.P 3 AIR-Certified Copy
- Ex.P 4 Certified Copy of order issued by the court of Judicial Magistrate No.1, Tirupattur
- Ex.P 5 Certified Copy of Wound Certificate of Tirupattur Government Hospital
- Ex.P 6 Original Wound Certificate of MIOT Hospital, Chennai
- Ex.P 7 Original Discharge Summary of MIOT Hospital, Chennai, (Admission Date 18.08.2023, Discharge Date 16.09.2023)
- Ex.P 8 Original OPD Assessment of MIOT Hospital, Chennai
- Ex.P 9 Original Discharge Summary of MIOT Hospital, Chennai, (Admission Date 16.09.2023, Discharge date 18.10.2023)
- Ex.P 10 Original OPD Initial Assessment of MIOT Hospital, Chennai dated 01.11.2023
- Ex.P 11 Original OPD Initial Assessment of MIOT Hospital, Chennai dated 04.01.2024
- Ex.P 12 Original OPD Initial Assessment of MIOT Hospital, Chennai dated 07.02.2024
- Ex.P 13 Original OPD Initial Assessment of MIOT Hospital, Chennai dated 07.02.2024
- Ex.P 14 Original OPD Initial Assessment of MIOT Hospital, Chennai dated 08.04.2024
- Ex.P 15 Original OPD Initial Assessment of MIOT Hospital, Chennai dated 18.11.2024

- Ex.P 16 Original Medical Bills of Rs.6,27,505/- of MIOT Hospital, Chennai
- Ex.P 17 Original Medical Bills of Rs.57,009/- of MIOT Hospital, Chennai
- Ex.P 18 Original Medical Bills of Rs.57,135/- of MIOT Hospital, Chennai
- Ex.P 19 Copy of R.C. Book of Bolero Maxi Truck Plus numbered TN-83-MA-5166
- Ex.P 20 Copy of New India Assurance Company Insurance Policy of Bolero Maxi Truck Plus numbered TN-83-MA-5166
- Ex.P 21 Copy of Driving License of Bolero Maxi Truck Plus numbered TN-83-MA-5166
- Ex.P 22 Copy of Aadhar Card of the petitioner
- Ex.P 23 Copy of Bank Pass Book of the petitioner
- Ex.P 24 Original Discharge Summary of MIOT Hospital, Chennai
- Ex.P 25 Original OPD Summary
- Ex.P 26 Original Bills of MIOT Hospital

Court side Exhibits :

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

Respondent side Exhibits:

- Ex. R1 Copy of FIR, Complaint, Obervation Mahazar, Rough Sketch, Final Report, D.L, Insurance Policy, R.C
- Ex. R2 Copy of permission letter from Tirupattur R.T.O.
- Ex. R3 Copy of Lorry(Gas Load) Register no.TN 83 MA 5166
- Ex. R4 Copy of Driving License of Balaji No. TN83Z20170005131
- Ex. R5 Copy of Details of Vehicle History
- Ex. R6 Copy of MVI Report of Vehicle involved in accident

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

