

**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.
Wednesday, the 25th day of March 2026**

**M.C.O.P.No.190/2022,
CNR.NO.TNTU04-000426-2022**

R. Kalaivani, (42),
W/o.Ramdass,
No.2/179, Naidu Vattam,
Peddakallupalli, Nekkundhi Post,
Vaniyambadi Taluk,
Tirupattur District.

..... Petitioner

/vs/

1. Gopinath, S/o.Muniyappan,
Residing at No.1/5B Kanavaipudur Village,
New Town Post, Vaniyambadi Taluk,
Tirupattur District.

2. United India Insurance Co. Ltd.,
Katpadi Road,
Vellore – 4.

..... 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 , the 1st respondent set exparte and Thiru.Sukanya Asaithambi, B.Sc.,B.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.The claim petition e filed by the Petitioner against the respondents under section 166 of the Motor Vehicles Act claiming compensation of Rs.2,00,000/- each from the date of accident together with interest and for costs.

2. The averments containing in MCOP No.190/2022 as follows :-

On 31.03.2022 morning the petitioner left the house and was proceeding to the company along with co workers in the van bearing Regn. No. TN 23 BT 4729 belonging to the 1st petitioner and insured with the 2nd respondent. The driver of the van was driving the same in a rash, careless and negligent manner, and also without raising the horn. Further while driving the van, the driver had also not followed the traffic rules of the road. At about 08.50 Hours, the driver of the van was driving the same to the opposite to Solur Shalimar Shoe Company in Vaniyambadi to Ambur road, in a rash and careless manner. Due to the rash driving the driver of the van had lost his control and dashed against the centre median and dashed against the lorry bearing Regn.No KL 12 H 8516, which was coming towards Vaniyambadi side. Due to the impact the petitioner and other passenger sustained injuries, the driver Raman and the occupant Paunammal died on the spot, another occupant namely Poornima died in hospital subsequently. The petitioner sustained injuries on her chest, and all over the body in the accident. The petitioner taken treatment in G.H. Ambur 31.03.2022 – 06.04.2022, CT scan were taken. Then the petitioner also taken treatment in private hospital as outpatient. A Criminal case registered on the file of Tirupathur Taluk Police station in Cr. No. 128/2022 U/s 279, 337, 304-A of IPC against the van driver . The petitioner became permanently disabled and lost her earning capacity. The accident took place only due to the rash and negligent driving of the Maxi cab van

bearing reg. No. TN 23 BT 4729 by its driver in the course of his employment under the 1st respondent. Being the 1st respondent is the owner and the 2nd respondent is the insurer are jointly or severally liable to the petitioner along with interest and cost.

3. The notice served to the 1st respondent and not appeared before this tribunal and hence set exparte as per docket order dated 24.10.2024. The 2nd respondent side filed petition U/s.170 of MV Act in order to put forth defense on behalf of 1st respondent and allowed in IA No. 1/2026, dated. 23.02.2026.

4. The brief contentions of the counter filed by the 2nd respondent as 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 am 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 traveled 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 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. Cholamandalam 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.

5. The petitioner was the examined as PW1 and the documents Ex. P1- P13 Were marked. The 2nd respondent side witness examined Rw1 and Ex.R1 and Ex.R7 were marked.

6. 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/HS516 who is under employment of 1st respondent ?

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

7.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.

(2) 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”**.

(3) 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.

(4) 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.

(5) It is evident from the accident register Ex.P2 also contains the injuries sustained by the petitioner which is corroborates the oral testimony of Pw1. The motor vehicle report Ex.P5 / Ex.R6 reveals that the front portion of the maxi cab 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.

8. 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 seen the medical records marked as Ex.P2, P9-18. 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.P 4. Hence the petitioner is entitled compensation from the 1st and 2nd respondents. This point No. 2 is answered accordingly.

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

(i) **DISABILITY:** The petitioner claimed an amount of Rs.1,00,000/- 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 petitioner claimed Rs.30,000/- towards medical expenses. The Accident occurred on 31.03.2022 at 8.50 a.m. The petitioner deposed that she had taken in to Ambur Govt Hospital immediate to the accident and after taking first aid referred to Vellore G.H. Then she had taken treatment in KSK hospital, Vaniyambadi as out patient and the medical records were marked Ex.P.9 – P13. in order to prove the case of the petitioner.

A) **Treatment in Govt. hospitals:** The accident register of Ambur G.H (Ex.P.2) contains the entry that she sustained Laceration in the size of 1x3x5 c.m. extending from center of forehead and head injury in Temporal region and also contain the entry of reference made before Vellore Medical college hospital. The bill for taken scan on 31.03.2022, 01.04.2022 in Orbi and brain an amount of Rs. 500/- + Rs.500/- paid as per Ex.P.9. The scan report of Vellore G.H. taken in her CT brain reveals that shaft tissue swelling in Left Pareto Occipital scalp and also found bony orbital boundaries as could revealed from Ex.P.10. Since the

petitioner taken treatment on free of cost. There is no medical bill expected to be produced. Hence the tribunal inclined to award compensation of Rs.1000/- towards medical expenses for treatment taken in G.H.

B) **Private treatment:** The prescription of in KSK hospital, Vaniyambadi marked as Ex.P11. It seen from Ex.P.12 that the petitioner taken treatment as out patient on 08.04.2022, paid an amount of Rs.1100/- towards injection, tablets, ointment, suture removal and consulting. The bill dated. 12.04.2022, 29.04.2022, 20.05.2022, 16.07.2022 paid an amount Rs.360/- + Rs.523/- + Rs.800/- + Rs.500/- and paid towards tablets, injection, consulting and the same to be relied upon. The rest of the bills dated. 19.04.2022 and 08.02.2022 contained an over righting and no proper seal and signature affixed and hence the same cannot be relied upon. Hence the petitioner entitled an amount of Rs.3280/- towards medical expenses for taken treatment as out patient in private hospital.

As discussed in detail, the tribunal inclined to award an amount contained in $A+B = \text{Rs}1000/- + \text{Rs}.3280/- = \text{Rs}.4280/-$ towards medical expenses for taking treatment as inpatient as well as outpatient in G.H. and private hospital.

(iii) **LOSS OF INCOME:** The Petitioner has stated that she worked as coolie in Hutsan Shoe company. The pay slip dated for the period 01.01.2022 – 31.01.2022 issued by HATSON company produced in order to prove her income and marked as Ex.P13 reveals she drawn income Rs.9526/- pm. It is apparent that the petitioner discharged from the hospital on the day itself and there is no period of treatment taken as inpatient and hence the tribunal not inclined to award compensation towards loss of income.

(iv) **.PAIN AND SUFFERINGS:** It is apparent from medical records that the

petitioner sustained fracture in her spinal cord portion. The MRI Scan taken in Brain reveals that soft tissue swelling in Left Parieto Occipital scalp and also found bony orbital boundaries. 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. 30,000/- as compensation under this head.

(v).TRANSPORTING EXPENSES: The petitioner undergone treatment in Government Hospital in Ambur taken treatment and thereafter taken treatment as out patient in KSK hospital. The medical records also reveals she consulted the doctor on the following dates: 08.04.2022, 12.04.2022, 29.04.2022, 20.05.2022, 16.07.2022. Though the Trip Sheet not produced it is apparent that incurred some expenses towards Transportation expenses. Upon Considering the distance between her residence to hospital and hence the tribunal inclined to award Rs. 5,000/- 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: Being the petitioner treated as outpatient in the said three hospital and hence the tribunal not inclined to award compensation towards attender Charges.

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.4,280/-

3	Towards loss of future expenses	Nil
4	Loss of income during the period of injury	Nil
5	Towards Pain & Suffering	Rs. 30,000/-
6	Extra Nourishment	Rs. 10,000/-
7	Attender Charges	Nil
8	Transportation expenses	Rs.5,000/-
	Total	Rs.49,280/-

(9) The 1st respondent is the owner of the offending 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 3.01.2023. 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 offending vehicle 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 is partly allowed as follows:-

(1) The Petitioner is awarded **Rs.49,280/- (Rupees Forty Nine Thousand Two Hundred and Eighty 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 date 11.06.2025-19.12.2025).

(2) The 2nd respondent 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) Advocate fee fixed as Rs.2214/- shall be paid by NEFT/RTGS mode.

(4) The 2nd respondent is directed to pay a sum of **Rs.2791/-** being the cost of petitioner tabulated there in.

9. 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 side
Date of Award	:	25.03.2026
Amount of compensation claimed is	:	Rs.2,00,000/-
Amount of compensation awarded by this tribunal is	:	Rs.49,280/-
Court fee payable for the said amount is	:	Rs.373/-
Court fee already paid is	:	Rs.373/-
Balance court fee to be paid is	:	Nil

Cost List for the Petitioner

Particulars	Petitioner side	Respondent's side
Court fees	Rs. 373.00	
Vakalath Nama Stamp	Rs. 50.00	
Process fee	Rs. 14.00	----
Advocate fee	Rs. 2214.00	
Stamp of documents	Rs. 40.00	
Typing charges	Rs. 100.00	
Total	Rs. 2791.00	

Dictated to Typist and directly typed by him in my laptop, corrected, pronounced by me in the open Tribunal on **25th day of March 2026**.

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

Petitioner Side Witness:-

PW1 Kalaivani

Respondent side witness:-

RW1 Seenivasan (Insurance Company, Assistant Manager)

Petitioner side Exhibits:

Ex.P1	Copy of FIR
Ex.P2	Copy of Accident Register
Ex.P 3	Copy of RC Book in vehicle No TN 23 BT 4729
Ex.P 4	Copy of Insurance Policy in vehicle No TN 23 BT 4729
Ex.P 5	Copy of MVI Report in vehicle No TN 23 BT 4729
Ex.P 6	Copy of Driving License of the Dirver in vehicle No TN 23 BT 4729
Ex.P 7	Copy of Aadhar Card of the petitioner
Ex.P 8	Copy of Bank Pass Book of the petitioner
Ex.P 9	Original Medical Bills
Ex.P 10	Original CT Scan Report
Ex.P 11	Original Medical Treatment Sheet
Ex.P 12	Original Medical Bills
Ex.P 13	Salary slip

Court side Exhibits :

Nil

Respondent side Exhibits:

Ex.R1	Copy of RC Book in Vehicle No TN 23 BT 4729 (Maxi Cab)
Ex.R2	Copy of FC in Vehicle No TN 23 BT 4729 (Maxi Cab)

Ex.R3	Copy of Permit in Vehicle No TN 23 BT 4729 (Maxi Cab)
Ex.R4	Copy of Insurance Policy in Vehicle No TN 23 BT 4729 (Maxi Cab)
Ex.R5	Copy Driving License 1 st Respondent vehicle driver (Raman)
Ex.R6	Copy of MVI Report in Vehicle No TN 23 BT 4729 (Maxi Cab)
Ex.R7	Copy of Final Report

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