

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, COIMBATORE
SPECIAL SUB COURT TO DEAL WITH MCOP CASES, COIMBATORE.

Present : Thiru. S.Palani, B.Sc.,M.L.,
Special Sub-Judge,
Special Sub Court to deal with MCOP Cases,
Coimbatore.

On this Friday, the 28th day of August 2026

M.C.O.P. No.297 of 2024

C.N.R. No.TNCBOF-000527-2024

Thirumurugan, Aged 26 years,
S/o. Lakshmanan,
No.6/297, Kurumbar Lane,
M N G Street, Coimbatore – 641 001.

...Petitioner

/Vs./

1. Gautam Kumar, S/o. Kabir Paswan,
Vill Singhapur Post, Madhopur,
Ward No.08, PS & Block,
Tekari, Gaya, Bihar – 824 236.

2. M/s. Axis Carriers and Logistics Limited,
Chandmari, Kohima, Nagaland – 797 001.

3. The ICICI Lombard General Insurance Company Limited,
414, ICICI Limbard House, Veer Savarkar Marg,
Near Siddhi Vinayak Temple Main Gate,
Prabhadevi, Mumbai, Maharashtra – 400 025.
Branch at: Sigma Towers, First Floor, Narayanasamy Layout,
No.29-35, Kattor Road, Coimbatore – 641 037.

...Respondents

This claim petition was taken on file on 01.02.2024 and came for final hearing

on 20.08.2026 in the presence of Thiru.C. Paraneedharan, learned counsel for the petitioner and the 1st and 2nd respondents having remained *ex-parte* and in the presence of Tmt. T. Thamaraiselvi, learned counsel for 3rd respondent and upon hearing both sides and on perusal of the oral and documentary evidence of both sides, this Tribunal pronounces the following.

ORDER (AWARD)

PLEADINGS :

1. On 23.09.2023 at 00.15 a.m., while the petitioner was riding a motor cycle bearing Reg.No.TN66 Q 8845, on the Coimbatore, Ukkadam – Aththupalam road, Sungam By-pass road junction, from North to South direction, at that time, the 1st respondent drove a container lorry bearing Regn.No.NL01 K 5519, in a rash and negligent manner and dashed against the petitioner's vehicle, thereby, causing the petitioner to sustain the grievous injuries. Immediately, the petitioner was treated at Coimbatore Government Medical College Hospital, Coimbatore. A case in Cr. No.279/2023, u/ss. 279, 337 of the IPC on the file of the Coimbatore Traffic Investigation Wing (West) police station, against the 1st Respondent. The petitioner was employed as a quality controller in Rabwin Industries Private Limited, Malumichampatty, Coimbatore, at the time of the accident, and was earning a sum of Rs.25,000/- per month. The 1st Respondent is the driver of the offending vehicle/lorry, and the 2nd Respondent is the owner of the offending vehicle, and the 3rd Respondent is the Insurance Company with whom the said offending lorry bearing Reg. No.NL01

K 5519 is insured with. Hence, it is prayed to pass an award that all the respondents are jointly and severally liable to pay claimed compensation of Rs.15,00,000/- together with costs and interest thereon.

The averments made in the counter of 3rd Respondent is briefly stated as follows:

2. This respondent denied all the averments made in the petition except those that are specifically admitted herein. The allegation that on 23.09.2023, at about 00.15 hrs. the petitioner was riding his motor cycle bearing Reg.No.TN66 Q 8845 for the purpose of going to his job towards Kovai Ukkadam – Aaththupalam road, near sungam bye-pass junction, North to South direction in the left side of the road, at that moment, the 1st respondent drive a Tata Motors Goods carrier – container lorry at the same place and the same road proceeding right side of the petitioner's two wheeler suddenly the driver of the lorry, turn the lorry to left side without giving any signal, light an indicator driving very carelessly and cautiously hit the petitioner's vehicle and caused the accident, are denied as false. Due to that the petitioner sustained fracture injuries in his right feet and multiple injuries all over the body, are false baseless and untenable. Hence, this respondents is not liable to pay any compensation. The compensation claimed is too heavy, excessive and exorbitant. The petition is devoid of merits and the 3rd respondent, therefore, prayed that this petition may be dismissed with exemplary costs.

3. The driver/the 1st respondent and the owner/the 2nd respondent of the alleged

offending lorry bearing Reg.No.NL01 K 5519 have remained *ex-parte* in the proceedings. The insurer of said vehicle/ 3rd Respondent has, by invoking section 170 of the M.V.Act, has contested the claim petition on various grounds .

4. The petitioner has examined himself as PW1, and the documents, namely Exs.P1 to P16 have been marked. The 3rd respondent has examined as RW1, and the documents, namely Exs.R1 and R2 have been marked. The learned counsel for the petitioner has made an endorsement to the effect that the petitioner was not willing to appear before the medical board.

POINTS FOR DETERMINATION :

5. Having regard to the pleadings and materials, these following points would arise before this Tribunal and these points are required to be solved in this claim in the light of the evidence adduced on either side:

1. Whether the accident was the result of negligence on the part of the 1st respondent, who drove the lorry bearing Reg.No.NL01 K 5519 ?

2. Whether the alleged offending vehicle bearing Reg.No.NL01 K 5519 had been insured with the 3rd respondent at the time of the accident, and is there any breach of insurance policy violation?

3. What is the quantum of the compensation?

CONTENTIONS:

6. The learned counsel for the petitioner would submit that the accident, which occurred on 23.09.2023 was due to rash and negligent driving of the 1st respondent, who drove the offending lorry bearing Reg. No.NL01 K 5519, and the negligence of the 1st respondent has been proved at evidence adduced by the petitioner. The learned counsel for the petitioner would also submit that the petitioner sustained a grievous injury in the said accident as per medical records. Therefore, the learned counsel for petitioner would sum up his argument that the petitioner is entitled to seek compensation, as his livelihood has been affected in the accident and he would also plead for passing of an award by granting just compensation to the petitioner.

7. *Per contra*, the learned counsel 3rd Respondent would argue that the occurrence of the accident was solely owing to the negligence on the part of the petitioner. The learned counsel for the 3rd respondent would contend that the petitioner sustained only a simply injury in the accident, and has been cured subsequently. The learned counsel for the 3rd respondent would further submit that the petitioner had neither sustained any permanent disability, nor suffered the loss of income due to the injuries and this claim is liable to be dismissed.

REASONS FOR DECISION**POINT No.1 :**

8. This Tribunal has cogitated over the rival submissions and has keenly perused

the relevant records. In deciding a claim under the Motor Vehicle Act, the proceeding being conducted before a Tribunal is a summary in nature and a Tribunal must decide the case on the basis of the preponderance of probability and the higher degree of proof i.e., proof beyond the reasonable doubt (for deciding a criminal case) is not required for fixing the liability in a claim petition. Keeping the above salutary principle on the mind, this Tribunal proceeds to decide this case in the light of the evidence adduced by both sides.

9. The testimony of the eye-witness namely, PW1- petitioner reveals that on 23.09.2023 at 00.15 a.m., while the petitioner was riding a motor cycle bearing Reg.No.TN66 Q 8845, on the Coimbatore, Ukkadam – Aththupalam road, Sungam By-pass road junction, from North to South direction, at that time, the 1st respondent drove a lorry bearing Regn.No.NL01 K 5519, in a rash and negligent manner and dashed against the petitioner's vehicle, and the petitioner had sustained grievous injuries. The above evidence of the PW1 is corroborated by the registration of criminal case records, viz., the Ex.P1/FIR, in Cr. No.279/2023, u/ss. 279, 337 of the IPC and the final report/Ex.P2, on the file of the Coimbatore Traffic Investigation Wing (West) Police Station, registered against the 1st respondent. The FIR/Ex.P1 and the final report/Ex.P2 *prima facie* establish the negligence against the 1st respondent.

10. Although the petitioner/PW1 had been cross-examined by the learned counsel

for 3rd respondent, the evidence of the PW1, who is eye-witness, remains consistent and credible. No evidence has been produced to challenge the version of accident as recorded in the FIR/Ex.P1 and the final report/Ex.P2. At this juncture, it is worthwhile to refer to the ruling of the Hon'ble Supreme Court in **Sunitha and others Vs. Rajasthan State Transport Corporation and another, 2019 AIR SCC 994**. Drawing guidance from the said decision, it can be deduced that if the FIR and final report are neither challenged before the Court of law, nor shown to be in deficient, and are corroborated by the other evidence, such criminal case records can be relied upon to form an opinion that the accident in question occurred due to the negligence of the accused-driver-1st respondent, irrespective of the outcome of the criminal proceedings. The following proposition has been laid down as under:

"25. The Tribunal's reliance upon FIR 247/2011 (Exh.1) and charge sheet (Exh.2) also cannot be faulted as these documents indicate the complicity of respondent No.2. The FIR and charge sheet, coupled with the other evidence on record, inarguably establishes the occurrence of the fatal accident and also point towards the negligence of the respondent No. 2 in causing the said accident. Even if the final outcome of the criminal proceedings against respondent No. 2 is unknown, the same would make no difference atleast for the purposes of deciding the claim petition under the Act."

No eye-witness has been examined on the side of the 3rd respondent to disprove the fact which is established in the evidence adduced by the petitioner that the accident was the result of negligent riding of the 1st respondent-driver. No rebuttal evidence against the evidence of PW1 is forthcoming on the side of the respondents. Relying upon the uncontroverted evidence of PW1, coupled with documentary evidence FIR/Ex.P1 and the final report/Ex.P2, this tribunal safely arrives at the finding that

the accident was the result of negligent riding of the 1st respondent, who drove the lorry bearing Reg.No.NL01 K 5519 at the time of the accident.

11. The 2nd respondent is the owner of the said offending lorry bearing Reg.No.NL01 K 5519 as per Ex.P6/copy of Registration certificate. The 2nd respondent is vicariously liable for the tortious act committed by the 1st respondent, as the 2nd respondent/owner has not taken a plea that his lorry was used against his will, and that, he had no effective control over the 1st respondent/driver at the time of the accident. The 2nd respondent is, therefore, vicariously liable for the tortious act committed by the 1st respondent in the eyes of law.

POINT No.2 :

12. Regarding the issue of alleged policy violation, if any, it is the duty of the insurer to prove the violation of the terms of the insurance policy to seek exclusion of its liability. The 1st respondent was duly licenced at the time of the accident as per Ex.P9/ copy of the 1st respondent's driving licence and this fact is also confirmed by examining the RW1 and by marking the Ex.R2. The offending vehicle bearing Reg.No.NL01 K 5519 had been duly insured with the 3rd respondent, which covered the date of accident, as per Ex.P7/Insurance policy. The issuance of insurance policy to the offending vehicle has not been denied by the 3rd respondent. The petitioner is a "third-party" of the said offending lorry. The 3rd respondent has not lead any evidence regarding the policy violation, while the offending lorry was being used at the time of

the accident.

13. In view of the fact that contract of policy/Ex.P7 in respect of offending vehicle was legally subsisting and was in force at the time of the accident, and by virtue of the law of indemnity, and by application of section 150 of the Motor Vehicles Act, the insurer is liable to pay compensation to the petitioner, who was injured in the accident caused by the insured vehicle. Therefore, 3rd respondent, being the insurer, is liable to pay compensation to the petitioner, and the entire liability is fastened on the 3rd respondent.

POINT No.3 :

14. The petitioner /PW1 has stated in the evidence that having sustained injuries in the said accident, he was treated at Coimbatore Government Medical College Hospital. Regarding the injuries sustained by the petitioner, the medical records produced by him show that he sustained the following injuries in the accident.

“Closed medial malleolus Fracture (Right)”

The discharge summary/Ex.P12 establishes that the injuries sustained by the petitioner is grievous injuries. The petitioner has not established that the injury sustained by him has incapacitated him. This Tribunal is of the opinion that aforesaid injury sustained by the petitioner has not caused any functional disability to him and for this reason, the multiplier cannot be applied for calculation of loss of future

earning in the considered opinion of this tribunal. The learned counsel for the petitioner has made an endorsement to the effect that the petitioner is unwilling to appear before the Medical Board. Therefore, this tribunal proceeds to pass an award amount based on medical records.

15. As regards the avocation and income of the petitioner, he has deposed he was employed as a quality controller in Rabwin Industries Private Limited, Malumichampatty, Coimbatore, at the time of the accident, and earning was a sum of Rs.25,000/- per month at the time of the accident. The petitioner has produced his employee identity card/Ex.P13 and his bank statement from 01.07.2023 to 30.11.2023/Ex.P14, as per which, he was drawing a monthly salary of Rs.15,798/- by taking average salary of proceeding four months. Considering above evidence, Rs.15,798/- is fixed as monthly income of the petitioner. The petitioner underwent treatment for his injuries until 27.09.2023 and the said injuries sustained by him would have deprived him from his work for at least a period of two months.

Finally, this Tribunal calculates the award amount under the following heads:

Sl.No.	Head	Amount granted by the Tribunal (Rs.)
1	For sustaining grievous injury	50,000/-
2	Loss of income (2 x 15,798/-)	31,596/-
3	Loss of amenities	10,000/-
4	For pain and suffering	20,000/-

5	Attender expenses	10,000/-
6	Transport expenses	10,000/-
7	Nutrition expenses	10,000/-
8	Medical Bills	Nil
	100% award amount	1,41,596/-

RESULT:

16 (i) In the result, in view of the above discussions, this claim petition is partly allowed by directing the 3rd respondent to pay compensation a sum of **Rs.1,41,596/-** together with interest and costs to the petitioner.

(ii) The award amount shall be paid to the petitioner with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit/recovery, excluding the period of dismissal for default, if any, and inclusive of costs of the petitioner.

(iii) The respondents are directed to bear their own costs under the facts and circumstances of the case. The costs of the petitioner is ordered to be borne by the 3rd respondent.

(iv) As per Judgment of the Hon'ble Supreme Court of India in ***Parminster Singh Vs. Honey Goyal and others, 2025 INSC 361, 2025(1) TNMAC 533 (SC)***, a direction is issued to the 3rd respondent to transfer the **net award amount** with interest, but excluding the costs component, namely deficit/ balance court-fee to be payable by the petitioner on the compensation, advocate's fee and other expenses,

directly into the bank account of the petitioner, as per account details furnished by the petitioner under Ex.P16/ copy of 1st page of bank pass book. The net award amount together with interest is directed to be transferred to the petitioner within one month from the date of passing the award. The 3rd respondent making the deposits shall furnish the UTR numbers and particulars of deposit to this Tribunal, by an email, Cbe.ascmop-tn@indiancourts.nic within 48 hours of such deposit followed by physical proof of deposit on proper acknowledgment in terms of the format and procedure already formulated in Suo Motu W.P.No.12935 of 2021 on the file of the Hon'ble Madras High Court.

(v) The 3rd respondent is directed to deposit the costs component, namely court-fee, advocate's fee and other expenses as specifically mentioned in the Annexure No.III of the award, directly into the bank account of this Tribunal, apart from directly transferring the net award amount and interest to the petitioner's account. The account details of this Tribunal are as follows Virtual Account No.SSJCBE, State Bank of India, Coimbatore main branch, IFSC.Code No.SBIN0004266. Upon such deposit of costs component, the Tribunal shall transfer the court-fee amount to the credit of the State Government and the learned counsel for the petitioner is entitled to withdraw the advocate's fee and expenses as quantified in the award, following the usual procedure applicable to payment out of Tribunal deposits.

(vi) The Advocate's fee is fixed as **Rs.7,332/-**, and deficit/balance court- fee

to be payable by the petitioner on the compensation is **Rs.768/-**.

Dictated to the Stenographer directly and typed by her directly, corrected and pronounced by me in the open Court/Tribunal, this the 28th day of August 2026.

Special Subordinate Judge,
Special Sub Court to deal with
MCOP Cases, Coimbatore.

ANNEXURE : I

Petitioner's side witness :

P.W.1	Thirumurugan – the petitioner
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Petitioner's side Exhibits :

Ex.P1	FIR in Cr.No.279/2023 internet download copy
Ex.P2	Final Report internet download copy
Ex.P3	Motor Vehicle inspection report of the petitioner vehicle internet download copy
Ex.P4	Motor Vehicle inspection report of the offending vehicle internet download copy
Ex.P5	Copy of Registration certificate of the petitioner vehicle
Ex.P6	Copy of Registration certificate of the offending vehicle
Ex.P7	Copy of Insurance certificate of the offending vehicle
Ex.P8	Commercial Fitness certificate and Permit certificate of the offending vehicle internet download copy
Ex.P9	Copy of the 1 st respondent driving licence
Ex.P10	Petitioner driving licence internet download copy
Ex.P11	Accident Register internet download copy
Ex.P12	Copy of discharge summary (with objection)
Ex.P13	The petitioner's employee identity card
Ex.P14	The petitioner's bank statement from 01.07.2023 to 30.11.2023
Ex.P15	Copy of Petitioner's Aadhaar card

Ex.P16	Copy of Petitioner's bank pass book (1 st page)
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The 3rd Respondent's side witness :

R.W.1	Lakshmi Prabha, Junior Assistant, Regional Transport Office, Coimbatore - Central.
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The 3rd Respondent's side Exhibits :

Ex.R1	Authorization letter
Ex.R2	Copy of driving licence extract of the 1 st respondent

The 3rd Party Exhibits : Nil

Court's/Tribunal's Exhibit : Nil

ANNEXURE : II

Date of filing petition	01.02.2024
Date of Order/award	28.08.2026
Compensation amount	Rs.1,41,596/-
Interest rate on compensation	7.5%
Time allowed for paying deficit court fee	Two weeks from the date of order
Whether the petition was dismissed for default period, if any.	No

ANNEXURE : III

Cost memo - List

List of cost memo	Amount (Rs.)
1. Stamp on petition	20.00
2. Court fee to be paid	768.00
3. Stamp amount of Vakalath nama	10.00
4. Stamp on process	90.00
5. Typing preparation charges	100.00

6. Advocate fee	7,332.00
Total cost	8,320.00

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