

BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
CHENNAI

(In the IV Court of Small Causes, Chennai)

Present: Tmt.M.Arundhadhi, B.A. B.L.,
IV Judge

Thursday, the 27th day of November 2025

M.C.O.P. 5129 of 2024
CNR No.TNCH09-008850-2024

1. Radha,
W/o.Late Villalan,

2. Vinod,
S/o.Late Villalan,

3.Vignesh ,
S/o.Late Villalan,

(All are residing at No.263,
Valluvar Kottam High Road,
Nungambakkam, Chennai - 600 034)

....Petitioner

-Vs-

1. Mohamed Ismail
No.1/6, AU Street, Vadakari,
Vadakaraikilpidagai, Tenkasi- 627 811

2. The National Insurance Co., Ltd.,
No.66, 1st Floor, Murugesu Complex
Greaves Road, Chennai - 600 006.

....Respondents

This petition is came up before me for final hearing on 23.09.2025 in the presence of M/s.D.R.Devarajan, S.Gopikaramanan, Counsels appearing for the Petitioner, 1st Respondent Remained Exparte and M/s.V.Sivanandam, Counsel appearing for the 2nd respondent upon hearing the arguments on both sides and upon perusing the entire records of the case, having stood over for consideration till this

date, this Tribunal pronounces the following:-

ORDER

1. This petition has been filed under Section 166 of the Motor Vehicles Act, Rule 3 of the M.A.C.T., rules, by the dependents of the deceased Villalan, who sustained fatal injuries in a motor accident seeking for compensation of **Rs.30,00,000/-**.

2. The averments made in the petition are briefly as follows:-

The case of the Petitioners is that on 05.07.2024 at about 09.45 hrs, while the deceased Villalan was riding his Motorcycle bearing Reg.No.TN 09-P-4705 proceeding to Anna Statue, Anna Salai, at that time the rider of the 1st respondent vehicle rode his motorcycle bearing Reg.No.TN 76-BA-2592 in a rash and negligent manner hit against the two-wheeler of the deceased Villalan & courted the accident. In the said accident deceased sustained grievous injury. He was taken to Rajiv Gandhi Government Hospital, Chennai for treatment and the deceased Villalan died on 06.07.2024 while he was undergoing treatment. The accident occurred due to rash and negligent riding by the rider of the two-wheeler and prays to allow the petition.

3. First respondent called absent and set exparte.

4. The averments made in the counter filed by the 2nd respondent are briefly as follows:-

(i) The 2nd respondent denies the age, income and occupation of the deceased. Further denies that the accident occurred due to the negligence of the 1st respondent's motorcycle rider and denies the manner of accident.

(ii) Further denies the manner of accident and negligence on the part of the two-wheeler bearing Reg.No.TN 76-BA-2592. The respondent submits that the accident happened only due to the deceased who carelessly and without following traffic rules and regulations was riding the Motorcycle bearing Registration No. TN 09-P-4705. Since the accident happened only due to the negligence of the rider of the two wheeler the compensation is to be apportioned for the two wheeler bearing

Registration No. TN 09-P-4705.

(iii) This respondent submits that the accident was not occurred due to rash and negligent riding of the 1st respondent's motorcycle rider only due to negligence of deceased Villalan.

(iv) Further submits that the deceased Villalan driven the vehicle without valid driving licence at the time of accident.

(v) Further, this respondent claim that the claim amount is highly excessive and arbitrary and craves to leave to contest the claim on all grounds available to the 1st respondent under sec. 170 of MV Act 1988 and he reserves his rights to file additional counter at a later stage and prayed to dismiss the petition.

5. The point for consideration in this petition are as follows:-

- (1) Whether this accident has occurred due to the rash and negligent riding of the rider of the motorcycle bearing Reg.No.TN 76-BA-2592 ?
- (2) Who is liable to pay the compensation?
- (3) Whether the Petitioners are entitled to compensation? And if so, what is the quantum?

6. ON THE POINTS:

(i) On the side of the petitioner, PW1 Radha examined and Ex.P1 to P12 were marked and PW2 Eye Witness Abilash Examined and Ex.P13 marked.

(ii) 1st respondent remained exparte. The 2nd respondent filed a petition u/s 170 MV Act in M.P.2/2025 viz. Order dated 23.09.2025, the same was allowed and the 2nd respondent is permitted to contest the case on all grounds that are available to the insured. There is no oral or documentary evidence let in on the side of contesting 2nd respondent.

(iii) Based on the above materials the Learned Counsel for the petitioner and 2nd respondent submitted their arguments. After hearing both sides and perusing

material records and after giving careful consideration to the submission made on either side, the above points are answered as below.

7. Point No.1 :

(i) The case of the petitioner is that on 05.07.2024 at about 09.45 hrs, when the deceased riding the motorcycle bearing Reg.No.TN 09-P-4705, at that time another motorcycle bearing Reg.No. TN 76-BA-2592 came in a rash and negligent manner and dashed the deceased. Due to that deceased sustained grievous injury and died on next day. Hence stated that rider of the motorcycle bearing Reg.No. TN 76-BA-2592 negligently caused the accident.

(ii) First respondent called absent and set exparte. Second respondent filed the counter stating that the rider of the two-wheeler bearing Reg.No. TN 76-BA-2592 driven the two-wheeler in a slow & caution manner it is the deceased who driven his two-wheeler in a hastily manner without following the traffic rules. The accident is not due to rash and negligent driving by the rider of the offending vehicle, so the 2nd respondent is not liable to pay compensation. Hence petition is to be dismissed.

On the side of the petitioner, PW1 Radha, PW2 Abilash examined Ex.P1 to P13 marked. On the side of the respondent, no witnesses examined and 2nd respondent filed petition u/s170 MV act and allowed by this Tribunal. On perusal of Ex.P1 FIR, Ex.P2 Charge Sheet Final Report, it was registered against rider of the motorcycle bearing Reg.No. TN 76-BA-2592 in Crime No.185/T3/2024 u/s. 279, 304(A) IPC. The respondent not let in any contra evidence to disprove the negligent act of 1st respondent. The 1st respondent also remained exparte. Hence this Tribunal felt that the petitioner proved the negligent act of the rider of the motorcycle bearing Reg.No. TN 76-BA-2592 through oral and documentary evidence. Hence Point No.1 is answered accordingly.

8. Point No.2:

(i) In point No.1, it has been decided that the accident was occurred due to the rash and negligent riding of the rider of the motorcycle bearing Reg.No.TN 76-BA-

2592.

(ii) In the claim petition, the petitioner has mentioned that the 1st respondent vehicle has been insured with the 2nd respondent under policy No.64070331236260003128, which was valid for the period from 26.09.2023 to 25.09.2028. The date of the accident is 05.07.2024. The petitioner has stated that the 1st respondent is the owner of the offending vehicle and 2nd respondent is the insurer for the motorcycle bearing Reg.No.TN 76-BA-2592. Therefore, it is considered that the First respondent's motorcycle bearing Reg.No. TN 76-BA-2592 had a valid insurance policy issued by the 2nd respondent at the time of accident. Hence, this Tribunal comes to the conclusion that the 2nd respondent being the insurer of the motorcycle bearing Reg.No. TN 76-BA-2592 is liable to pay the compensation to the petitioner. Accordingly point No.2 is answered.

9. Point No.3:

The petitioner filed Ex.P1 FIR, Ex.3 Postmortem certificate and Ex.P4 Death report. In Ex.P3 and P4 Postmortem certificate and Death Report, it was mentioned that deceased died due to the injuries sustained in the Road Traffic Accident. From the above documents, the petitioners have proved that the deceased died due to the accident. In the petition, it has been stated that the 1st petitioner is the wife of the deceased Villalan, 2 and 3 petitioners are the sons of the deceased. Ex.P6 copy of legal heir certificate has also proved the same. Hence, it is proved that the petitioners are the legal heirs of the deceased and they are entitled to the compensation. As per Ex.P7 Driving Licence of the deceased Villalan the DOB is mentioned as 15.10.1954. Considering the same the age of the deceased is taken as 70 as on the date of accident (i.e., 05.07.2024).

(ii) As per the judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr, The age of the deceased is decided as 70 years as per Ex.P7 Driving licence and hence this Tribunal decides the age of the deceased as 70 years.

Monthly & Annual Income of the deceased:

In the petition, it has been stated at the time of the accident, the deceased has been working as a Office Assistant at Secretariat and retired from service and continuous to work on contract basis and was earning Rs.15,000/- per month at the time of accident. To substantiate the same, Ex.P9 ID Card of the Deceased marked. A perusal of Ex.P9 it is only at temporary pass to make entry into the secretariat. Apart from Ex.P9 no other documents filed to prove his avocation and income. Further no material has been produced to show that he was re-employed after retirement. In such circumstances, in the absence of proof of actual earning the tribunal fixes the notional income of the deceased at Rs.10,000/- per month, considering the age, nature of earlier employment, year of accident and the cost of living.

As per the Judgment of Hon'ble Apex court passed in *SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others* the future prospects is NIL. Since the age of the deceased was 70 years at the time of accident. Thus, the annual income of the deceased fixed as **Rs.1,20,000/-** (10,000x12).

Number of Dependents:

From Ex.P6 legal heir certificate, it is found that 1st petitioner is the wife of the deceased Villalan, 2 and 3 petitioners are the sons of the deceased are the legal heirs and they are the dependent of the deceased at the time of accident. Therefore, the number of the dependents are 3 in this case.

Loss of dependency per annum:

As per judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997, 1/3th has to be deducted as the personal and living expenses of the deceased, since there are 3 dependents. Therefore, 1/3th amount Rs.40,000/- to be deducted. Hence, the balance (Rs.1,20,000 – Rs.40,000/-) **Rs.80,000/-** is considered to be the contribution to the dependent family per annum.

Multiplier and total loss of dependency:

So far as multiplier is concerned, as per the Judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997, the multiplier will be 5, since the age of the deceased was 70 at the time of death. Therefore, the total loss of dependency would be **Rs.4,00,000/-** (Rs.80,000 x 5).

Loss of Consortium:

As per the Judgment of Honourable Apex court in New India Assurance company vs Somwati in Civil appeal No:3093/2020 dated 7-9-2020, it has been decided that no compensation can be granted under the head of Love and affection and the dependents of the family are only entitled for the compensation under the head of spousal consortium, parental consortium, filial consortium. As per the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the petitioners 1 to 3 are entitled for **Rs.44,000/-** each towards loss of consortium.

Loss of Estate:

Following the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the Petitioners are entitled to **Rs.16,500/-** under the head of "**Loss of Estate**".

Funeral Expenses:

Following the Judgment of Hon'ble Apex court passed in SLP (civil) 25590/2014 Dated 31.10.17 between National Ins. Co. Ltd., ..Vs.. Pranay Sethi and others, the Petitioners are entitled to **Rs.16,500/-** under the head of "**Funeral expenses**".

Transport Charges:

The petitioners might spend an amount for transporting the body of the deceased to their home. Hence, this Tribunal considering the place of accident and the

residence of the deceased to award **Rs.10,000/-** will be just compensation under the head of Transport Charges.

CALCULATION:

1. Total loss of dependency	:	Rs. 4,00,000/-
2. Loss of Consortium	:	Rs. 1,32,000/-
3. Loss of Estate	:	Rs. 16,500/-
4. Funeral Expenses	:	Rs. 16,500/-
5. Transport charges	:	Rs. 10,000/-

Total Compensation is fixed at	:	<u>Rs. 5,75,000/-</u>

From the above-said discussions, this tribunal comes to the conclusion that a total sum of Rs.5,75,000/- would be just and fair compensation to the Petitioners 1 to 3.

10. In the result, this petition is partly allowed and a sum of **Rs.5,75,000/- (Rupees five lakh seventy five thousand only)** is awarded as just compensation to the Petitioners with cost and interest at the rate of 7.5 percent per annum from the date of filing of the Claim Petition i.e., 13.08.2024 till the realization, payable by the 2nd Respondent. The 1st petitioner wife of the deceased is entitled to Rs.4,50,000/- and the 2 and 3 petitioners are entitled for Rs.62,500/- each. The 2nd respondent is directed to deposit the said amount to the credit of the bank account of this claim tribunal directly by NEFT OR RTGS mode within a period of two months from this order, and intimate the said deposit details to this tribunal with a copy of the said Bank advise. Thereafter, the said amount shall be made directly to the credit of the petitioners 1 to 3 bank account.

This Tribunal Account particulars:

Registrar (MACT), Court of Small Causes, Chennai

Account No. 7103261207

IFSC No. IDIB000M157

Indian Bank, Madras High Court Branch, Chennai.

E-mail ID. chnccc.sccrc-tn@indiancourts.nic.in

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The 1st Petitioner name is – Radha

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Sterling Road Branch.	Acc : 870340547 IFSC: IDIB000S038	7871 6692 3145	CGNPR5302M

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The 2nd Petitioner name is – Vinod

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Bank, Sterling Road Branch.	Acc : 6249526628 IFSC: IDIB000S038	9345 9445 7430	BJHPV8158H

The Petitioner's Bank A/c, Aadhaar and Pan card details are given below: The 3rd Petitioner name is – Vignesh

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Not furnished	Not furnished	4204 0719 8366	AXMPV1222C

In view of the direction issued by the Honourable Division Bench of the High Court of Madras in CMA No. 428/2016 dated 11.03.2016, the petitioner is hereby directed to furnish the self attested copy of Bank Passbook to this Tribunal within a period of one month from to-day without fail. The petitioner has paid a sum of **Rs.372.50/-** towards Court fee. As per this award, the Court fee is **Rs.5,122.50/-**. The Advocate fee is fixed at **Rs.12,750/-**. The deficit court fee of **Rs.4,750/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	13.08.2024
Date of taken up on file	23.09.2024
Compensation claimed in the M.C.O.P.	Rs.30,00,000/-
Compensation awarded in this petition	Rs.5,75,000/-
Court fee paid along with the petition	Rs.372.50/-
Court fee payable on the award amount	Rs.5,122.50/-
Additional court fee shall be paid	Rs.4,750/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.17,917.50/-** towards the costs of this petition.

Cost List for the petitioner

<u>STATEMENT OF COSTS</u>							
<u>For the petitioners</u>					<u>For the Respondents</u>		
		<u>Rs.</u>		<u>P.</u>		<u>Rs.</u>	<u>P.</u>
Stamp on petition	-	5,122	.	50			
Stamp on Vakalat	-	5	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees		12,750	.	00			
Costs allowed	-	17,917	.	50			

The direction regarding copy of the Judgment and decreetal order prepared under Sub rule 6 of Rule 20 of TNMAC Rules 1989 and Hon'ble Madras High Court's communication in R.O.C.No.390-A/2014/F1 dated 13.02.2014 are obediently followed and further it is informed that, as per the direction of the Honourable High Court, as far as this claim Petition is concerned, Decree is not

drafted separately and in the award, instead of drafting the decree, necessary details have been incorporated in this claim Petition's order.

This order has been dictated by me to the typist, typed by him in the computer directly, corrected and pronounced by me in the open Court, on this Thursday, the 27th day of November 2025.

**Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai**

Petitioner's sides Witness:

P.W.1: Mrs. Radha

P.W.2: Mr.Abilash

Petitioner's side Exhibits:

Ex.P-1 : FIR Copy Xerox

Ex.P-2 : Charge Sheet Xerox

Ex.P-3 : Post Mortem Certificate Xerox

Ex.P-4 : Death Report Copy

Ex.P-5 : Death certificate

Ex.P-6 : Legal Heirs Certificate Xerox

Ex.P-7 : Deceased Driving Licence

Ex.P-8 : Deceased Aadhaar card xerox

Ex.P-9 : Deceased Identity Card

Ex.P-10 : Aadhaar card xerox of 1 to 3 petitioners

Ex.P-11 : Bank Passbook Xerox of 1 to 3 petitioners

Ex.P-12 : Pan card Xerox of 1 to 3 petitioners

Ex.P-13 : Aadhar Card of PW2

Respondent's side Witnesses & Exhibits: Nil

**Motor Accident Claims Tribunal,
IV Judge
Court of Small Causes
Chennai**