

BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
CHENNAI

(In the IV Court of Small Causes, Chennai)

Present: Tmt.S.TAMILSELVI, B.A. L.L.M., Dip. in (J.P. & J.J.),
IV Judge

Wednesday, the 16th day of April 2025

M.C.O.P. 3924 of 2023
CNR No.TNCH09-008289-2023

1. L.Shakila,
 2. L.Vasanthkumar,
 3. L.Anitha,
- (All are residing at No.38,
1st Street, Theru veethi,
Amman Kovil Street, Porur,
Chennai - 600 116.)

....Petitioners

-Vs-

1. Sangeetha.K,
No.44, Pillaikandaakeypatti,
Kalugar, Kulithalai TK,
Karur, Vaigallur,
TamilNadu 639 120.
2. The New India Assurance Company Limited,
No.223, Bombay Mutual Building,
6th Floor, NSC Bose Road,
Chennai - 600 001.

....Respondents

This petition is came up before me for final hearing on 05.03.2025 in the presence of M/s.K.Balaji, Counsel appearing for the Petitioner, 1st respondent called absent and Set exparte and Mr.Samba Sathasivan, 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 Lakshmanan, who sustained fatal injuries in a motor accident seeking for compensation of Rs.40,00,000/-.

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

The Petitioner in the petition stated that on 14.06.2023 at about 19.30 hrs, when the deceased walking from East to West direction, at that time Tanker Lorry bearing Reg.NO.TN 77-Z-5099 driven by its driver in a rash and negligent manner and hit against the deceased. Due to that, deceased died on the spot and hence stated driver of the Tanker Lorry bearing Reg.NO.TN 77-Z-5099 caused that accident negligently 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:-**

The respondent denies all the averments and allegations made in the claim petition, except those that are specifically admitted hereunder. Second respondent filed the counter stating that the petitioner has to prove the age, income, occupation of the deceased, place, date and time of accident and further stated that the accident caused due to negligent act of the deceased and the claim of the petitioner is highly excessive and prays 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 driving of the driver of the Tanker Lorry bearing Reg.No.TN 77-Z-5099?
- (2) Who is liable to pay the compensation?
- (3) Whether the Petitioner is entitled to compensation? And if so, what is the quantum?

6. On the side of the Petitioner, PW1 and PW2 examined Ex.P1 to P15 marked. On the side of the respondent, no witnesses examined and no exhibits marked.

7. Point No.1 :

(i) The case of the petitioner is that on 14.06.2023 at about 19.30 hrs, when the deceased walking from East to West direction, at that time Tanker Lorry bearing Reg.NO.TN 77-Z-5099 driven by its driver in a rash and negligent manner and hit against the deceased. Due to that, deceased died on the spot and hence stated driver of the Tanker Lorry bearing Reg.NO.TN 77-Z-5099 caused that accident negligently.

(ii) First respondent called absent and set exparte. Second respondent filed the counter stating that the petitioner has to prove the age, income, occupation of the deceased, place, date and time of accident and further stated that the accident caused due to negligent act of the deceased and the claim of the petitioner is highly excessive and prays to dismiss the petition.

On the side of the petitioner, PW1 Shakila, PW2 Eye witness Praveen kumar examined and Ex.P1 to P15 marked. On the side of the respondent, no witnesses examined. On perusal of Ex.P1 FIR, it was registered against driver of Tanker Lorry bearing Reg.NO.TN 77-Z-5099 in Crime No.187/2023 dated 14.06.2023 u/s. 279, 304(A) IPC. Petitioner filed Ex.P14 Charge sheet, which was filed against Venkatesan, driver of the Tanker Lorry bearing Reg.NO.TN 77-Z-5099. Petitioner examined PW2 Eye witness Praveen kumar. The respondent not let in any contra evidence to disprove the negligent act of driver of the Tanker Lorry bearing Reg.NO.TN 77-Z-5099. Hence this Tribunal felt that the petitioner proved the negligent act of the driver of the Tanker Lorry bearing Reg.NO.TN 77-Z-5099 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 driving of the driver of the Tanker Lorry bearing Reg.No.TN 77-Z-5099.

(ii) In the claim petition, the petitioner has mentioned that the 1st respondent has been insured with the 2nd respondent under policy No.72250031230100000897 which was valid for the period from 09.05.2023 to 08.05.2024. The date of the accident is 14.06.2023. The petitioner has stated that the 1st respondent is the owner and 2nd respondent is the insurer as per the Insurance policy filed along with the main petition for the Tanker Lorry bearing Reg.No.TN 77-Z-5099. Second respondent did not file any documentary evidence to disprove the accident and also not denied the accident mentioned by the petitioner. Therefore, it is considered that the First respondent's Tanker Lorry bearing Reg.No.TN 77-Z-5099 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 Tanker Lorry bearing Reg.No.TN 77-Z-5099 is liable to pay the compensation to the petitioner. Accordingly point No.2 is answered.

9. Point No.3:

(i) In point No.1, this tribunal comes to conclusion that accident occurred due to the negligent driving of the Tanker Lorry bearing Reg.No.TN 77-Z-5099.

The petitioner filed Ex.P2 Series Postmortem certificate, Death report, Ex.P14 Charge sheet. In Ex.P2 Postmortem certificate, it was mentioned that deceased died due to Polytrauma Multiple Vital organ injury. 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 Lakshmanan, 2nd petitioner is the son of the deceased, 3rd petitioner is the daughter of the deceased. Ex.P4 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.

(ii) As per the judgment in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr, The age of the deceased is decided as 47 years as per Ex.P2 Postmortem certificate and hence this Tribunal decides the age of the deceased as 47 years.

Monthly & Annual Income of the deceased:

In the petition, it has been stated at the time of the accident, the deceased working as Painter and earning Rs.30,000/- per month at the time of accident. To prove the same, no documents filed. The age of the deceased is 47 years. In view of the recent Judgment passed by our Honorable High Court, (DB) in CMA 2330/2017 dated 09.10.2018

Andal and others .vs. Avinav Kannan and others, it was held that notional income has to be determined in following manner i.e., Rs.6,500/- for the year 2008 for vegetable vendor as per Syed Sadiq case and hence Rs.6,500/- x cost of inflation of the year of accident / cost of inflation in the year of 2007 – 2008 has to be calculated.

Hence considering the above direction by Honourable High Court, this Tribunal fixed the notional income. As per Syed Sadiq case, the notional income is Rs.6,500/- for vegetable vendor. Cost of inflation in the year of accident i.e., **2023-2024** is **348**. Cost of inflation in the year 2007 -2008 is 129. Hence Rs.6,500 x **348/129** which comes around Rs.17,534/-. Hence this Tribunal fixed the notional income as Rs.17,500/-.

Accordingly the notional income of the petitioner is fixed as Rs.17,500/- per month.

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 to be added. As per the direction of the above decision, 25% future

prospects would be added and it will come to a sum of Rs.21,875/- (17,500+4,375 =21,875). Thus, the annual income of the deceased fixed as **Rs.2,62,500/-** (21,875x12).

Number of Dependents:

From Ex.P4 legal heir certificate, it is found that 1st petitioner is the wife of the deceased Lakshmanan, 2nd petitioner is the son of the deceased, 3rd petitioner is the daughter 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, 1/3% has to be deducted as the personal and living expenses of the deceased, since there are 3 dependents. Therefore, 1/3% amount Rs.87,500/- to be deducted. Hence, the balance (Rs.2,62,500/- Rs.87,500/-) **Rs.1,75,000/-** 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 13, since the age of the deceased was 47 at the time of death. Therefore, the total loss of dependency would be **Rs.22,75,000/-** (Rs.1,75,000 x 13).

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.40,000/-** 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 Petitioner is entitled to **Rs.15,000/-** 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 Petitioner is entitled to **Rs.15,000/-** 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.5,000/-** will be just compensation under the head of Transport Charges.

CALCULATION:

1. Total loss of dependency	:	Rs. 22,75,000/-
2. Loss of Consortium	:	Rs. 1,20,000/-
3. Loss of Estate	:	Rs. 15,000/-
4. Funeral Expenses	:	Rs. 15,000/-
5. Transport charges	:	Rs. 5,000/-

Total Compensation is fixed at	:	<u>Rs. 24,30,000/-</u>

From the above-said discussions, this tribunal comes to the conclusion that a total sum of Rs.24,30,000/- 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.24,30,000/-** (Rupees twenty four lakh thirty 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., 14.07.2023 till the realization, payable by the 2nd Respondent. The 1st petitioner wife of the deceased is entitled to Rs.14,30,000/- and the 2nd & 3rd petitioners children of the deceased are entitled for Rs.5,00,000/- 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. chncce.sccrc-tn@indiancourts.nic.in

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

The 1st Petitioner name is – Shakila

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
City Union Bank, Thirunermalai branch	Acc : 500101013112521 IFSC: CIUB0000628	2373 9417 5638	Not Furnished

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

The 2nd Petitioner name is – L.Vasanthkumar

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
State Bank of India, Porur branch	Acc : 36565629767 IFSC: SBIN0018393	5196 8371 0690	Not Furnished

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

The 3rd Petitioner name is – L.Anitha

Bank name and Branch	Account No. and IFSC code	Adhaar card details	Pan card details
Indian Overseas Bank, Chrompet branch	Acc : 164101000023553 IFSC: IOBA0001641	2394 5086 8018	Not Furnished

In view of the direction issued by the Honorable Division Bench of the High Court of Madras in CMA No. 428/2016 dated 11.03.2016, the petitioners are hereby directed to furnish the self attested copy of Pan card 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.23,672.50/-**. The Advocate fee is fixed at **Rs.31,300/-**. The deficit court fee of **Rs.23,300/-** shall be paid by the petitioner within 2 weeks from the date of order.

Other necessary particulars:

Date of Presentation of petition	14.07.2023
Date of taken up on file	09.08.2023
Compensation claimed in the M.C.O.P.	Rs.40,00,000/-
Compensation awarded in this petition	Rs.24,30,000/-
Court fee paid along with the petition	Rs.372.50/-

Court fee payable on the award amount	Rs.23,672.50/-
Additional court fee shall be paid	Rs.23,300/-
Additional court fee paid, MPSR.No.....dated	

That the 2nd respondent do pay to the petitioner a sum of **Rs.55,017.50/-** 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	-	23,672	.	50			
Stamp on Vakalat	-	5	.	00			
Stamp for process	-	40	.	00		-- not filed --	
Advocate fees		31,300	.	00			
Costs allowed	-	55,017	.	50			

The direction regarding copy of the Judgment and decreetal order prepared under Sub rule 6 of Rule 20 of TNMAC Rules, 1989, and Honble 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 Steno typist, typed by her in the computer directly, corrected and pronounced by me in the open Court, on this Wednesday, the 16th day of April 2025.

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

Petitioner's sides Witness:

P.W.1: Mrs.Shakila

P.W.2: Mr. Praveen kumar

Petitioner's side Exhibits:

Ex.P-1 : FIR Copy Xerox

Ex.P-2 : Post Mortem Certificate Xerox

Ex.P-3 : Death Certificate Xerox

Ex.P-4 : Legal Heirs Certificate Xerox

Ex.P-5 : Voter's Identity card of Deceased

Ex.P-6 : 1st petitioner Aadhaar Card Xerox

Ex.P-7 : 1st petitioner Bank Passbook Xerox

Ex.P-8 : 2nd petitioner Aadhaar Card Xerox

Ex.P-9 : 2nd petitioner Bank Passbook Xerox

Ex.P-10 : 3rd petitioner Aadhaar Card Xerox

Ex.P-11 : 3rd petitioner Bank pass book Xerox

Ex.P-12 : Ration card xerox

Ex.P-13 : Insurance policy

Ex.P-14 : Charge sheet

Ex.P-15 : Aadhaar Card Xerox of PW2

Respondent's side Witnesses & Exhibits : Nil

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