

Date of presentation:30.01.2015

Date of filing : 03.02.2015

Orders reserved on: 03.03.2023

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
SPECIAL SUBORDINATE JUDGE, KRISHNAGIRI

Present : Thiru. M. Ashfaq Ahamed, B.A., B.L.,
Motor Accident Claims Tribunal Authority,
Special Subordinate Judge, Krishnagiri.

Friday the 3rd day of March 2023

MCOP No. 99/2022 (Old No.11/2015)
CNR NO: TNKI0B-000283-2022

1.	Name and address of the Claimant(s)	Errappa, S/o.Rajappa, aged about 70 years, residing at Melumalai village and post Krishnagiri Taluk and District.
2.	Name and address of respondent(s)	1. C.Chennathambi residing at D.No.19, Kuttur village, Chowttahalli, Hosur Taluk, Krishnagiri District. Amended carryout as per IA 1/2021 dated 26.04.2021. 2. The Manager, national Insurnace Co., Ltd., Anuradha Complex, 3 rd floor, Opp. Raja Theatre, Bangalore road, Krishnagiri
3.	Date of filing of the claim petition	03.02.2015
4.	Date of award	03.03.2023
5.	Amount of award	Rs.25,000/-
6.	Costs allowed	Rs.1540/-
7.	Court Fee for award amount	Rs.48/-
8.	Court Fee paid	Rs.110/-
9.	Balance of court fee to be paid	Already sufficient court fee paid.
10.	ORDER	As per the direction of the Hon'ble High Court, Madras in Tr.CMP. Nos.264 to 281 of 2020

		M/s. Chola mandalam MS Genl. Ins. Co. Ltd., Vs. Mr. Ayyannar S. and others dated 11.05.2020 , no separate decretal order will be drafted.
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This petition has been filed on 03.02.2015 and came up for final hearing before this court on 03.03.2023 in the presence of Advocate. Thiru.K.Krishnan for Petitioner, 1st respondent remained exparte. Advocate.Thiru.K.SenthilKumar appeared for 2nd Respondent. Heard both side arguments, perusing the case records and having stood over for consideration till this day, this tribunal delivers the following.

ORDERS

1. The petition has been filed by the petitioner U/s.166 of M.V.Act claiming compensation for the injuries sustained by him in the road accident which took place on 31.08.2014.

2. **The brief avernments of the petition**

The petitioner was slowly walking on the extreme left side of the road at Melumalai village. At about 18.00 hours while thus proceeding in the Krishnagiri – Hosur NH road at Melumalai village, the Hero Honda splendor motor bike bearing registration No.TN 24 S 0516 belonging to the 1st respondent and insured with the 2nd respondent was driven by 1st respondent in a rash and negligent manner, lost his control and dashed behind the petitioner. Due to the impact the petitioner sustained injuries. The petitioner has taken treatment at Govt., Hospital Krishnagiri and then at private hospital Krishnagiri. The petitioner is still under continuous treatment. The Petitioner is aged about 70 years. The petitioner is doing agricultural work and earning Rs.10,000/- per month. Due to the accident the petitioner could not able to resume his regular work. The police case was registered against the 1st respondent. The respondents 1 and 2 are liable to pay compensation to the petitioner jointly and severally.

3. The 1st respondent remained exparte.

4. The brief averments of the counter filed by the 2st respondent read as follows

The petition is not sustainable. The age, occupation, income, period of treatment, disability are to be proved by the petitioner. The manner of accident is disputed. The 1st respondent drove the vehicle slowly and carefully by following the rules of the road. The petitioner suddenly crossed the road without seeing the two wheeler and invited the accident. The accident happened only due to the negligent act of petitioner. The 1st respondent was not having valid driving licence to drive the two wheeler at the time of accident. Hence 2nd respondent is not liable to pay compensation to the petitioner. The claim made under other heads is excessive.

5. Points for consideration

- a) Whether the accident was due to the rash and negligent driving of the rider of the two wheeler bearing registration No.TN 24 S 0516?
- b) Whether the petitioner has also contributed for the accident if so what extent?
- c) Whether the petitioner is entitled to get any compensation?
- d) Who is liable to pay compensation?
- e) What is the quantum of compensation that the petitioner is entitled to?

6. The petitioner was examined as PW1 and Ex.P1 to Ex.P5 was marked. The 2nd respondent company official was examined as RW1 and Ex.R1 was marked.

7. The documents were perused and arguments of both were heard.

8. Point No.1 & 2

a) It is the case of the petitioner while he was walking on the extreme left side of the road the rider of the two wheeler came behind the petitioner had dashed the petitioner and caused the accident. FIR is registered against the 1st respondent. It is the contention of the 2nd respondent that due to sudden cross of petitioner the accident has taken place. During cross examination of PW1 the petitioner has stated

the accident has taken place while crossing the road. From the solitary admission of PW1, it cannot be said the petitioner has contributed for the accident. No further inroads was made in the cross examination and the rough sketch regarding the place of accident was not produced to show the petitioner is not on the left side of the road but moved in the middle of the road. There is no material to show the 1st respondent was not rash and negligent and the accident is due to the sole negligence of the petitioner. The petitioner is aged 70 years at the time of accident and in such circumstance the rider of the vehicle on noticing the movement of the petitioner ought to have slowed down the vehicle. The manner of accident shows the 1st respondent was rash and negligent. There is no contra evidence on the side of the 2nd respondent. Accordingly in the facts and circumstance of the case the tribunal is of view the accident has taken place only due to the negligence of the 1st respondent and point No.1 is answered in affirmative and point No.2 is answered in negative.

9. **Point No.3**

After the accident, the petitioner has taken treatment at Govt.Hospital, Krishnagiri, the wound certificate was marked as per Ex.P2. A perusal of Ex.P2 show the petitioner has sustained a laceration over right forehead, 2. Laceration over (R) upper lip (2x1x1 cm), 3. Pain over (R) hand. The above injuries are simple in nature. From the above documents the Tribunal is of view the petitioner is entitled to compensation and the point is answered in favour of the petitioner.

10. **Point No.4**

As stated earlier the 1st respondent is the registered owner of the two wheeler bearing Registration Number TN 24 S 0516 which caused the accident and it was insured with the 2nd respondent with validity from 28.09.2013 to 27.09.2014. The insurance policy was marked as Ex.P3. The 2nd respondent has examined the company official to show the 1st respondent was not having valid driving licence at the time of accident. The 1st respondent has obtained the driving licence only subsequent to the accident which is evident from Ex.R1. Though from the driving

licence it can be seen the 1st respondent was not holding driving licence, for the omission committed by the 1st respondent the petitioner injured need not be put to sufferings. The petitioner is aged 70 at the time of accident and he is presently 78 years of age. For the violation of policy conditions by the 1st respondent the petitioner need not be penalised. Accordingly the tribunal is of view though the non holding of driving licence by the insured is proved, the 2nd respondent being the insurer is directed to pay compensation to the petitioner and entitled to recover the compensation from the 1st respondent in the manner known to Law.

11. **Point No.5**

Though the petitioner sustained injuries, there is no material to show that the petitioner suffered any disability on account of such injuries. The petitioner has not produced medical bills. The injuries sustained by the petitioner are simple in nature. In this view of the matter this tribunal feels that a lumpsum award of Rs.25,000/- be awarded as compensation considering the period of accident of the year 2014.

In fine, the petitioner is entitled to a lumpsum of Rs.25,000/- (Rupees Twenty Five Thousand Only) as just and fair compensation and the point is answered accordingly.

12. Pursuant to the directions of the Hon'ble High Court of Madras in CMA.No.428/2016 dated 11.03.2016 reported in 2016 (1) TNMAC 433 (DB) the petitioner has to produce the attested copy of the 1st page of his bank passbook, PAN card and the xerox of the Aadhar card.

Petitioner Name	Bank Name and Branch	Bank Account details and IFSC code	Aadhar Card No.	PAN Card No.
Errappa	Indian overseas bank, Krishnagiri	A/c No.103001000034581 IFSC Code No. IOBA0001030	2895 3391 5764	Not produced

13. In the result,

a)The petition is allowed with proportionate cost against the respondents1 and 2, and

the 2nd respondent being the insurer is directed to pay the compensation amount to the petitioner. Awarding the compensation, of Rs.25,000/- (Rupees Twenty Five Thousand Only) including interim award passed if any, payable with interest at 7.5% per annum from the date of presentation of the petition and entitled to Recover from the 1st Respondent in the Manner Known to Law.

b) The 2nd respondent is directed to deposit the said compensation amount to the credit of the bank account of this tribunal, SPECIAL SUBORDINATE JUDGE (MACT), KRISHNAGIRI, STATE BANK OF INDIA, KRISHNAGIRI BRANCH, CURRENT ACCOUNT NO:36002300744 directly by NEFT or RTGS mode within a period of two months from date of this order and intimate the said deposit details to this tribunal with a copy of the bank advice.

c) After such deposit, the compensation amount shall be deposited in the petitioners bank account.

d)The advocate fee is fixed as Rs.1000/- Court fee for the award amount Rs.48/-. Already sufficient court fee paid. No interest is awarded for the period when the petitioner defaulted, as per orders if any.

e) A free copy of the award shall also be delivered to the parties on request within 15 days as per section 168(2) of the MV Act and Rule 20(6) of the Rules.

f)The petitioner is directed to produce pan card details to this tribunal within 15 days. On failure to furnish the same the award amount shall not be disbursed.

Order directly dictated to the Steno Typist and typed by her in computer and taken print out and after rectification of mistake, Pronounced by me in open court, this the 3rd day of March 2023.

Details of cost

Sl. No	Cost statement on petitioner side	Amount Rs. P.
1.	Court Fees paid in Main petition	375.00
2	Balance Court Fees to be paid as per award	-
3.	Vakalath	10.00
4.	Advocate Fees	1000.00
5.	Stamp on Interim Petitions	20.00
6.	Process fees	15.00
7.	Stamp on Exhibits	20.00
8.	Typing charges	100.00
	Total	Rs.1540.00

Appendix:

Witnesses on the side of Petitioner:

Sl. No.	Witnesses	Name
1.	PW1	Errappa

Exhibits on the side of petitioner:

Sl. No.	Exhibits	List of documents	Nature of the document
1	Ex.P1	First Information Report	Attested Copy
2	Ex.P2	Wound certificate	Original
3	Ex.P3	Insurance Policy	Xerox Copy
4	Ex.P4	Bank pass book	Xerox Copy
5	Ex.P5	Aadhar card	Xerox copy

Respondents' side witnesses: -

Sl. No.	Witnesses	Name
1.	RW1, 2 nd respondent concern	Murugan

Exhibits on the side of Respondent :

Sl. No.	Exhibits	List of documents	Nature of the document
1	Ex.R1	Driving licence of the 1 st respondent	Xerox copy