

**IN THE COURT OF SPECIAL OFFICER-CUM-ADDITIONAL
SUB-JUDGE AT PUDUCHERRY**

Present: Thiru G. CHRISTIAN, M.L.,
Special Officer cum Additional Sub-Judge

On Monday, this the 17th day of March, 2025

MCOP No.229 of 2023
CNR No. PYPY04-000642-2023

Muthukumaran, S/o. Arumugam, aged 24 years
No.06, A-3 Flat, Lambert Saravanan Nagar,
Reddiyarpalayam, Pondicherry.

.... Petitioner

- Versus -

1. Subash, S/o. Govindasamy,
No.12, Prasanthi Nagar,
Dharmapuri, Pondicherry.
2. The Manager,
Cholamandalam MS General Insurance Co., Ltd.,
No.2, 2nd Floor, Dare House,
N.S.C. Bose Road, Chennai.

.... Respondents

This petition came up on 10.03.2025 for final hearing before me in the presence of Mr.V.Annamalai, the counsel for the petitioner, Mr.K.Ravikumar, the counsel for the 2nd respondent, the 1st respondent remains exparte, upon hearing both sides and on perusing relevant material records and having stood over for consideration till this date, this court delivers the following:

ORDER

1. This petition has been filed by the petitioner under Section 166(1)(c) of the Motor Vehicles Act 1988 seeking a compensation of Rs.14,00,000/- with interest and costs from the respondents for the injuries sustained by him in the road traffic accident took place on 29.01.2023 at about 23.30 hours at Pondy to Vazhudavur Main Road, near M.L.A. Office, Govindanpet, Mettupalayam, Puducherry.

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2. **The averments in the petition, in brief, are as follows:**

On 29.01.2023 at about 23.30 hours, when the petitioner was proceeding in his Hero DX motorcycle bearing Reg. No. PY05-W-3538 with his wife Mrs.Jenitha at Pondy to Vazhudavur Main Road, near Kathirkamam Constituency M.L.A. Office, Govindanpet, Mettupalayam, Puducherry from West to East direction, a Hero Splendor i-smart motorcycle bearing Reg.No.PY05-1381 belonging to the 1st respondent came in a opposite direction in a rash and negligent manner and dashed against the petitioner's motorcycle. Due to which, the petitioner and his wife were fell down on the road and sustained injuries. The petitioner had head injury, fracture over lower and upper limbs and multiple injuries all over the body. The petitioner was taken to Indira Gandhi Government General Hospital & Postgraduate Institute, Puducherry. After taking first-aid treatment, he went to JIPMER Hospital, Pondicherry and admitted as inpatient. Prior to the accident, the petitioner was hale and healthy. He was working in a Chicken Shop and earning Rs.1,100/- per day. Due to accident, the petitioner could not attend the work and lost his income. The accident had occurred due to the rash and negligent riding of the 1st respondent. The petitioner seeks Rs.14,00,000/- as compensation. The 1st respondent, being the owner and 2nd respondent as insurer of the offending vehicle, are jointly or severally liable to pay compensation to the petitioner.

3. **Gist of averments of the counter filed by the 2nd respondent is as follows: -**

This respondent does not admit any averments in the claim petition filed by the petitioner. The registered owner/1st respondent has not intimated about the accident to ascertain the facts and the manner of accident. This respondent denies the very fact that the alleged accident ever took place involving the petitioner and the Hero Splendor i-smart motorcycle bearing Reg.No.PY05-1381 belonging to the 1st respondent. The petitioner has sustained injury by some other means and he has to prove the same as well as the nature of injury sustained by him in the accident and also the medical treatment taken by him by way of proper

documentary evidence. There is an unexplained delay of 6 days in lodging a complaint. If at all the accident had occurred it is only due to the rash and negligence of the petitioner who was riding a motorcycle bearing Regn. No.PY05-W-3538 along the busy Pondy to Vazhudavur main road without driving licence and without helmet and rode the motorcycle across the road and fell down and sustained injuries without the involvement of 1st respondent's vehicle. The petitioner is a tortfeasor and hence the petitioner cannot claim compensation from this respondent. There is no valid and subsisting insurance policy for the 1st respondent's vehicle and its rider had no valid driving licence to rode the vehicle at the time of accident. There is wilful breach of policy conditions. This respondent denied the age, avocation and income of the petitioner and he has to prove the same by documentary evidence. The claim of compensation is excessive and arbitrary. This respondent is not liable to pay compensation to the petitioner. Hence, prays for dismissal of this petition.

4. The 1st respondent remains exparte. Hence, the 2nd respondent filed application under Section 170 of Motor Vehicles Act, which was allowed on 04.02.2025, thereby 2nd respondent has been granted permission to take all defences available to the 1st respondent.

5. **The Points for determination in this case are as follows: –**

- a) Whether the accident had occurred due to the rash and negligence of the 1st respondent in riding his Hero Splendor i-smart motorcycle bearing Reg.No.PY05-1381?
 - b) Whether the 2nd respondent is liable to pay the compensation?
 - c) Whether the petitioner is entitled to get compensation? If so, what should be the quantum of compensation?
6. During enquiry, on his side, the petitioner examined himself as PW1 and Mr.Ellavarasan, S.I. of Police, Traffic (North) P.S., was examined as PW2 and

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marked Ex.P1 to P13. On the side of the 2nd respondent, no oral or documentary evidence was adduced. The report of the Medical Board, regarding disability of the petitioner was marked as Ex.C1.

Point (a):

7. It is the case of the petitioner that on 29.01.2023 at about 23.30 hours, when he was proceeding in his Hero DX motorcycle bearing Reg. No. PY05-W-3538 with his wife Mrs.Jenitha as a pillion rider from West to East direction at Pondy to Vazhudavur Main Road, near Kathirkamam Constituency M.L.A. Office, Govindanpet, Mettupalayam, Puducherry, a Hero Splendor i-smart motorcycle bearing Reg.No.PY05-1381 belonging to the 1st respondent came in opposite direction in a rash and negligent manner and dashed against the petitioner's motorcycle. Due to which, the petitioner sustained injuries. In this regard, after six days i.e., on 04.02.2023, the petitioner's wife Mrs.Jennitha lodged a complaint before the Puducherry Traffic (North) Police Station. Based on the same, a case in Cr.No.42/2023 was registered u/s.279 and 337 of IPC as against the 1st respondent, the owner-cum-rider of the Hero Splendor i-smart motorcycle bearing Reg.No.PY05-1381 and Ex.P1 is the copy of FIR.
8. After the accident, the petitioner was taken to Indira Gandhi Government General Hospital & Postgraduate Institute, Puducherry with a history of "*Road Traffic Accident – two wheeler collision with two wheeler at 10.00 p.m near Mettupalayam*". The petitioner had laceration of 3 x 1 cm over right maxillary region and epigastric bend. These injuries have been certified as grievous in nature and Ex.P11 is the copy of intimation of accidents and injuries to police issued by that hospital. From the particulars mentioned in Ex.P11 and from the facts narrated in the FIR it is proved that the petitioner met with an accident on 29.01.2023 and suffered grievous injuries.
9. The petitioner has stated that the accident took place only due to the rash and negligent act of the 1st respondent. In order to prove the same, the petitioner was

examined as PW1 and adduced oral evidence. During his cross examination, he stated that the 1st respondent vehicle came from opposite direction to the petitioner and dashed against the petitioner's vehicle and he fell down on the road. The petitioner get injuries over teeth and face. On consideration of deposition of PW1 which is corroborated with the Discharge summary, it has mentioned that surgery held on 06.02.2023 operation performed Open reduction with internal fixation. The evidence of PW1 is cogent and trustworthy.

10. The 2nd respondent summoned and examined the Sub-Inspector of Police, Puducherry Traffic (South) Police Station as PW2. In his evidence, the PW1 has stated that the intimation from the hospital was received by the Police on 29.01.2023 itself at 10.00 p.m., that one Muthukumaran sustained grievous injuries on head and face. The copy of the same is marked as Ex.P11. Now, by adducing oral and documentary evidence, the petitioner has satisfactorily proved that the accident took place only due to the rash and negligent riding of the 1st respondent. This point is answered accordingly.

Point (b):

11. The Hero Splendor i-smart motorcycle bearing Reg.No.PY05-1381 stands in the name of 1st respondent. Ex.P3 is the copy of its Registration Certificate. Ex.P2 is the Insurance policy for the said vehicle issued by the 2nd respondent, covering the period from 10.04.2022 to 09.04.2023, which includes the date of accident. The said motorcycle was ridden by the 1st respondent himself and Ex.P4 is the copy of his driving licence. He was authorized to drive MCWG and LMV, which is valid upto 16.07.2033. There is no violation of any of the policy conditions. Therefore, as an insurer of the 1st respondent's vehicle, 2nd respondent is liable to pay compensation to the petitioner. This point is answered accordingly.

Point (c):

12. The petitioner has claimed Rs.14,00,000/- as compensation under various heads. Initially, after the accident, on 29.01.2023 the petitioner was taken to

IGGGH&PGI, Puducherry. After taking first-aid treatment, he went to JIPMER Hospital, Puducherry. It was diagnosed that the petitioner suffered right zygomatic complex fracture. On the next day he was referred to Ophthalmology department, on taking CT-Scan, it was found that the petitioner suffered lateral and inferior orbital wall fracture of right eye. On 06.02.2023 he underwent a surgery for ORIF for Zygomatic complex fracture and was discharged from that hospital on 07.02.2023. Ex.P9 is the copy of Discharge Summary issued by that hospital. He was treated conservatively for injuries suffered in right eye. The petitioner claims that he suffered permanent disability. Therefore, his disability has to be assessed.

Disability of the petitioner:

13. In order to assess the disability the petitioner was referred to Medical Board, he appeared before the Medical Board on 08.07.2024. Since, there is no provision for assessing dental injuries, the Medical Board assessed "Nil" disability to the petitioner. Ex.C1 is the report given by the Medical Board.

Computation of loss sustained by the petitioner:

Income of the petitioner:

14. In the petition, the petitioner has stated that he was working in a Chicken shop and earning Rs.1,100/- per day. However the petitioner has not filed any documents to show his income or avocation. Therefore, the income of the petitioner can be fixed as Rs.15,000/- per month. Now that this Tribunal arrived at the income and disability of the petitioner, let us proceed to calculate the compensation payable to the petitioner.

(a) Pain and suffering:

15. The petitioner right zygomatic complex fracture and lateral and inferior orbital wall fracture of right eye. He underwent a dental surgery and was inpatient in the hospital for 10 days. The petitioner suffered dental injury with facial bone fracture, but there is no provision to assess disability for this kind of injuries. At

the same time, the petitioner experienced severe trauma, pain and sufferings. On consideration of documents it is clearly proved the petitioner has injury on face particularly under the right eye. Therefore, considering the nature of the injury and period of treatment, a sum of Rs.1,00,000/- can be awarded for pain and sufferings.

Loss of Earning:

16. The petitioner was aged 24 years at the time of accident. As already discussed, the income of the petitioner is notionally fixed Rs.15,000/- per month. The petitioner says that due to the accident he could not do any work. Since the petitioner suffered dental fracture and right orbital wall fracture, it would take at least three months period for recovery. Considering the same, three months salary of Rs.45,000/- (15,000 x 3) can be awarded under the head of loss of income.

Medical Expenses:

17. The petitioner took treatment in JIPMER Hospital and Mahatma Gandhi Institute of Dental Sciences, Puducherry, which are free of cost. However the petitioner might have incurred some amount for his treatment and medicines. Therefore, even though no medical bills are produced, a sum of Rs.5,000/- can be awarded to the petitioner as medical expenses.

Transport Charges, Attender Charges and Extra Nourishment:

18. The petitioner was treated in JIPMER Hospital and he might have been taking regular follow up treatment in the Mahatma Gandhi Institute of Dental Science, Puducherry. Ex.P10 is the copy of the follow-up treatment record. Therefore, a sum of Rs.5,000/- can be awarded for Transport charges. Further, the petitioner might have required assistance of an attender to take care of him and also incurred expenses for special food for his recovery. Therefore, a sum of Rs.5,000/- for Attender charges and another sum of Rs.10,000/- for extra nourishment can be awarded.

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Loss of Amenities:

19. The petitioner suffered dental fracture and right orbital wall fracture, which did not result into any disability. Considering the nature of injury and other circumstances, this tribunal decides to compensate a sum of Rs.5,000/- towards loss of amenities.
20. Upon calculating the compensation awarded under the various heads mentioned above, the compensation payable to the petitioner arrived as follows:-

Heads of loss	Compensation awarded In Rupees
For pain and suffering	1,00,000
For loss of income	45,000
For Medical Expenses	5,000
For Transport Charges	5,000
For Attender Charges	5,000
For Extra Nourishment	10,000
For Loss of Amenities	5,000
Total	1,75,000

21. In result, this petition is partly allowed with proportionate costs and interest as follows:-

- a) That the 2nd respondent shall pay a sum of Rs.1,75,000/- (Rupees One Lakh Seventy Five Thousands only) as compensation to the petitioner with costs and interest at the rate of 7.5% per annum from the date of last representation of the Claim Petition, namely from 03.03.2023 to till the realization. The interest during the default period in any, shall be waived by the petitioner.
- b) The said compensation amount together with interest, costs shall be deposited by the 2nd respondent into bank account of this tribunal mentioned below directly by NEFT or RTGS mode within a period of two months from the date of this order and intimate the same to this tribunal with particulars deposit so made;

- c) On such deposit, the petitioner is permitted to withdraw the entire amount on application excluding the advocate fees and bank charges. Such amount shall be transferred to petitioner's bank account through RTGS (or) NEFT; and
- d) The Court Fee payable is Rs.1,122.50. As the petitioner paid court fee of Rs.10/- alone, he shall pay the deficit court fee of Rs.1,112.50/- within a period of 15 days from today. The Advocate fee is fixed as Rs.4,300/-.

Directly typed to my dictation by the stenographer in the official computer, corrected and pronounced by me in the Open Court, on this the 17th day of March, 2025.


Special Officer cum Additional
Sub-Judge (FAC), Puducherry

The Bank Account particulars of this Tribunal:

Additional Motor Accidents Claims Tribunal,
Special Officer cum Additional Sub-Judge, Puducherry
Virtual A/c. No.SCPY01-SOJ-0229Y2023
IFSC No. IDIB000M054
Indian Bank, Mudaliarpet Branch, Puducherry
Email ID: pdysplsc-py@indiancourts.nic.in

Petitioner's side Witnesses:

- PW1 Mr. Muthukumaran (The Petitioner)
- PW2 Mr. Ilavarasan (SI of Police, Traffic (North) P.S.)

Petitioner's side Exhibits:

Exhibits	Date	Particulars of Documents	Nature
Ex.P1	04.02.2023	FIR in Crime No.42/2023 of Puducherry Traffic (North) Police Station.	Photocopy
Ex.P2	10.04.2022	Insurance Policy of the 1 st respondent's vehicle issued by the 2 nd respondent	Photocopy
Ex.P3	02.11.2015	Regn. Certificate of the 1 st respondent's motorcycle.	Photocopy

Ex.P4	17.07.2013	Driving Licence of the 1 st respondent.	Photocopy
Ex.P5	28.02.2017	Regn. Certificate of petitioner's motorcycle.	Photocopy
Ex.P6	10.01.2017	Driving Licence of the petitioner.	Photocopy
Ex.P7	28.03.2013	Aadhaar card of the petitioner.	Photocopy
Ex.P8	30.01.2023	Case Record issued by Department of Ophthalmology, JIPMER.	Photocopy
Ex.P9	07.02.2023	Discharge Summary issued by JIPMER Hospital, Puducherry.	Photocopy
Ex.P10	01.03.2023	Outpatient record issued by Mahatma Gandhi Institute of Dental Sciences, Puducherry.	Photocopy
Ex.P11	29.01.2023	Intimation of Accidents and Injuries to Police issued by IGGGH&PGI, Puducherry.	Photocopy
Ex.P12	16.03.2023	Accident Inspection Report of the 1 st respondent's motorcycle.	Photocopy
Ex.P13	13.02.2023	Accident Inspection Report of the Petitioner's motorcycle.	Photocopy

Respondents' side Witnesses: Nil

Respondent's side & Exhibits: Nil

Court Witness: Nil

Court Exhibits:

Ex.C1	08.07.2024	Report of the Medical Board.	Photocopy
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OTHER IMPORTANT PARTICULARS

Date of filing	03.03.2023
Date of Award	17.03.2025
Amount Claimed under Compensation	Rs.14,00,000/-

Amount Awarded as Compensation	Rs.1,75,000/-
Total Court Fees	Rs.1,122.50
The Court Fee already paid	Rs.10/-
Balance Court Fee to be paid	Rs.1,112.50

Costs List

Cost Particulars	Amount	
Stamp duty for Award Amount	Rs.	1,122.50
Vakalath	Rs.	1.50
Preparation of petition	Rs.	200.00
Preparation of Summon Batta Charges	Rs.	4.50
Advocate Fees	Rs.	4,300.00
TOTAL	Rs.	5,628.50
Rounded off to	Rs.	5,630.00

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Special Officer-cum-Additional
Sub-Judge (FAC), Puducherry

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