

**IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, OTTAPALAM**

Present :- Smt. Gosha C.G., M.A.C. Tribunal

Wednesday 17<sup>th</sup> day of December 2025

( 26<sup>th</sup> day of Agrahayana, 1947 S.E.)

**ORIGINAL PETITION (MV) No.65/2021**

**Petitioner**

1. Rajan Nair, P (died) aged 78 years S/O K.P. Nair Nirmal Nivas, Vilayur (PO) Pattambi taluk, Palakkad (Dist) PIN-679309)  
Suppli. Nirmala W/o Late Rajan Nair, Nirmala Nivas, Karinganadkundu, Vilayur P O,  
2. Pattambi Taluk.  
Suppli. Sunandha V K D/o Late Rajan Nair, Nirmala Nivas, Karinganadkundu,  
3. Vilayur P O, Pattambi Taluk.(Now residing Padinharepatt House, Vilayut P O, Pattambi Talauk)  
Suppli. Sudheer V K S/o Late Rajan Nair, Thapassya, South Vazhakulam, Aluva,  
4. Eranakulam District, PIN- 683105 (Now residing 3B crystal Valley, Kollamkudi Mugal Trikkakkara P O, Eranakulam District)  
(R2 to R4 Impleaded and Amended as per order in I A 1/25 & 2/25 dated 7/10/2025)

By Advocate : Adv. P Manoj

V/s

**Respondents**

1. Noorudheen aged about 45 years S/o Aboobacker Edathole House, Mannengode(PO) Kopam Pattambi taluk, Palakkad (Dist) PIN-679307) ( Driver cum owner of the car KL-52-1-2170)
2. The New India Assurance Co. Ltd. JRJ Complex, Main Road Ottapalam. Palakkad (Dist)PIN-679.101 (Insurer of the car KL-52-L-2170)

R1 : Adv. Abdul Jamal

R2 : Adv. M A Radhamani

This petition having been finally heard on 03/12/2025 and the Tribunal on 17/12/2025 passed the following.

**AWARD**

This is an application filed by the petitioner for compensation for the injuries

sustained in a motor vehicle accident under section 166(1) (a) of the Motor Vehicles Act, 1988.

2. Case of the petitioner in brief is that on 28.02.2020 at about 12.30 hours, while the petitioner was riding his scooter bearing registration No.KL-52/A-9104 from Koppam to his house and when he reached at the place at Karinganad, the car bearing registration No. KL-52/L-2170 driven by the 1<sup>st</sup> respondent and in a rash and negligent manner hit on petitioner's vehicle thereby he was sustained serious injuries. Hence, the petition for a total compensation of ₹20,00,000/-.

3. During the pendency of the claim petition, the petitioner died and his legal heirs were impleaded as supplemental petitioners 2 to 4.

4. The 1<sup>st</sup> respondent filed written statement denying the petition averments. According to this respondent there was no negligence on the part of the 1<sup>st</sup> respondent as alleged in the petition. In fact negligence of the petitioner alone was the reason for the accident. The police charge sheeted this respondent for rash and negligent driving solely for the purpose of getting compensation to the petitioner. At the time of accident this respondent was holding valid UAE driving licence and now this respondent is possessing a valid driving licence to drive a car issued by state of Kerala. At the time of accident, the car was validly insured with the 2<sup>nd</sup> respondent. Even if the Tribunal finds that the petitioner is entitled to get any amount it has to be paid by the 2<sup>nd</sup> respondent. The age, occupation and income of the petitioner have

to be proved by him. The amount claimed in the petition is highly excessive and exaggerated. Therefore, the petition has to be disposed accordingly.

5. The 2<sup>nd</sup> respondent insurance company filed written statement denying the petition averments. At the same time, this respondent admits that the car bearing registration No.KL-52/L-2170 was validly insured with this respondent at the material time of accident. According to this respondent there was no negligence on the part of the 1<sup>st</sup> respondent as alleged in the petition. In fact negligence of the petitioner alone was the reason for the accident. The age, occupation and income of the petitioner have to be proved by him. The amount claimed in the petition is highly excessive and exaggerated. The amendment is made only to harass this respondent. The averments in the amended petition are not fully correct. Therefore, the petition has to be disposed accordingly.

6. To prove the case of the petitioner Exts.A1 to A24 and Ext.X1 were marked. No oral or documentary evidence has been adduced on the side of the respondents.

7. Heard both sides.

8. Now the issues that arise for consideration in the petition are:

1. Whether the 1<sup>st</sup> respondent who was the driver of the offending vehicle bearing registration No.KL-52/L-2170 was driving the vehicle in a rash and negligent manner with excessive speed

and thereby caused the accident?

2. Whether the petitioner was sustained injuries and entitled to get compensation as claimed?
3. If so, what is the quantum to be awarded?
4. Who is liable to pay compensation to the petitioner?

9. Issue No.1:- It is the case of the petitioner that on 28.02.2020 at about 12.30 hours, while the petitioner was riding his scooter bearing registration No.KL-52/A-9104 from Koppam to his house and when he reached at the place at Karinganad, the car bearing registration No. KL-52/L-2170 driven by the 1<sup>st</sup> respondent and in a rash and negligent manner hit on petitioner's vehicle thereby he was sustained serious injuries. To prove the negligence of the 1<sup>st</sup> respondent, copy of FIR was marked as Ext.A1, copy of scene mahazar was marked as Ext.A2, copy of final report was marked as Ext.A4 and copies of AMVI reports were marked as Ext.A5 series.

Ext.A3 is the copy of wound certificate, Ext.A6 is the discharge summary, Ext.A7 series are medical bills, Ext.A8 is the copy of Aadhar card of petitioner, Ext.A9 is the copy of bank passbook of petitioner, Ext.A10 is the copy of PAN card, Ext.A11 is the death certificate of the original petitioner Rajan Nair, Ext.A12 is the relationship certificate, Ext.A13 is the copy of Aadhar card of Nirmala, Ext.A14 is the copy of bank passbook of Nirmala, Ext.A15 is the copy of Aadhar card of Sunanda,

Ext.A16 is the copy of bank passbook of Sunanda, Ext.A17 is the copy of Aadhar card of Sudheer, Ext.A18 is the copy of bank passbook of Sudheer, Ext.A19 is the cancelled cheque of Nirmala, Ext.A20 is the cancelled cheque of Sunanda, Ext.A21 is the cancelled cheque of Sudheer, Ext.A22 is the copy of PAN card of Nirmala, Ext.A23 is the copy of PAN card of Sunanda and Ext.A24 is the copy of PAN card of Sudheer. Ext.X1 is the medical board report.

A perusal of Ext.A4 shows that the then Sub Inspector of Police, Koppam Police Station, conducted investigation of the case, completed the investigation and submitted the final report with finding that on 28.02.2020 at 12.30 hours, the 1<sup>st</sup> respondent being the driver of the car bearing registration No.KL-52/L-2170 drove the vehicle in a rash and negligent manner without having valid driving licence to drive the offending vehicle through Pattambi – Perinthalmanna public road and when it reached at the place Karingandkund junction, it hit on petitioner's vehicle thereby the petitioner was sustained grievous injuries. Hence the 1<sup>st</sup> respondent had committed the offences punishable u/ss. 279 and 338 of IPC and 3(1) r/w 181 of MV Act. It is well settled that final report is the sufficient prima facie evidence to prove negligence in a claim for compensation u/s 166 of the Motor Vehicles Act (**New India Assurance Company Ltd. v. Palani Ammal and others – ILR 2011(3) Kerala 677**). So I find that the petitioner has successfully proved his case that the accident was occurred solely due to the rash and negligent

driving of the 1<sup>st</sup> respondent with the aid of Exts. A1, A2, A4 and A5 series. Issue is answered accordingly.

10. Issue Nos.2 & 3:- It is the case of petitioner that as a result of the accident he was sustained grievous injuries, immediately taken to Dr.Moideen's clinic, Koppam and from there taken to Moulana Hospital, Perinthalmanna, admitted and treated there as an inpatient from 28.02.2020 to 10.03.2020. To prove the injuries sustained, hospitalisation and treatment given to the petitioner, copy of wound certificate was marked as Ext.A3 and discharge summary was marked as Ext.A6. As per the above documents, the petitioner was treated as stated above. As per Ext.A3 petitioner was sustained the following injuries:

1. lacerated wound 5x2 cm occipital area
2. acute ® fronto – parietal occipital SDH

As per Ext.A6 the diagnosis is as follows: -

diagnosis:-

head injury, SDH +

hypertension, DM, parkinsonism, COPD and CAD

11. Going through the above medical records, I find that the petitioner was sustained injuries in the accident which was caused due to the rash and negligent driving of the 1<sup>st</sup> respondent while driving the vehicle in question. Therefore, I find that the petitioner is entitled to get compensation for the injuries sustained in the

accident. According to the petitioner at the time of accident he was aged 78 years, self employed and his monthly income was of ₹15,000/-. Ext.A10 is the copy of PAN card of the petitioner. As per the above document his date of birth is 14.01.1942. Therefore, I find that at the time of accident the petitioner was aged 78 years. To prove the occupation and income of the petitioner, no evidence has been adduced. Even then considering the age of the petitioner and other attending circumstances, I find that monthly notional income of the petitioner can be calculated as of ₹12,500/- for the purpose of computing compensation.

12. Ext.A7 series are two sets of medical bills produced and marked by the petitioner for ₹93,721/- and 85,070/-. The learned counsel for the 2<sup>nd</sup> respondent pointed out that genuine bills are for ₹1,44,711/-. Other bills are for natural diseases. In view of the objection raised by the 2<sup>nd</sup> respondent, this Tribunal is of the view that the petitioner is entitled to get only ₹1,44,711/- towards medical expenses.

13. Ext.X1 is the Medical Certificate issued by Special Medical Board, District Hospital, Palakkad. As per Ext.X1, the petitioner is having combined disability of 80%. The learned counsel for the 2<sup>nd</sup> respondent challenged the disability assessed by the Medical Board and filed IA to send the petitioner to state Medical Board. The said petition was allowed by this court. But before getting an appointment with State Medical Board the injured died on 14.03.2025. The learned counsel for the 2<sup>nd</sup> respondent pointed out that if State Medical Board examined the petitioner, ought to

have reduction in the disability and amenable for only 15% disability. The learned counsel for the 2<sup>nd</sup> respondent also pointed out that in the disability certificate itself the Medical Board pointed out that they are not able to assess the disability due to RTA alone. Hence they assessed combined disability. In Ext.X1 it is reported that the petitioner was having advanced Parkinsonism with dementia and BPSD. Disability assessment done showed a combined disability of 80% at the time of assessment. The exact amount of disability caused due to RTA/traumatic brain injury alone is difficult to be assessed as parkinsonism – which is a neuro degenerative condition has a natural course commencing from early to advanced stage. RTA and brain injury that he suffered can accelerate the progression or worsen his pre-existing medical condition. A perusal of Ext.X1 would show that the petitioner was not sustained 80% disability as assessed by the medical board due to RTA. Considering the nature of injuries in the wound certificate and discharge summary are concerned, I am of the view that the petitioner is entitled to get only 70% whole body disability. In Ext.X1 itself the medical board stated that the patient is a known case of Parkinsonism on treatment from Rajagiri Hospital from 30.08.2019 as per medical records prior to his RTA on 28.01.2020. He is also a known case of chronic obstructive pulmonary disease and coronary artery heart disease on antiplatelet therapy. Details of pre-existing disability due to Parkinsonism is not available from his medical records. Hence the petitioner is not having 80% disability as stated. Moreover, in Ext.X1 the doctors also stated that



the disability assessment done showed a combined disability and exact amount of disability caused due to RTA/traumatic brain injury alone is difficult to be assessed as parkinsonism which is a neuro degenerative condition has a natural course commencing from early to advanced stage. Considering all above aspects, I am of the view that the petitioner is only entitled to get 70% disability. The petitioner being aged 78 years at the time of accident the proper multiplier is 5. Therefore, the compensation for loss of functional disability can be assessed at  $\text{₹}12500 \times 12 \times 5 \times 70 / 100 = 5,25,000/-$ . The learned counsel for the petitioner claimed loss of earning till his death. But the learned counsel for the 2<sup>nd</sup> respondent challenged that he is an old man. Hence he is not entitled to get loss of earning. Considering all the above aspects, I am of the view that the petitioner is entitled to get loss of earning for five months. So he is entitled to get  $\text{₹}62500/-$  ( $12500 \times 5$ ) towards loss of earning. The petitioner has also claimed  $\text{₹}4,00,000/-$  towards personal attendance expenses. The learned counsel for the 2<sup>nd</sup> respondent opposed the above claim of the petitioner. No evidence has been adduced to prove that he is entitled to get reasonable amount for nursing assistance expenses. In Ext.X1 itself it is stated that the petitioner is bedridden needs support of family members for activities of daily living. His follow up CT brain as on 17.04.2020 shows resolution of bleed and right frontal and temporal hypodensities likely sequelae of old hemorrhagic contusion. Considering all the above aspects, I am of the view that the petitioner is entitled to get  $\text{₹}2,00,000/-$  for nursing assistance

expenses.

14. Ext.A11 is the death certificate of the original petitioner. As per Ext.A11 the petitioner died on 14.03.2025. Ext.A12 is the relationship certificate issued from Vilayur village office. As per Ext.A12 the supplemental 2<sup>nd</sup> petitioner is the wife of deceased aged 72 years, supplemental 3<sup>rd</sup> respondent is the daughter aged 51 years and supplemental 3<sup>rd</sup> petitioner is the son aged 49 years. Since the original petitioner died, the compensation awarded is to be disbursed to supplemental petitioners 2 to 4.

Considering the entire facts and circumstances of the case, nature of injuries sustained, period of treatment, disability etc. I find that the following can be fixed as just and reasonable compensation in the case.

| Sl. No. | Head of Claim                                            | Amount claimed | Amount awarded | Basis-vital details in a nut shell                                        |
|---------|----------------------------------------------------------|----------------|----------------|---------------------------------------------------------------------------|
| 1       | Loss of earning                                          | 60000          | 62500          | 12500x5 months                                                            |
| 2       | Transportation expenses                                  | 10000          | 4000           | Considering the distance between the place of accident, hospital and home |
| 3       | Extra nourishment                                        | 5000           | 3000           |                                                                           |
| 4       | Damage to clothing and articles                          | 2000           | 1000           | Nominal amount                                                            |
| 5       | Bystander expenses                                       | 25000          | 5500           | 500x11 days                                                               |
| 6       | Nursing attendance expenses                              | 400000         | 200000         |                                                                           |
| 7       | Medical expenses                                         | 200000         | 144711         | Ext.A7 series medical bills produced                                      |
| 8       | Future treatment expenses                                | 50000          | 0              |                                                                           |
| 9       | Compensation for pain and suffering                      | 300000         | 60000          | Considering the nature of injuries                                        |
| 10      | Compensation for loss of enjoyment and amenities of life | 200000         | 50000          | Considering the disability                                                |

|    |                                       |           |           |                   |
|----|---------------------------------------|-----------|-----------|-------------------|
| 11 | Compensation for permanent disability | 600000    | 525000    | 12500x12x5x70/100 |
| 12 | Compensation for loss of earning      | 300000    | 0         |                   |
|    | Total                                 | 21,52,000 | 10,55,711 |                   |
|    | Limited to                            | 20,00,000 |           |                   |

Issues are answered accordingly.

15. Issue No.4:- It is stated in the written statement of the 2<sup>nd</sup> respondent that the car bearing registration No.KL-52/L-2170 was validly insured with this respondent at the material time of accident. This Tribunal found that the accident occurred due to the negligence on the side of the 1<sup>st</sup> respondent. The 2<sup>nd</sup> respondent has filed I.A.1/2022 to direct the 1<sup>st</sup> respondent to produce his driving licence during the time of accident. But it was not produced. Therefore, it has to be presumed that there was no valid driving licence to the 1<sup>st</sup> respondent at the material time of accident. Hence the 2<sup>nd</sup> respondent is entitled to recover the entire award amount from the 1<sup>st</sup> respondent after effecting payment to the petitioner. The issue is answered accordingly.

In the result, the petition is allowed and an award is passed for ₹10,55,711/- (Rupees ten lakh fifty five thousand seven hundred and eleven only) with interest @ 8% per annum from the date of filing of the petition ie. from 08.02.2021 till realisation with proportionate cost. The issue is answered accordingly.

50% of the award amount shall be paid to the supplemental 2<sup>nd</sup> petitioner and 25% each to supplemental 3<sup>rd</sup> and 4<sup>th</sup> petitioners.

1. The 2<sup>nd</sup> respondent is directed to furnish cheques for ₹19,368/- being

court fee and ₹20,000/- being Legal Benefit Fund payable by the petitioner in the name of the Motor Accidents Claims Tribunal, Ottapalam.

2. The balance amount due to the petitioner/s shall be remitted to his/their Savings Bank Account shown below, as direct payment, within one month.

| Name of petitioner/s | Name of Bank | Name of Branch | Account Number | IFSC Code   |
|----------------------|--------------|----------------|----------------|-------------|
| NIRMALA & RAJAN N A  | Canara Bank  | Karinganad     | 1740101000347  | CNRB0001740 |
| SUNANDA V K          | Federal Bank | Koppam         | 21520100021387 | FDRL0002152 |
| SUDHEER V K          | Federal Bank | Chunangamveli  | 99980102875494 | FDRL0001692 |

3. Upon such remittance/deposit, R2/insurer shall submit to this Tribunal a copy of the bank advice and a memo in the prescribed format provided below. A copy of the payment advice, along with a copy of the memo, shall also be served on the petitioner and his counsel.

**Format of Memo regarding payment advice for remittance of amount.**

We confirm the remittance of compensation as follows:-

|   |                                                                            |  |
|---|----------------------------------------------------------------------------|--|
| 1 | OP(MV) Number                                                              |  |
| 2 | On the file of Motor Accidents Claims Tribunal (place)                     |  |
| 3 | Date of Award                                                              |  |
| 4 | Amount deposited                                                           |  |
| 5 | Amount retained in the fixed deposit with the fixed deposit receipt number |  |
| 6 | Name of the minor(s)/claimant(s) in the fixed deposit                      |  |
| 7 | Income Tax Deducted at Source, if any, in                                  |  |

|   |                                                                       |  |
|---|-----------------------------------------------------------------------|--|
|   | accordance with law.                                                  |  |
| 8 | Bank Transaction Reference No./Unique Transaction Reference (UTR) No. |  |

4. R2/insurer shall provide Form 16.A under the Income Tax Act, 1961 to the petitioner.
5. The 2<sup>nd</sup> respondent is entitled to recover the entire award amount from the 1<sup>st</sup> respondent after effecting payment to the petitioner.
6. The office is further directed to make necessary entries in the cheque issue register, evidencing payment of above amount to the petitioner(s).

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 17<sup>th</sup> day of December 2025.

Motor Accidents Claims Tribunal

### APPENDIX

Petitioner's Witness Examined : Nil

Petitioner's Exhibits Marked :

|     |   |            |   |                                  |
|-----|---|------------|---|----------------------------------|
| A1  | : | 01.03.2020 | : | Copy of FIR                      |
| A2  | : | 02.03.2020 | : | Copy of scene Mahazar            |
| A3  | : | 28.02.2020 | : | Copy of Wound certificate        |
| A4  | : | 21.03.2020 | : | Copy of charge sheet             |
| A5  | : | Series     | : | Copy of AMVI reports             |
| A6  | : | 10.03.2020 | : | Discharge summary                |
| A7  | : | Series     | : | Medical bills                    |
| A8  | : | Nil        | : | Aadhar card copy of petitioner   |
| A9  | : | 05.05.2014 | : | Bank passbook copy of petitioner |
| A10 | : | Nil        | : | Pan card copy of petitioner      |

|     |   |            |   |                                 |
|-----|---|------------|---|---------------------------------|
| A11 | : | 28.03.2025 | : | Death certificate of Rajan Nair |
| A12 | : | 30.04.2025 | : | Relationship certificate        |
| A13 | : | 20.12.2012 | : | Aadhar card copy of Nirmala     |
| A14 | : | 28.12.1985 | : | Bank passbook copy of Nirmala   |
| A15 | : | 14.12.2012 | : | Aadhar card copy of Sunanda     |
| A16 | : | 24.10.2014 | : | Bank passbook copy of Sunanda   |
| A17 | : | 09.04.2012 | : | Aadhar card copy of Sunanda     |
| A18 | : | 27.03.2018 | : | Bank passbook copy of Sudheer   |
| A19 | : | Nil        | : | Cancelled Cheque of Nirmala     |
| A20 | : | Nil        | : | Cancelled Cheque of Sunanda     |
| A21 | : | Nil        | : | Cancelled Cheque of Sudheer     |
| A22 | : | Nil        | : | Pan card copy of Nirmala        |
| A23 | : | Nil        | : | Pan card copy of Sunanda        |
| A24 | : | Nil        | : | Pan card copy of Sudheer        |

Respondent's Witness examined : Nil

Respondent's Exhibits Marked : Nil

Third party's Witness examined : Nil

Third party's Exhibits Marked :

X1- Medical Board Report

Motor Accidents Claims Tribunal

### MEMO OF COST

**Petitioner's Cost :** Allowed. Cost list filed

| Sl No | Particular         | Amount    |
|-------|--------------------|-----------|
| 1     | Court fee          | 9,963.00  |
| 2     | Stamp on vakkalath | 5.00      |
| 3     | Writing fee        | 200.00    |
| 4     | Advocate Fee       | 55,186.00 |
| 5     | Stamp on Petition  | 80.00     |
| 6     | Stamp on document  | 120.00    |
| 7     | Process fee        | 102.00    |

**Total** **65,656.00**  
**Respondents Cost : Not Allowed.**

### Motor Accidents Claims Tribunal

Note :- “The parties should apply as soon as possible for the return of all documents which they may wish to preserve, as the records will be liable to be destroyed after twelve years from this date.”

Typed by :Deepa K S  
Compared by. :Aswathy P

Fair/Copy of Award  
in OP (MV) No.65/2021  
Dated 17.12.2025

(1+3)