

In the Court of the Motor Accidents Claims Tribunal, Mavelikara
Present: Smt. AAJ SUDARSAN, Motor Accidents Claims Tribunal
(Additional District & Sessions Judge-II)

Thursday, the 31st July 2025 / 9th Sravanam 1947

OP (MV) 678/2021
(Filed on 13.07.2021)

Petitioner: Shebin.S, aged 20 years,
S/o. Subaida, Thoppil Vadakkathil,
Cheravally, Kayamkulam- 690 502

By Adv. S. Jayasankar

Respondents : Mujeeb Rahuman.S
S/o. Shamsudeen, Kochalumoottil, Perungala P O.,
Kayamkulam- 690 559
(Driver Cum Owner)
Exparte

This OP (MV) having been finally heard on 31.07.2025 and the Tribunal on the same day passed the following:

AWARD

This petition is filed under Section 166(1) of the Motor Vehicles Act, 1988, by Shebin .S claiming compensation for Rs.5,00,000/-

2. The averments in the petition are as follows:

Petitioner was aged 20 years when he met with an accident on 24-01-2021 at 9 pm. Petitioner was riding a motor cycle bearing Reg. No. KL 29 S 5143 from west to east through Kayamkulam – Punalur road. When he had reached in front of Bank of Baroda, Kayamkulam a scooter bearing Reg. No. KL 29 K 3731 which came from west to east ridden by the 1st respondent in a rash or negligent manner hit the petitioner. Due to the impact of that, the petitioner fell down and sustained injuries. Due to the impact of the accident, the petitioner sustained the following injuries. They are viz., (i) pain and swelling over left wrist, (ii) fracture both bone

left forearm, (iii) fracture radius. The petitioner was taken to Government Hospital, Kayamkulam. After giving first aid he was taken to the Medical College Hospital, Vandanam where he was treated as an in-patient from 25-01-2021 to 30-01-2021. At the time of the accident, the petitioner was a salesman and was earning Rs.25,000/- per month as income. The respondent is the rider cum owner of the scooter bearing Reg. No. KL 29 K 3731. The accident occurred solely due to the rashness or negligence on the part of the respondent. The scooter bearing Reg. No. KL 29 K 3731 had no insurance policy at the time of accident. Thus, the petitioner is entitled to get an amount of Rs.5,00,000/- from the respondent. Hence, this petition.

3. On issuance of notice, the respondent remained exparte.

4. Points that arise for consideration:

1. Whether the petitioner sustained injuries in the accident that occurred on 24-01-2021?
2. What was the cause of the accident?
3. Whether the petitioner is entitled to get compensation? If so, the quantum of compensation and from whom to be realized?
4. Costs.

5. Petitioner did not adduce any oral evidence. Exts. A1 to A8 were marked from the side of the petitioner. Ext.X1 is marked as third party document. The respondent did not adduce any evidence. Heard both sides.

6. **Point Nos. 1 and 2:** Since these points are connected with each other, they are discussed together. According to the petitioner, while he was aged 20 years he met with an accident on 24-01-2021 at 9 p.m. Petitioner was riding a motor cycle bearing Reg. No. KL 29 S 5143 from west to east through

Kayamkulam – Punalur road. When he had reached in front of Bank of Baroda, Kayamkulam a scooter bearing Reg. No. KL 29 K 3731 which came from west to east ridden by the 1st respondent in a rash or negligent manner hit the petitioner. Due to the impact of that, the petitioner fell down and sustained injuries. Due to the impact of the accident, the petitioner sustained the following injuries. They are viz., (i) pain and swelling over left wrist, (ii) fracture both bone left forearm, (iii) fracture radius. The petitioner was taken to Government Hospital, Kayamkulam. After giving first aid he was taken to the Medical College Hospital, Vandanam where he was treated as an in-patient from 25-01-2021 to 30-01-2021. At the time of the accident, the petitioner was a salesman and was earning Rs.25,000/- per month as income. The respondent is the rider cum owner of the scooter bearing Reg. No. KL 29 K 3731. The accident occurred solely due to the rashness or negligence on the part of the respondent. The scooter bearing Reg. No. KL 29 K 3731 had no insurance policy at the time of accident.

7. In **New India Assurance Co. Ltd v. Pazhaniammal and others (2011 (3) KLT 648)** it is held that prima facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the inductee. If any one of the parties do not accept such charge sheet, the burden must be on such party to adduce oral evidence. In the instant case, a perusal of Ext. A1 FIR shows that a crime was registered for the offences punishable under Sections 279, 337, 338 of IPC. After investigation the police has laid down Ext A5 final report against the respondent. The respondents did not challenge Ext A5 final report or adduce evidence to show absence of negligence on part of the respondent. Hence, Ext A5 final report can be taken as prima facie evidence to show that there was negligence on part of the respondent resulting in the accident which caused the injuries to the petitioner. Therefore, it can be safely concluded that the accident that occurred on 24-01-2021 whereby the petitioner sustained injuries was the

result of the rash or negligent driving of the respondent.

8. The next aspect to be considered is whether the petitioner sustained injuries. Ext A6 wound certificate shows that the petitioner sustained the following injuries in a RTA. The injuries are, viz., (i) ENT bleed present (ii) pain and swelling on left wrist. Exat.A7 discharge summary from Medical College Hospital, Vandanam shows that the petitioner was treated as an in-patient from 25-01-2021 to 30-01-2021. X-ray revealed fracture both bone left forearm, fracture DER(R), Nasal bone fracture. He underwent ORIF with 3.5 DCP under GA on 27-01-2021. These evidences show that the petitioner sustained injuries in the accident that took place on 24-01-2021. Thus, these points are found in favour of the petitioner.

9. **Point No. 3:** According to the petitioner, at the time of accident **he** was a salesman. He used to earn an income of Rs.25,000/- per month. Since there is no evidence to prove the income of the petitioner, notional income is taken into account. Applying the yardstick in **Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd ((2011) 13 SCC 236)** and **Syed Sadiq v. Divisional Manager, United India Insurance Company Ltd. (AIR 2014 SC 1052)** the notional income of the petitioner is fixed as Rs.13,000/- as the accident took place in the year 2021.

10. Considering the injuries sustained to the petitioner viz., (i)fracture both bone left forearm (ii) fracture DER (right), (iii) fracture nasal bone, it is natural that the petitioner would not have worked for at least a period of 6 months. Thus, an amount of Rs.81,000 /- (Rs.13,500/- x 6 months) can be awarded to him under the head 'loss of income.

11. An amount of Rs.6,000/- (Rs.3,000/- x 2 trips) can be awarded under the head 'transportation to hospital'. Considering the living index during 2021 and

the economic conditions of the petitioner, the petitioner is entitled to get Rs.2,500/- towards 'damages to clothing and apparels' and Rs.10,000/- towards extra nourishment.

12. The petitioner has not produced any medical bills to show that he had spent any amount towards treatment. The entire amount can be granted to him under the head 'medical expenses'.

13. The petitioner who sustained fracture both bone left forearm, fracture distal end of radius (right), fracture nasal bone would have required the assistance of another person to help him do his daily chores. Thus, an amount of Rs.5,000/- can be awarded to him under the head 'by-stander expenses'.

14. The petitioner has produced Ext. X1 permanent disability certificate issued by the Medical Board, Government Taluk Hospital, Kayamkulam. It shows that the petitioner sustained 9% of disability due to the injuries he sustained in the accident. The percentage of disability ascertained is the disability of that particular limb/body part. In **Raju Sebastian v. United India Insurance Co. Ltd. (2021 (5) KHC 662)** the Tribunal relied on 50% of the disability shown in the permanent disability certificate as functional disability because the certificate has mentioned only the disability of a particular limb, the action of the Tribunal in calculating the functional disability as 50% was upheld by the Hon'ble High Court as reasonable. In **Indira Bhai v. Orinetal Insurance Company Ltd. (2023 KHC 6708)** it is held that it is the functional disability and not just the physical disability which is the determining factor in assessing whether the claimant (i.e., a workman) has incurred total disablement. In the instant case, the petitioner was working as salesman at the time of the accident. The accident has incapacitated him due to the fracture sustained to him to his forearm (left), DER (R) and nasal bone in performing his avocation. Ext.X1 shows that he has deformity in functioning of his right radius.

Thus, 9% can be assessed as the functional disability of the petitioner as recorded by the Board to be the position at disability.

15. Ext A8 copy of aadhaar card shows that the petitioner was born in 2000. The accident took place on 24-01-2021. So, his age as on the date of accident was 21 years. Then, the multiplier to be applied is 18 for the age group 21-25 years. Thus, the petitioner is entitled to get Rs.87,480/- ($13500 \times 12 \times 18 \times 3/100$) towards compensation for continued and permanent disability. No extra amount is awarded separately under the head 'loss of earning power'.

16. Considering the mental and physical agony the petitioner must have suffered at an amount of Rs.50,000/- can be awarded to him under the head 'pain and suffering'.

17. Considering the nature of injuries and tenure of treatment the pain suffered on account of the accident, the inconvenience faced by the petitioner, for deprivation of his usual amenities and comforts, Rs.50,000/- can be awarded under the head 'loss of amenities and comforts'.

18. Thus, the claimant is entitled to get the following amount under various heads as shown in the table below:

SL. NO.	HEADS	AMOUNT CLAIMED	AMOUNT AWARDED	BASIC VITALS IN A NUT SHELL
1.	Loss of earning	Rs.50,000/-	Rs.81,000/-	Rs.13,500/- x 6 months
2.	Partial loss of earning	Rs.25,000/-	Nil	Nil
3.	Transportation to hospital	Rs.5,000/-	Rs.6,000/-	Rs.3,000/- x 2 trips

4.	Extra – nourishment	Rs.3,000/-	Rs.10,000/-	Reasonable
5.	Damages to clothing and other articles	Rs.1,000/-	Rs.2,500/-	Reasonable
6.	Cost of Medicines	Rs.5,000/-	Nil	Nil
7.	Future treatment	Rs.25,000/-	Nil	Nil
8.	By-stander's expenses	Rs.5,000/-	Rs.5,000/-	Reasonable
9.	Compensation for pain and suffering	Rs.50,000/-	Rs.50,000/-	Reasonable
10.	Compensation for permanent or continuing disability	Rs.3,00,000/-	Rs.87,480/-	Rs.13,500/- x 12 x 18 x 3/100
11.	Compensation for loss of amenities in life	Rs.50,000/-	Rs.50,000/-	Reasonable
	TOTAL	Rs.5,19,000/- limited to Rs.5,00,000/-	Rs.2,91,980/- (Rupees Two Lakhs Ninety One Thousand Nine Hundred and Eighty Only)	

19. The scooter bearing Reg. No. KL 29 K 3731 owned by the respondent had no valid insurance policy at the time of accident. That means, the respondent is liable to pay an amount of **Rs.2,91,980/- (Rupees Two Lakhs Ninety One Thousand Nine Hundred and Eighty Only)** to the petitioner as compensation. The petitioner is entitled to get a reasonable interest at the rate of 8% from the date of

petition till the date of realization. Hence, these points are found in favour of the petitioner.

20. **Point No. 4:** From the discussions made in the aforesaid points, it is found that this petition is liable to be allowed with costs.

In the result, the petition is allowed as follows:

1. The petitioner is allowed to realize an amount of **Rs.2,91,980/- (Rupees Two Lakhs Ninety One Thousand Nine Hundred and Eighty Only)** with 8% interest from the date of petition viz., 13-07-2021 till the date of realization from the respondent.
2. The petitioner is allowed to realize the cost of the proceedings from the respondent.
3. Respondent shall deposit the court fee of Rs.4,373/- and additional court fee, if any payable and LBF of Rs.5,000/-.
4. Respondent shall deposit the awarded amount of **Rs.2,91,980/- (Rupees Two Lakhs Ninety One Thousand Nine Hundred and Eighty Only)** with 8% interest from the date of this petition, that is, 13-07-2021 in A/C No. 42770025549 with IFSC code SBIN0008645 of State Bank of India, Mavelikara Branch maintained by the Motor Accident Claims Tribunal, Mavelikara by way of electronic fund transfer within 3 months from the date of this award in obedience to Circular No. 1/2024.
5. Respondent shall file a statement before the Motor

Accident Claims Tribunal, Mavelikara after transfer of amount showing that the amount deposited pertains to award dated 31-07-2025 passed in OP(MV) 678/2021 of MACT, Mavelikara with bank transaction reference ID for easy reference.

6. Office shall transmit the amount deposited by the respondent to the bank account of the petitioner.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in the open Tribunal on this the 31st day of **July, 2025**)

Sd/-

AAJ SUDARSAN

MOTOR ACCIDENTS CLAIMS TRIBUNAL

Appendix :

Exhibits for the Petitioner:

A1	01.02.2021	Copy of FIR
A2	01.02.2021	Copy of Statement (FIS)
A3	02.02.2021	Copy of Scene Mahazar
A4	10.02.2021	Copy of Vehicle Mahazar
A5	01.02.2021	Copy of Final report (Charge sheet)
A6	24.01.2021	Copy of Wound Certificate
A7	30.01.2021	Discharge Summary
A8		Copy of Aadhar

Exhibits for the Respondents: Nil

Witness for the Petitioner: Nil

Witness for the Respondent: Nil

Court Exhibit: Nil

Third Party Exhibit:

X1 27.12.2024 Disability Certificate

Id/-
AAJ SUDARSAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

Memo of Costs in OP (MV) 678/2021

Sl. No.	Particulars	Amount	
		Rs.	Ps.
1	Court Fee	4373	00
2	LBF	5000	00
2	Vakalath Fee	5	00
3	Document Fee	20	00
4	Petition Fee	30	00
5	Advocate fee	16999	00
6	Other expenses	1000	00
Total		27427	00

$$\begin{aligned}
 \text{Proportionate cost} &= \frac{\text{Award amount} \times \text{Cost}}{\text{Claim amount}} \\
 &= \frac{2,91,980 \times 27,427}{5,00,000} \\
 &= 16,016/-
 \end{aligned}$$

Cost awarded Rs.16,016 /-

Id/-
AAJ SUDARSAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL