

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTINGAL

Present: Sri. Sreekumar.D, Motor Accidents Claims Tribunal

TUESDAY 27th JANUARY, 2026/ 7th MAGHA, 1947

OP(MV) –1060/2020

Applicant:-

Dinakar, S/o Shanmathuran, aged 52 years, Dilidins,
Karunilakkode, Edava P.O, Varkala,
Thiruvananthapuram(Dist), PIN.695311.

By Advocate: - Sri.Kallambalam.S.Shajahan.

Respondents:-

1. Geetha, S/o Sasankan, S.G Land, Palayamkunnu, Chemmaruthi,
Thiruvananthapuram (Dist), PIN 695146.
2. Sasankan, S/o Kochuvelu, S.G Land, Palayamkunnu,
Chemmaruthi, Thiruvananthapuram (Dist), PIN 695146.
3. Universal Sompo General Insurance Co Ltd, Ist floor,
Chakra Tower, Vanross junction, Thiruvananthapuram,
PIN.695001.

R1& R2 By Advocate:- Nil

R3 By Advocate:- Sri.A.Gopalakrishnan.Nair.

This Petition having been finally heard on 27.01.2026 and on the same day the Tribunal passed the following.

AWARD

1. Petition filed under section 166 of the Motor Vehicles Act 1988.
2. The petitioner's case is briefly stated as follows:-The accident referred to in this case occurred on 03/08/2020 at about 08.30 p.m., while the petitioner was riding a motorcycle bearing Reg.No.KL-16P-8950 from

Kurakanni to Punnamodu through the Kurakanni -Punnamoolu Public Road. When he reached near the service station at Kurakanni, a car bearing Reg.No.KL-16M-5548, driven by the 2nd respondent in a rash and negligent manner and coming from the opposite direction, hit the motorcycle. As a result, the petitioner fell off the vehicle and sustained serious injuries. He underwent treatment at SSNMM Hospital, Varkala. The respondents Nos.1 to 3 are the registered owner, driver and insurer, respectively, of the offending car. The accident occurred due to the rash and negligent driving of the car by the 2nd respondent. Hence, the petitioner claims compensation from the respondents.

3. The respondents Nos. 1 and 2 remained absent despite notice.

4. The 3rd respondent filed a written statement contending mainly as follows:-The original petition is not maintainable. The car bearing Reg.No.KL-16M-5548 was insured with the 3rd respondent, covering the date of the alleged accident. However, the 3rd respondent has no liability to compensate the petitioner. The accident did not occur due to the negligence of the 2nd respondent. On the contrary, the accident occurred due to the negligence of the petitioner. The petitioner is bound to prove his age, occupation and income. He is also required to prove the injuries sustained by him and the treatments he underwent. The amounts claimed under various heads of compensation are exorbitant. The original petition is liable to be dismissed.

5. On the basis of the pleadings, the following issues were framed for consideration:-

- (1) Who is responsible for the accident referred to in this case?
- (2) Is the petitioner entitled to compensation? If so, what shall be the amount?
- (3) Who is liable to pay the compensation, if any ?
- (4) Reliefs and costs

6. From the side of the petitioner Exts. A1 to A12 were marked . No evidence was adduced from the side of the 3rd respondent.

7. Heard.

8. **Issue No.(1):-** For proving his version, the petitioner has relied on Exts.A1 to A5 documents. Ext.A1 is a copy of the FIR in Crime No.3356/2020 registered on 06/09/2020 at the Varkala Police Station in connection with the accident. Ext.A2 is a copy of the scene mahazar prepared in this connection on 07/09/2020. Ext.A3 is a copy of the mahazar of the vehicles involved in the accident prepared on 20/09/2020. Ext.A4 series consists of the copies of the reports of inspection of the vehicles bearing Reg.Nos.KL-16P-8950 and KL-16M-5548, prepared by the AMVI. According to these documents, the accident was not a result of any mechanical defect in the vehicles. Ext.A5 is a copy of the final report. In Ext.A5 final report, the conclusion of the investigating officer is that the accident occurred due to the rash and negligent driving of the

car bearing Reg.No.KL-16M-5548, by the 2nd respondent. The Hon'ble High Court of Kerala in '**New India Assurance Company Ltd Vs. Pazhani Ammal and Others**': 2011(3) KHC 595, has held as follows: *“Prima Facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the indicttee. If any one of the parties do not accept such a charge sheet, the burden must be on such party to adduce oral evidence. If oral evidence is adduced by any party, in a case where charge sheet is filed, the tribunals should give further opportunity to others also to adduce oral evidence and in such a case the charge sheet will pale into insignificance and the dispute will have to be decided on the basis of the evidence.”* In the absence of contra evidence, the above said evidence adduced by the petitioner, when read in the light of the above said decision, persuades me to hold that the petitioner has proved that the accident referred to this case occurred due to the rash and negligent driving of the car bearing Reg.No.KL-16M-5548, by the 2nd respondent. Issue No.(1) is answered accordingly.

9. **Issue No. (2)** :The petitioner has produced the records relating to the treatment undergone by him following the accident, to show that he had sustained injuries in the above accident .

10. Ext.A6 is a copy of the accident-register-cum-wound certificate issued from the Sivagiri Sree Narayana Medical Mission Hospital, Varkala showing that he had sought treatment at that hospital on 03/08/2020, with a

history of RTA which occurred on that date. Ext.A7 is a discharge summary issued from the above hospital which shows that the petitioner was treated there as inpatient for 3 days from 03/08/2020 to 05/08/2020. The discharge summary reveals that the petitioner sustained **fracture right acetabulum**.

Treatment given and course in the hospital:

Admitted and managed conservatively. Surgeon consultation done. Absolute rest x 6 weeks.

Ext.A8 is a scan report in respect of both hips (plain). The document shows that the petitioner sustained comminuted minimally displaced fractures of the right acetabular cavity, roof quadrilateral plate and the anterior and posterior columns of the right acetabulum are seen with fracture lines extending superiorly into the right iliac bone and medially into the right superior pubic ramus. Subtle step artefact along the outer cortex of the right inferior pubic ramus-? Hairline fracture/artefact. Minimal widening of central and inferior joint space in right hip joint likely minimal hemarthrosis. Bulky right obturator externus muscle and right iliacus muscle adjacent to the fractures-s/o intramuscular hematoma. Minimal fat stranding and soft tissue thickening noted along the right lateral pelvic wall along right internal iliac vessels, right paravesical region and in right lesser sciatic notch.

11. I have already found under Issue No.(1) that the accident in which the petitioner sustained injuries occurred due to the negligent driving of

the offending car by the 2nd respondent. Thus, the petitioner has proved his entitlement to compensation. Now, the question remains with respect to the quantum of compensation.

12. According to the petitioner, at the time of the accident, he was doing business with an income of ₹25,000/- per month. Ext.A9 Adhaar card shows that the date of birth of the petitioner is 28/05/1967. It means the petitioner was 53 years old at the time of the accident. But there is nothing on record to prove his job or to show his exact income at the time of the accident. Therefore, for the purpose of determining the compensation payable under the head 'loss of earning' and the allied heads, the only option available is to fix a reasonable amount as his income. The Hon'ble High Court in **Latheef @ Abdul Latheef V.Noufal P.P, reported in 2024 KHC 1687** by referring to G.O.(P) 56/2017/Fin. Dated 28/04/2017 and referring to the decision of the Apex Court in **Angad Tiwari and Another V. National Insurance Company Limited and Another** in civil appeal No.10950/2024, fixed the notional income of an Agricultural Labourer as ₹17,325/- per month. The above G.O. prescribes the minimum wages payable under the provisions of the Minimum Wages Act,1948 with effect from 01/04/2017. Thus, in the case on hand, a minimum wage of ₹17,325/- can be fixed as notional income.

13. While considering the nature of injuries sustained and the age of the petitioner, it is reasonable to conclude that the petitioner must have taken at

least 4 months' time to recover and therefore, can be presumed to have lost his earnings during that period. Therefore, I am inclined to award an amount of ₹69,300/- under the heading 'Loss of income'.

14. Considering his visits to the hospitals in connection with his treatment, an amount of ₹3,000/- is awarded towards 'Transportation Expenses'.

15. Considering the grievous nature of the injuries sustained by him, an amount of ₹3,000/- is awarded for 'Extra Nourishment Expense'.

16. I am inclined to award an amount of ₹1,500/- for 'Damages to Clothing'.

17. Since the petitioner was treated as an inpatient for 4 days, an amount of ₹1,500/- is awarded as 'By-stander expense', calculated at the rate of ₹500/- per day.

18. Though an amount of ₹2,00,000/- is claimed as medical expenses, the petitioner has not produced any medical bill to substantiate the said claim. No reasons are forthcoming for the non production of the medical bills if any. In the absence of medical bills, I am not inclined to grant any amount as compensation under the head 'Medical expense'.

19. Considering the gravity of injuries sustained by the petitioner, his hospitalization and the sufferings, I am inclined to award an amount of ₹55,000/- as compensation for 'Pain and Suffering'.

20. Considering the discomfort, unhappiness and inconvenience which the petitioner would suffer on account of the injury sustained in the accident, an amount of ₹50,000/- is also awarded as compensation for 'loss of amenities of life'.

21. The gravity of the injury suffered by the petitioner is such that it would cause some adegree of functional disability and there by a reduction in his earning capacity to that extent. Now, as laid down by the Hon'ble Apex Court in '**Rajkumar Vs. Ajayakumar : (2011) 1 SCC 343,**' the reduction in the earning capacity of the petitioner caused on account of said permanent disability is to be determined by this Tribunal. Hence, I am of the view that, there would be some reduction in the earning capacity of the petitioner on account of the permanent functional disability caused by the grievous injuries sustained in the accident. In the absence of any materials substantiating his occupation, treating him as a casual labourer, I assess the percentage of reduction in his earning capacity as 8%. As the petitioner was aged 53 years old at the time of the accident, the multiplier applicable is 11 as per the decision of the Hon'ble Apex Court in '**Sarla Verma Vs. Delhi Transport Corporation' : 2010(2) KLT 802.**' Therefore, the loss of earnings on account of said permanent disability would be ₹1,82,952/-.

22. The petitioner is thus entitled to get a total compensation of **₹3,66,300/-(Rupees Three Lakh Sixty Six Thousand Three Hundred Only)**

as shown in the table below:

Sl. No.	Head of claim	Amount claimed	Amount awarded	Basis-Vital Details in a nutshell
<u>Part-I</u>				
1	Loss of earning	1,20,000	69,300	17325 x 4 months
2	Loss of earnings(partial)	Nil	Nil	
3	Transportation charges	50,000	3,000	Travel to and from the hospital
4	Extra Nourishment	25,000	3,000	Considering the grievous injuries sustained by the petitioner
5	Damage to Clothing	1,500	1,500	
6	Medical expenses	2,00,000	Nil	-
7	By-stander expenses	12,000	1,500	500 x 3 days
<u>Part-II</u>				
8	Pain and suffering	1,00,000	55,000	Considering the grievous injuries sustained by the petitioner .
9	Compensation for permanent or continuing disability	1,25,000	1,82,952	17,325 x 12 x 11 x 8%
10	Compensation for loss of future earning power	7,00,000	Nil	Nil
11	Loss of amenities of life	2,00,000	50,000	Considering the grievous injuries sustained by the petitioner
(Claim limited to ₹10,00,000/-)		15,33,500 =====	₹3,66,252/- = = = = =	
Total award amount				
Rounded of			₹3,66,300/- =====	

(Rupees Three Lakh Sixty Six Thousand Three Hundred Only)

Issue No.(2) is answered accordingly.

23. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the car bearing Reg.No.KL-16M-5548, by the 2nd respondent. Hence, the 2nd respondent is liable to pay compensation to the petitioner. The 1st respondent, who is undisputedly the owner of the offending car, is therefore vicariously liable to compensate the petitioner. It is admitted by the 3rd respondent that the car was insured with the 3rd respondent at the time of the accident. In the absence of any material showing violation of conditions of the insurance policy, I hold that the 3rd respondent, insurer is liable to satisfy the award by indemnifying the 1st respondent, the owner of the car. Issue No. (3) is answered accordingly.

24. **Issue No.(4):-** In view of my findings on Issue Nos.(1), to (3) the petition is allowed in part and an award is passed as follows:

(1) Respondent Nos. 1 and 2 are jointly and severally liable to pay an amount of **₹3,66,300/-(Rupees Three Lakh Sixty Six Thousand Three Hundred Only)** to the petitioner with interest at the rate of 8% per annum from the date of petition [04/11/2020] till realization or payment with proportionate costs.

(2) The 3rd respondent is directed to deposit the awarded sum directly to the credit of the Savings Bank Account of Dinkar.S, A/c

No.99980106182640 of Federal Bank, Nadayara Branch with IFSC Code: FDRL0001766 & GMAPS9206Q as per Ext.A10 and A11 series documents furnished by the petitioner and send a copy of the payment advice to this Tribunal and also serve a copy of the same to petitioner or his counsel, as required by Hon'ble High Court in its Circular No.01/2025 dated 19/09/2025. In case of TDS. form 16-A of Income Tax Act 1961 shall be provided to the petitioner to enable him to seek refund of tax deducted. The petitioner shall furnish either a certificate of the banker giving details of the bank account or a copy of a cancelled cheque of the bank account in compliance with the above circular.

(3) The 3rd respondent shall produce cheques for ₹9,373/- and ₹10,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Attingal, payable in the case.

(4) Upon deposit being made, 3rd respondent shall submit to the Tribunal a copy of the bank advice and a memo in the prescribed format. A copy of payment advice, along with a copy of memo shall also be served on the contesting parties and their respective counsel, if any.

(5) The office is directed to make necessary entries in the registers maintained in the office evidencing payment of amount to the petitioner.

(6) The 3rd respondent is directed to pay the amount within one month failing which the petitioner can recover the same in accordance with law.

Dictated to the C.A., transcribed and typed by her, corrected by me and pronounced in open court on the 27th day of January, 2026.

Sd/-

SREEKUMAR.D
MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Exhibits for the Applicant:

A1-06.09.2020	: Copy of FIR and FIS Crime No. 3356/2020 Varkala Police Station.
A2-07.09.2020	: Copy of Scene Mahazar.
A3-20.09.2020	: Copy of Seizure Mahazar.
A4-23.09.2020	: Copy of AMVI Report.
A5	: Copy of Final Report.
A6-03.08.2020	: Accident Register Cum Wound Certificate.
A7-05.08.2018	: Discharge Summary issued from Sivagiri Sree Narayana Medical Mission Hospital.
A8-03.08.2020	: Copy of Scan Report from Devi Scans.
A9	: Copy of Aadhar Card.
A10	: Copy of Bank Passbook.
A11	: Copy of PAN Card.
A12	: Certificate from Bank .

Exhibits for the Respondent: Nil

Court Exhibits: Nil

Witness for Both Sides: Nil

Id/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MEMO OF COSTSCost for the Applicant:

Court fee and Additional Court fee	Rs. 6699/-	
Petition fee	Rs. 25/-	
Vakalath fee	Rs. 5/-	
Process fee	Rs. 90/-	
Document fee	Rs. 100/-	
Advocate fee (As per certificate)	Rs.20015/- (Certificate produced)	

Total	Rs. 26934/-	(Order for realization)
	=====	

Cost for the Respondents:

Vakalath fee	Rs. 5/-	
Petition fee	Rs. 30/-	

Total	Rs. 35/-	(No order for realization)
	=====	

Sd/-**MOTOR ACCIDENTS CLAIMS TRIBUNAL**

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

Typed by:Raji
 Compared by:Jr
 FCS:

Copy of Award in OP(MV) 1060/2020

Dated : 27/01/2026