

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY

Present :- Smt. Nirmala T.K., Judge, Motor Accidents Claims Tribunal,

Monday, 2nd day of March, 2026

OP(MV)No.932/2021

Joseph.P.M. @ Babu,	]	
S/o Mathai, aged 51 years, Parakkattu,	]	
Perinkari, Perinkari.P.O., Vilamana amsom,	]	Petitioner
Iritty Taluk, Kannur District.	]	

VS

- | | | |
|---|---|-------------|
| 1. Usman.K.M., |] | |
| S/o Moidu.K.M., aged 56 years, Kikkara, |] | |
| Cheyandane Village, P.O.Madikeri, Madikeri |] | |
| Taluk, Coorg District, Karnataka State, |] | |
| (Driver and Owner) |] | |
| 2. The Manager, |] | |
| Bharat AXA General Insurance Co.Ltd, |] | |
| 1 st Floor, Annapoorna Arcade, Above Raghu |] | Respondents |
| Scanning, Opp to NEPS Police Station, |] | |
| BH Road, Tumkur, Karnataka State. |] | |
| 3. <u>Suppl.respondent</u> |] | |
| ICICI Lombard, |] | |
| GIC Ltd, ICICI Lombard House, 414, |] | |
| Veer Savarkar marg, Near Sidhivinayak |] | |
| Temple, Prabha Devi, Mumbai. |] | |
| (Impleaded and amended as per order in |] | |
| IA 2/24 & 3/24,dated 23.05.2024) |] | |

This petition coming on 31st day of December 2025 for final hearing before me in the presence of Sri.Hameed.K., Advocate for the petitioner; of Sri.Georgekutty Abraham, Advocate for the 1st respondent ; and of Sri.K.A.Sajeevan, Advocate for the suppl.respondent No.3 ; respondent no.2 remained exparte; and having stood over for consideration till this day, the Tribunal passed the following:

AWARD

This is an application filed u/s 166 of the Motor Vehicles Act, 1988.

2. The case of the petitioner is that on 14/02/2021 at about 19.10 hours, while he was travelling in a scooter, a car bearing registration No.KA-12-MA-9329 driven by 1st respondent in a rash and negligent manner hit the scooter in which the petitioner was travelling. As a result, petitioner sustained grievous injuries. The accident occurred solely due to the rash and negligent driving of the Car by the 1st respondent. The 1st respondent is the owner and 2nd respondent is the insurer of the car bearing registration No.KA-12-MA-9329. Therefore, respondents 1 and 2 are liable to pay compensation to the petitioner for the injuries sustained in the accident.

3. Respondent No.1 appeared and filed written statement admitting that he was the driver cum owner of the car bearing registration No.KA-12-MA-9329 at the time of accident. But the allegation of negligence against 1st respondent is denied. It is further stated that the compensation claimed by the petitioner is highly exaggerated and without any basis. The vehicle was insured with 2nd respondent and therefore, 2nd respondent is liable to pay compensation to the petitioner, if the petitioner is found to be entitled to get compensation.

4. The 2nd respondent did not appear and hence, 2nd respondent is set exparte.

5. After filing claim petition, the petitioner filed I.A 2/2023, for impleading ICICI Lombard General Insurance Company Ltd., as supplemental 3rd respondent, stating that the 2nd respondent is merged with ICICI Lombard General Insurance Company Ltd. Therefore, ICICI Lombard General Insurance Company Ltd is impleaded as 3rd respondent as per the order in I.A. 2/2023 and the claim petition is amended as per the order in I.A. 3/2023.

6. On receipt of notice, supplemental 3rd respondent appeared and filed written statement admitting that the car involved in the accident was insured with 3rd respondent in the name of 1st respondent at the time of accident. But the allegation of negligence against 1st respondent is denied. It is further stated that compensation claimed by the petitioner under various heads is exaggerated and without any basis. Therefore, respondent No.3 prayed for dismissal of the petition with costs.

7. On going through the contentions raised by both sides, following issues arise for consideration:-

1. What is the reason for the accident?
2. Whether the petitioner sustained injuries in the accident?

3. Whether the petitioner is entitled to get compensation and if so, who is liable to pay the same?
4. If issue Nos.1 to 3 are decided in favour of the petitioner, what should be the quantum?
5. Reliefs and costs?

8. No oral evidence is adduced by either side. Exhibits A1 to A13 documents were marked on the side of the petitioner. No documents produced on the side of the 3rd respondent.

9. Heard both sides.

10. **Issue No. 1:-** According to petitioner, the accident occurred due to the rash and negligent driving of the car bearing registration No.KA-12-MA-9329 by the 1st respondent. To prove the negligence alleged against R1, petitioner produced copy of FIR and copy of final report and these documents are marked as Exts.A1 and A12 respectively. Exts.A1 and A12 documents shows that Sub Inspector of Police, Iritty Police station registered Crime No.52/2021 and police after investigation submitted a final report against the 1st respondent, alleging commission of offences punishable under sections 279 and 337 of IPC. It is settled principle of law that unless the contrary is proved, the final report has to be taken as a prima facie evidence of negligence. No contra evidence is adduced by the respondents. Therefore, the documents produced by the petitioner proves that

the accident occurred due to the rash and negligent riding of the 1st respondent. Hence, this issue is answered accordingly.

11. **Issue Nos.2 to 4:-** The documents produced by the petitioner shows that he sustained injuries due to the accident. The petitioner also contend that 1st respondent was the driver cum owner of the car and supplemental 3rd respondent was the insurer and therefore, both respondents are jointly and severally liable to pay compensation to the petitioner for the injuries sustained in the accident. R2 is an unnecessary party in the claim petition. R1 and supplemental 3rd respondent appeared and filed written statement admitting that 1st respondent is the owner cum driver of the car and supplemental 3rd respondent is the insurer of the vehicle at the time of accident. As it is found that the accident occurred due to the rash and negligent driving of the car by the 1st respondent, the supplemental 3rd respondent being the insurer is liable to indemnify the 1st respondent for the compensation to be paid to the petitioner. In short, both respondents are jointly and severally liable to pay compensation to the petitioner for the injuries sustained and payment of compensation shall be made by supplemental 3rd respondent, the insurer.

12. The documents produced by the petitioner shows that that immediately after the accident he was treated from A.K.G Memorial Co-operative Hospital, Kannur for the injuries sustained

in the accident. Petitioner produced copy of wound certificate and discharge summary issued from A.K.G Memorial Co-operative Hospital, Kannur and those documents are marked as Ext.A2 and A3 respectively. The physiotherapy card issued from Mata Physiocare, Iritty is marked as Ext.A6. The medical document shows that petitioner sustained following injuries in the accident.

- 1 Multiple contusions & abrasions over the hands bilaterally, right shoulder, right side of chest, right elbow and right knee.**
- 2 Lacerated wound over right elbow(1x05x0.5cm).**
- 3 Lacerated wound over right elbow**

13. The discharge summary produced by the petitioner shows that she was treated as an inpatient at A.K.G Memorial Co-operative Hospital, Kannur on 15/02/2021 and discharged on 16/02/2021. Therefore, an amount of **₹1,800/-**(2x900) is awarded as expenses for bystander.

14. Considering the nature of injury suffered by the petitioner, an amount of **₹85,000/-** is awarded as compensation for pain and sufferings and **₹35,000/-** is awarded as compensation for loss of amenities of life. An amount of **₹20,000/-** is awarded as compensation for expenses for extra nourishment and **₹4,000/-** as damage to clothing and articles. Considering the attendance of the petitioner before A.K.G Memorial Co-operative Hospital, Kannur for treatment, an

amount of **₹4,000/-** is awarded as compensation for transportation expenses.

15. To prove the medical expenses incurred, petitioner produced Ext.A5 series and Ext.A10 series medical bills for a total amount of **₹27,342/-** (₹15,596/-+₹11,746/-) and therefore, the said amount is granted as medical expenses.

16. The petitioner stated that he was a Mason and earning monthly income of ₹45,000/- and in the injuries sustained in the accident, he could not attend the work for several months and thereby he suffered loss of income. Though, the petitioner stated that he was earning monthly income of ₹45,000/-, no document is produced to prove the same. In the absence of any evidence to prove the monthly income of the petitioner, notional income is to be assessed as per the principle laid down in **Ramachandrappa Vs. Manager Royal Sundaram Alliance Insurance Company LTD, [2011 KHC 4675] and Soman Vs. Jinesh James and others [ILR Kerala 2020(3) page 1003]**. Since the accident occurred in the year 2021, monthly income of the petitioner is assessed to **₹13,000/-** per month. The nature of injuries suffered by the petitioner shows that he may not be able to attend any work for a period of 8 months and therefore, an amount of **₹1,04,000/-(8x13000/-)** is awarded as compensation for loss of income.

17. In view of the above inputs, following amounts are awarded:-

SUMMARY OF CLAIMS RAISED AND ALLOWED

Sl. No.	Head of claim	Amount Claimed ₹	Amount Awarded ₹	Basis-vital details in a nut shell
1	Loss of earnings partial loss of earning	2,70,000/-	1,04,000/-	(13000x8)
2	Bystander's expenses	50,000/-	1,800/-	
2	Transport to hospital	30,000/-	4,000/-	
3	Extra nourishment	10,000/-	20,000/-	
4	Damage to clothing and articles	10,000/-	4,000/-	
5	Medical expenses	30,000/-	27,342/-	
7	Compensation for Pain and suffering.	2,00,000/-	85,000/-	
8	Compensation for continuing and permanent disability	1,50,000/-	--	
9	Compensation for loss earning power, loss of amenities of life.	1,50,000/-	35,000/-	
T O T A L		9,00,000/-	2,81,142/-	

Thus the petitioner is entitled to get an amount of **₹2,81,142/-** and the same is rounded to **₹2,81,500/-** as compensation. Issues are answered accordingly.

18. **Issue No.5:-** In view of the above findings, this petition is allowed in part. Petitioner is entitled to get an amount of **₹2,81,500/- (Rupees two lakh eighty one thousand and five hundred only)** with interest at the rate of 8% per annum from the date of petition (23/10/2021) till realization with

proportionate costs. Petitioner is liable to pay **₹8,368/-** being balance court fee and **₹9,000/-** being the additional court fee towards legal benefit fund.

In the result, supplemental 3rd respondent is directed to make following payments within a period of one month.

1. Suppl. 3rd respondent shall furnish a cheque for **₹8,368/- (Rupees eight thousand three hundred and sixty eight only)** being the balance court fee in favour of MACT, Thalassery.

2. Suppl. 3rd respondent shall furnish a cheque for **₹9,000/-(Rupees nine thousand only)** being the additional court fee towards legal benefit fund in favour of MACT, Thalassery.

3. Suppl. 3rd respondent is directed to transfer the entire balance amount due to the petitioner in the Savings Bank Account shown below within a period of one month as directed by Hon'ble High Court in circular number 1/2025 dated 19.09.2025.

Name of Bank	Name of Branch	Account Number	IFSC Code
Federal Bank	Vallithode	11740100123130	FDRL0001174

4. The copy of Ext.A13 bank passbook produced by the petitioner and duly attested by the Bank Manager shall form part

of the award for the purpose of facilitating the transfer of compensation amount to the bank account of the petitioner.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 2nd day of March, 2026).

MOTOR ACCIDENTS CLAIMS TRIBUNAL

Petitioners' exhibits:-

A1	16.02.2021	Copy of FIR in crime No. 52/2021, Iritty Police station
A2	-	Copy of wound certificate
A3	16.02.2021	Discharge summary
A4	14.02.2021	Ambulance bill
A5	series	Medical bills
A6	-	Physiotherapy Card
A7	15.04.2021	Medical certificate
A8	series	Prescriptions
A9	-	Copy of Adhar card
A10	series	Medical bills
A11	-	Copy of PAN Card-EPTPM8700P
A12	01.03.2021	Certified copy of FIR in crime No. 52/2021, Iritty Police station
A13	-	Copy of bank pass book

Respondent's exhibits:-Nil

Witness on bothsides- Nil

MOTOR ACCIDENTS CLAIMS TRIBUNA

**ACCIDENTS CLAIMS
TRIBUNAL, THALASSERY**

Fair/Copy/Free copy of

AWARD

in

OP(MV)No.932/2021

Dated: 02.03.2026