IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PERUMBAVOOR

Present: - Smt. Smitha George, Motor Accidents Claims Tribunal

Thursday, the 4th day of June, 2026/ 14th day of Jyeshta 1948.

O.P. (MV) No. 2295/2022

Claimant:-

Ashkar V.K., aged 25 years, S/o Karim, Vadakedathuparambil House, East Kadungalloor, U.C. College P.O., Aluva. (Driving License No. 41/5445/2018)

By Adv. Jo Jose

Respondents:-

1. Sureshkumar, S/o Ayyappan Pillai, Peechampadinjappurath House, Mulleppillyy Road, East Kadungalloor, U.C. College P.O., Aluva.
2. HDFC Ergo General Insurance Co. Ltd., Chicago Plaza, Rajaji Road, Near KSRTC Bus Stand, Ernakulam P.O.

R1 - By Adv. Martin Paul

R2 - By Adv. Sabu Lonappan

This Original Petition (MV) coming on 04/02/2026 for final hearing before me and having stood over for consideration to this day the Tribunal passed the following:

AWARD

This is a petition filed u/s 166(1)(a) of the Motor Vehicles Act for compensation of an amount of Rs.9,00,000/-, for the injuries sustained by the petitioner in the alleged motor vehicle accident.

2. **The facts of the case**:-

On 23.07.2022 at about 9.30 p.m, while the petitioner was riding Motorcycle bearing Regn.No.KL-41/S-7305 through East Kadungalloor – Thottakkattukara road and reached near Thottakkattukara, a Tempo bearing Reg.No.KL-7/AK-1613, driven by the first respondent in a rash and negligent manner came from the opposite direction and hit on the petitioner, resulting in serious injuries to him. On sustaining injuries, he was taken to Karothukuzhi Hospital, Aluva and from there he was taken to Medical Trust Hospital, Ernakulam and was treated there as an inpatient. According to the petitioner the accident occurred due to the rash and negligent driving of the Tempo. The registered owner cum driver and insurer of the Tempo are shown as first and second respondents respectively.

3. **Version of the respondents**:- First respondent appeared and filed written statement admitting the accident but denying any negligence on the part of first respondent. It is contended that the accident occurred solely due to the negligence of the petitioner himself who was crossing the road in a rash and negligent manner without caring the vehicles plying on the road. It is further submitted that the first respondent was holding valid driving licence and the vehicle was validly insured with the second respondent. First respondent also denies the claims under various heads.

4. Second respondent appeared and filed written statement admitting the insurance of the Tempo bearing Reg.No.KL-7/AK-1613 at the time of accident, but denying any negligence on the part of first respondent. It is contended that the accident occurred solely due to the negligence of the petitioner himself who was riding the Motorcycle in a negligent manner without caring the vehicles plying on the road. It is also contended that first respondent neither inform the accident nor

produced the vehicular documents for verification. It is further contended that the vehicle had no valid fitness certificate and permit at the time of accident. So, there is violation of policy conditions and second respondent is not liable to indemnify first respondent. Second respondent also denies the claims under various heads.

POINTS FOR CONSIDERATION:-

6. On the pleadings, the points raised for consideration are as follows:-:

(1) Whether the accident occurred due to the rash and negligent driving of first respondent?

(2) Whether the petitioner is entitled for a compensation as claimed?. If so what is the quantum.

(3) Who is liable to pay the compensation?

(4) Reliefs and costs.

EVIDENCE

7. No oral evidence is adduced for the petitioner and respondents. The evidence in this case consists of Exts.A1 to A9 and Exts.B1 to B4.

8. Perused the evidence on record and heard the counsel for the parties to this petition.

9. Point No.1: Exts.A1 F.I.R., Ext.A2 F.I.Statement, Ext.A3 scene mahazar, and Ext.A5 AMVI's report to prove the accident. Ext.A6 is the charge sheet, as per which first respondent is charge sheeted for the offences punishable under Sections 279 and 338 of the I.P.C. It is specifically stated in Ext.A6 that the accident occurred due to the rash and negligent riding of the Tempo by the first respondent. There is nothing on record to go against the charge sheet. No

evidence, either oral or documentary, is let in to attribute any negligence on the part of the petitioner herein, who was riding the Motorcycle on his correct side. So on perusal of records, it is proved that the accident occurred due to the rash and negligent driving of the Tempo by first respondent. This point is answered accordingly.

10. Point No.2: Ext.A4 is the wound certificate issued from Karothukuzhi Hospital, Aluva which shows that the petitioner was brought to that hospital on 23.07.2022 with injuries sustained in the RTA. Ext.A7 is the discharge summary issued from Medical Trust Hospital, Ernakulam which shows that the petitioner had sustained the following injuries:-

- Type III A open comminuted fracture 1st, 2nd and 3rd metatarsal
- Type III A open fracture distal phalanx great toe with nail plate avulsion right foot
- Extensor halluces longus tendon complete cut right
- Type III A open middle phalanx fracture little finger right

Ext.A7 further shows that he was admitted in the hospital on 24.07.2022 and treated with wound debridement + K wire fixation + extensor halluces tendon repair right foot under SA on 24.07.2022, wound debridement + ORIF middle phalanx right little finger under LA on 24.07.2022 and discharged from the hospital on 27.07.2022. Ext.A8 and A8(a) are medical bills for a total sum of Rs.1,09,061/-, and that amount is awarded towards treatment expenses.

11. As per the petition, the petitioner aged 25 years at the time of accident was a business development officer and his monthly income is shown as

Rs.35,000/-. But no evidence is let in prove the occupation and monthly income of the petitioner. So, relying on the decisions of the Hon'ble Apex Court in ***Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited [(2011) 13 SCC 236]*** and ***Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd., [(2014) 2 SCC 735]*** and also the decisions of the ***Hon'ble High Court of Kerala in MACA No.3777/2019 and MACA No.3798/2019***, considering the year of accident and the socio-economic conditions prevailing over the period of accident, the notional income of the petitioner is fixed as Rs.13,500/- per month. But considering the fact that the petitioner is a Business Development Officer, an increase of Rs.3,500/- can be given to the notional income. So, the income of the petitioner is to be taken as Rs.17,000/-. Considering the nature of injuries and treatment undergone, it appears that the petitioner might have taken complete rest for six months, and so towards loss of earnings Rs.1,02,000/- (Rs.17,000 x 6 months) is awarded as compensation.

12. The petitioner was admitted in the hospital once and had further reviews. So, I award Rs.5,000/- towards transportation expenses. The petitioner was admitted in the hospital for 4 days. So, a sum of Rs.4,000/- each is awarded towards extra nourishment and bystander expenses. The petitioner is also entitled to a sum of Rs.2,000/- towards damage to clothing.

13. Considering the nature of injuries sustained by the petitioner and treatment undergone, a sum of Rs.1,80,000/- is awarded towards compensation for pain and suffering and Rs.1,20,000/- towards loss of amenities and enjoyment in life.

14. Ext.A9 is the disability certificate issued by Dr.Jose Kuriyan Kattukaran, Orthopaedic Surgeon, as per which the permanent physical disability of the petitioner is assessed as 15% as per National Guidelines. Ext.A9 is marked subject to objection. It is seen issued by a doctor who has not treated the petitioner and it is issued in his private capacity. It is evident from Ext.A9 that the doctor had examined the petitioner clinically and radiologically and noted that the petitioner had type III A open comminuted fracture 1st and 2nd metatarsal right, type III A open fracture distal phalanx great toe with nail plate avulsion right, extensor halluces longus tendon complete cut right and type III A open fracture middle phalanx right little finger. Ext.A9 further shows that functionally he is having difficulty to grip strongly with right dominant hand, lift or carry heavy weight, to pull, to push, rotate, drill, hammer, screw, squeeze with dominant right hand, and his permanent whole body disability as per National Guidelines is assessed as 15%. The learned counsel for second respondent vehemently opposed Ext.A9 certificate stating that the assessment is highly excessive and exorbitant. The signatory to the disability certificate is not examined. But at the same time, considering the difficulties of the petitioner, the permanent whole body disability of the petitioner is considered as 8%. The copy of driving licence attached with the

petition shows the date of birth of the petitioner as 16.10.1997, and as such he was 25 years old at the time of accident. Adopting '18' as the multiplier, the petitioner is entitled to a sum of Rs.2,93,760/- (Rs.17,000 x 12 x 18 x 8%) towards 8% disability being suffered by him.

15. Considering the nature of injuries, treatment undergone, and other facts and circumstances of the case, I find that, the petitioner is entitled to get compensation as stated in the following table:

Sl. No.	Head of Claim Compensation for	Amount Claimed (in Rupees)	Amount Awarded	Basis – vital details in a nut shell
1	Loss of earnings	350000	102000	Rs.17000 x 6 months
2	Transport to Hospital	20000	5000	1 IP + reviews
3	Extra nourishment	30000	4000	
4	Medical expenses	130000	109061	Actual medical bills
5	Pain & suffering	300000	180000	
6	Loss of amenities etc.	300000	120000	
7	Permanent disability	600000	293760	Rs.17,000x12x18x8%
8	Attendance charge	30000	4000	Rs.1,000/- x 4 days
9	Disfiguration	100000	NIL	
10	Damage to clothes etc	2000	2000	
	Total	18,62,000/- limited to 9,00,000/-	8,19,821/- =======	

16. <u>Point No.3</u>: It has already been answered in Point No.1 that the accident occurred due to the rash and negligent driving of first respondent. First respondent being the registered owner cum driver is liable to pay compensation. Admittedly second respondent is the insurer. Ext.B1 is the copy of driving licence. Ext.B2 is the copy of RC Book. Ext.B3 is the policy copy and Ext.B4 is the fitness certificate which shows that the vehicle had valid fitness certificate at the time of

accident. So, being the insurer, second respondent is liable to indemnify the owner/R1. Hence it is concluded that first and second respondents are jointly and severally liable to compensate the petitioner. This point is answered accordingly.

17. Point No.4: In the result, this petition is allowed in part, and an award is passed for an amount of **Rs.8,19,821/-** with interest @8% per annum from the date of petition (26.12.2022) till realisation, and the petitioner is also entitled to get proportionate cost. Second respondent is directed to deposit the amount as aforesaid within one month from the date of this award as follows:

Second respondent is directed to make payment of Rs.8,373/- towards court fee, and Rs.9,000/- towards Legal Benefit Fund through e-payment facility to MACT, Perumbavoor

Second respondent shall transfer the balance amount of the compensation with interest and cost as directed above to the persons entitled to receive the compensation as per the Award in the account details which is furnished below.

Name of person entitled to compensation	Name of Bank and Branch	Bank Account Number of the person entitled to compensation	Bank IFSC Code
ASHKAR V K	UCO BANK, ALUVA	25480110096062	UCBA0002548

Second respondent shall submit a memo regarding deposit being made to this Motor Accidents Claims Tribunal enclosing a copy of the Bank Advice.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 4th day of June, 2026.

Sd/-
Smitha George
Judge
Motor Accidents Claims Tribunal.

APPENDIX

Petitioners' Exhibits :-

A1	-	26/07/2022	-	Copy of FIR in Crime No. 1000/2022 of Aluva Police Station.
A2	-	26/07/2022	-	Copy of FIS in Crime No. 1000/2022 of Aluva Police Station.
A3	-	27/07/2022	-	Copy of scene mahazar in Crime No. 1000/2022 of Aluva Police Station.
A4	-	23/07/2022	-	Copy of wound certificate issued from Karothukuzhi Hospital, Aluva.
A5	-	02/08/2022	-	Copy of AMVI report of vehicle No. KL-41-S-7305
A6	-	29/09/2022	-	Copy of final report in Crime No. 1000/2022 of Aluva Police Station.
A7	-	27/07/2022	-	Discharge summary issued from Medical Trust Hospital, Ernakulam.
A8 & A8(a)	-	-	-	Medical Bills
A9	-	10/01/2025	-	Disability Certificate

Respondents' Exhibits :-

B1	-	-	-	Copy of driving license
B2	-	-	-	Copy of Certificate of Registration
B3	-	-	-	Copy of insurance policy
B4	-	28/06/2025	-	Certificate issued from Sub Regional Transport Office, Aluva.

Court Exhibits :- Nil

Witnesses for both sides :- Nil

Id/-
Motor Accidents Claims Tribunal.

MEMO OF COSTS

Petitioner's side:

Court fee	:	₹	8373.00
Addl. Court fee (LBF)	:	₹	9000.00
Stamp for Vakkalath	:	₹	05.00
Stamp on documents	:	₹	30.00
Stamp on petitions	:	₹	20.00
Process Fee	:	₹	150.00
Senior Advocate Fee	:	₹	47400.00
Junior Advocate Fee	:	₹	00.00
Writing Fee	:	₹	100.00

Total	:	₹	65078.00
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Proportionate Cost ₹ **59,288/-** allowed.

Sd/-
Motor Accidents Claims Tribunal

Jb
Compd by: Jpv

NB. The parties should apply as soon as possible for the return of all the documents which they may wish to preserve as the documents are liable to be destroyed after 12 years from this date.

Copy of AWARD

O.P.(MV) Nos. 2295/2022

Dated: 04/06/2026