

**IN THE COURT OF THE III ADDL. MOTOR ACCIDENTS CLAIMS
TRIBUNAL/
IV ADDL. DISTRICT JUDGE, KOZHIKODE
Present:- Sri.Pradeep P, B.com, LLB, III Addl. Motor Accidents
claims Tribunal /
IV Addl. District Judge
Wednesday on 1st day of April, 2026**

IA 1/2026 in OP(MV)No.2015/2022

Muhammed Hisham.T (D.O.B.17.04.2008)

aged 17 years,

S/o Haneefa.P., Parambath,

Parammalangadi, Valavannur,

Tirur Taluk, Malappuram District,

Pin:676 551.

Represented by next friend Mother, Fathima.V,

W/o Haneefa, aged 33 years, Parambath House,

Jappan Padi, Valavannur, Parammalangadi PO,

Tirur Taluk, Malappuram District, Pin:676 551.

(Mob No.8714547720)

Petitioner

And

1. Muhammedali, S/o Moidu,

aged 56 years,

Machincheri,

Thozhuvannoor,

Vattappara, Kattipparuthi,

Tolavannur PO, Tirur Taluk,

Malappuram District, Pin:676 552.

(Owner of Motor cycle bearing No.KL-55-AC-7982)

2. Muhammed Saheel.C, S/o Abdul Salam,

aged 20 years, Chirayil House,

Parammalangadi PO, Jappanpadi, Tirur Taluk,

Malappuram District, Pin:676551.

Mob:9446410018

(Driver of Motor cycle bearing No.KL-55-AC-7982)

Respondents

3. New India Assurance Company Ltd.,
Silver Plaza building, Indira Gandhi Road,
Calicut – 673 004.
(Insured of Motor cycle bearing No.KL-55-AC-
7982

This petition coming on 31st day of March, 2026 for final hearing before me in the presence of Sri.N.V.P. Rafeeqe advocate for Petitioner. R1 and R2 were set ex parte. Smt. Juvairia.N.V. advocate for R3 and having stood over to this day for consideration, the court passed the following:-

ORDER

This is an application filed by the petitioner under Rule 387 of the Kerala Motor Vehicles Rules, 1989 for obtaining a second report from Special Medical Board or Higher Medical Board.

2. The petitioner contends that in the accident her son has sustained serious injuries like displaced fracture proximal humerus @ side, displaced fracture distal metaphysis @ radius, grade II open comminuted fracture lower 1/3rd of tibia and fibula(L) leg, wound debridement, mipe LCP distal Tibia (L), closed tend nail @ humerus, CMR&K Wire fixation DER(R). According to her, his son was sent for medical examination to the Medical Board at Medical College Hospital, Kozhikode and the Board issued a certificate stating 0% disability. Such assessment is incorrect as they had not done proper examination or evaluation eve though the petitioner suffered serious fractures. So, the petitioner claims that he should be referred to Special Medical Board or Higher Medical Board.

3. The insurer objected the petition by filing counter statement stating that the petitioner, a minor was already referred to the duly constituted Medical Board for assessment of disability. The said Medical Board, after clinical examination and evaluation of the relevant medical records, assessed the permanent disability of the petitioner at 0%. The assessment made by the Medical Board is scientific, objective and carried out by competent specialists in accordance with the prescribed guidelines. There is no material irregularity, ambiguity, or deficiency in the assessment warranting interference by this Tribunal. The present petition seeking reference to the Higher Medical Board is filed without any bona fide grounds. So, the petition is liable to be rejected.

4. The point for determination is :-

Is the petition allowable?

5. **The point:-** The Medical Board at MCH, Kozhikode which includes the Professor of Department of Physical Medicine and rehabilitation and Assistant Department of Orthopaedics opined after examining the petitioner in the petition that he has no disability on account of fracture sustained him. There is nothing to show that the assessment is faulty. The evaluation done by the doctors can be seen overleaf of the certificate. It cannot be presumed that once a person sustains a fracture, there will invariably be a corresponding permanent disability, especially in the case of a tender-aged person. The petitioner cannot assume or presume that there will be disability. The assessment of the expert cannot be rejected for the reason that the petitioner disputed the assessment. The Hon'ble Supreme Court in **Union of India and another v. Talwinder Singh [2012 (5) SCC 480]**

has laid down the law that Courts should not ordinarily interfere with the opinion of experts. Except objection based on surmises, no discrepancy ex facie is brought to the notice of this Tribunal to reject the present report and to call for another report. Naturally, the petitioner wants more compensation. If he gets a second opportunity, he might think that the Second Board may assess a better percentage of disability. On that ground, the present report cannot be rejected. I am satisfied that there is no ground for calling for second report. So, petition is liable to be dismissed.

In the result,

The petition is dismissed.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 1st day of April, 2026).

III Addl. Motor Accidents Claims Tribunal