

In The Court of Motor Accidents Claims Tribunal-IV/ Addl.District and Sessions Judge-V, Kozhikode

**Present:- Sri. Jennis Stephen, Motor Accidents Claims Tribunal-IV/
Addl.District and Sessions Judge-V, Kozhikode**

Tuesday the 28th day of April 2026/08th day of Vaishakham,1948

OP(MV) 1325/2021

Between:-

Pushpa, Age:45
D/o Sreedharan,
Orankkokunnummal(House)
Thalayad(Post)
Kozhikode District-673574

Petitioner

And:-

- 1 Antony Thomas, aged 51 years
S/o Thomas
Anithottathil(House)
Thamarassery(Post)
Kozhikode District-673573(PIN)
DL.No.11/1803/1989
(Driver of KL-39-K-9522 Maruti esteem Car)
- 2 Sebastian, S/o Kriacko, age not known
House NO.6/383,
Kollankulangara,
Puthencruz(Post)
Ernakulam-682308(PIN)
(RC Owner of KL-39-K-9522 Maruti esteem Car)
- 3 United India Insurance Company Ltd,
Branch Office: Maharani Shopping
Complex, 1st Floor, Main road
Karadi, Thamarassery, Kozhikode District
673573(PIN)
Policy No.3004033119P113898401
Period Validity:29.01.2020 to 28.01.2021
(Insurer of the KL-39-K-9522)

Respondents

This petition is coming on this the 27th day of April 2026 for final hearing before me in the presence of Sri. C T Ahammedkutty & Sri. Aneesh Panachingal Advocates for petitioner and Sri. Muhammed Suhail Thangal Advocate for 1st & 2nd Respondents and Smt. Sougandhi M Advocate for 3rd

Respondent and having stood over to this day for consideration the court passed the following:

AWARD

The above application is filed u/s 166 and 140 of the Motor Vehicles Act (hereinafter referred to as 'the MV Act' for short), 1988, claiming compensation by the petitioner for the injuries sustained to her in a road traffic accident.

2. The case of the petitioner, as stated in the petition in brief, is as follows:- On 02.12.2020, at about 2.00 p.m, while the petitioner was riding her Scooter bearing registration No.KL 56 R 4523, with her uncle as pillion rider, from Kozhikode to Thamarassery and when reached at Parappanpoyil, a Car bearing Registration [No.KL](#) 39 K 9522 came from the opposite direction, driven by the 1st respondent, in over speed and rash and negligent manner and hit the petitioner's vehicle. Due to the impact of the hit, the petitioner and her uncle fell down on the road and the petitioner sustained injuries. The petitioner was immediately taken to Govt. Taluk hospital, Thamarassery and then also treated at Santhi hospital, Omassery and River shore hospital, Poonoor. According to the petitioner, the first respondent is the driver, second respondent is the RC owner, and third respondent is the insurer of the offending Car bearing Registration [No.KL](#) 39 K 9522 at the time of the accident, are jointly and severally liable to pay compensation to the petitioner.

3. Notice was issued to respondent Nos. 1 to 3. On receipt of the notice, respondent Nos. 1 and 2 appeared through counsel.

4. Respondent No.3 filed written statement. The respondent admits that the Car bearing Registration [No.KL](#) 39 K 9522 was insured with the respondent at the time of the accident. But this respondent disputed the ownership of the offending vehicle. It is contended that as per the sale agreement dated 24.11.2020, the respondent No.1 is the owner of the vehicle at the time of accident. According to respondent No.3, there was no negligence on the part of the 1st respondent and the accident was caused due to the negligence of the petitioner herself. This respondent also disputed the age, occupation, income, treatment expenses etc., of the petitioner as stated in the petition. It is also contended by the 3rd respondent that the amount claimed by the petitioner is highly excessive.

5. On the basis of the above pleadings, the following issues are framed for consideration:

1. Was the accident caused due to the negligence on the part of the 1st respondent as alleged ?
2. Did the petitioner sustain injuries in the accident?
3. Is the petitioner entitled to get the 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 ?

6. In order to prove the case of the petitioner, Exts.A1 to A8 series were marked on the side of the petitioner. No oral evidence was adduced by the

petitioner. No oral or documentary evidence was adduced on the side of respondents.

7. **Issue No.1:-** To prove the negligence of the respondent No.1 driver of the offending Car, the petitioner relied on Ext.A1 FIR and Ext.A2 final report. Ext.A2 final report would show that, on 02.12.2020, at 7.30 a.m, at Parappanpoyil, Raroth Village in Thamarassery Taluk, the Car bearing Registration [No.KL](#) 39 K 9522, driven by the accused/1st respondent herein from Thamarassery to Koduvally in a rash and negligent manner and hit the Scooter bearing registration No.KL 56 R 4523 riding by the petitioner with CW2 as pillion rider. Due to the impact of the hit, the petitioner and pillion rider of the Scooter were thrown out of the road and the petitioner sustained injuries. Thus the respondent No.1 committed offences punishable under sections 279 and 338 of the Indian Penal Code.

8. In **Jai Prakash v. National Insurance Co.Ltd. [2010 ACJ 455 SC]**, the Hon'ble Supreme Court has observed that “*even on the basis of FIR, the tribunal may decide the claim case*”. It is also held in **New India Assurance Co. Ltd. v. Palani Ammal [2011(3)KLT 648]** that “*final report is a prima facie evidence of the proof of negligence against the indictee and if any party has a grievance against the findings of the final report, they can adduce separate evidence.*” No contra evidence has been adduced by the respondents. The same dictum was laid down by the Hon'ble High Court of Kerala in **Samadh v. Binu (ILR 2020 (3) Kerala 267)**. In the said situation, the case of the petitioner with regard to the cause of the accident, which appears to be a believable and probable case, has to be accepted. So, I hold that the evidence adduced is sufficient to prove that the

accident occurred due to rash and negligent riding of the respondent No.1. Issue No.1 is answered in favour of the petitioner.

9. **Issue No.2:-** The next issue to be considered is whether the petitioner sustained bodily injury arising out of the accident by using a motor vehicle. The petitioner has produced Exhibit A3 Accident Register-Cum-Wound Certificate to show that the petitioner suffered injury in the Road Accident. Ext.A4 OP sheet and Ext.A5 series medical prescriptions of the petitioner shows that the petitioner was treated as an outpatient in Taluk hospital , Thamarassary and River Shore hospital, Poonoor. Considering all these, I am satisfied that the petitioner suffered injuries in the accident. It follows from Ext.A2 wound certificate that the petitioner sustained **pain at left side hip, leg and ankle joint, swelling left ankle joint.** The petitioner has also produced Ext.A8 series Medical bills. These documents prove that the petitioner sustained injury in the accident. This issue is answered in favour of the petitioner.

10. **Issue No.3:-** It is already found that the petitioner sustained injuries is evident from Ext.A2 Wound Certificate, Ext.A4 OP sheet, Ext.A5 series prescriptions and Ext.A8 series medical bills. It appears from the documentary evidence that negligence from the part of the 1st respondent had contributed to the accident. Being a person sustained injury in a road traffic accident, the petitioner is entitled for getting compensation. Going by Ext.A2 final report, the respondent No.1, who was the driver of the offending Car is charged with offences punishable under sections 279 and 338 of the Indian Penal Code. The respondent No. 3 in its written statement, contended that the accident was caused by the negligence of the

petitioner herself. Contributory negligence is a factor to be specifically pleaded and proved by a party who alleges contributory negligence. When the claimant adduced sufficient prima facie evidence to prove negligence on the part of the offending vehicle and none of the respondents adduced rebuttal evidence to outweigh her evidence, the claimant's right of compensation cannot be defeated by holding contributory negligence against the claimant based on surmises. The third respondent has got a contention that as on the date of the accident, the second respondent was not the registered owner of the vehicle and the 1st respondent was the owner of the vehicle at the time of accident. The RC was changed to the name of first respondent with effect from 24.11.2020. Since the accident was on 02.12.2020, the 1st respondent was the owner of the vehicle as on the date of the accident. This issue is answered accordingly.

11. **Issue No.4:-** The petitioner claimed ₹1,00,000/- under the head loss of earnings from 02.12.2020. The petitioner has produced Exhibit A6, Aadhar card to prove the age of the petitioner. In Exhibit A6, the year of Birth is shown as 1975. The accident was on 02.12.2020. Thus, on the date of the accident, the petitioner was 45 years old.

12. According to the petitioner, the petitioner was worked as an employee in Kinaloor Rubber Estate and earning ₹20,000/- per month. However no material was placed to substantiate the income. In **Soman V. Jinesh James and Others (2020(4) KHC 623)**, the Hon'ble High Court of Kerala held that a coolie was fixed with a notional income of Rs.4,500/- per month in the year 2004 in **Ramachandrappa V. Manager Royal Sundaram Alliance Insurance Company**

Limited (2011) 13 SCC 236. The Hon'ble Supreme Court has also recognized the principle that there would be incremental enhancement of income every year in the case of even self employed individuals in un-organized sectors (**National Insurance Company V. Pranay Sethi and Others AIR 2017 SC 5157**) and with respect to an unspecified job of a coolie, considering the increase in the cost of living and economic advancements over the years, it can be safely assumed that even a coolie would be eligible for incremental addition of at least ₹500/- in every subsequent year. Hence, during the year 2020, the notional income can be taken as ₹12,500/- for the purpose of calculating the loss of income.

13. Ext.A3 wound certificate issued from Govt. Taluk hospital, Thamarassery would show that due to the road traffic accident, the petitioner suffered '**pain at left side hip, leg and ankle joint, swelling left ankle joint.**' Considering the nature of injuries sustained by the petitioner, and the petitioner being a coolie, I am inclined to hold that the petitioner could not work for 1 month. I am inclined to allow **₹12,500/-** (12,500x 1 month) under this head as compensation.

14. The petitioner claimed ₹3,000/- towards transportation charges. An amount of **₹1,000/-** is granted, considering the nature of her injury and the distance of travel to the hospital.

15. Under the head of damage to clothing and articles, the petitioner has claimed ₹2,000/- and under the head of extra nourishment, the petitioner has claimed ₹10,000/-. Towards extra nourishment, I am inclined to grant **₹1,000/-** and towards damage to clothing and articles **₹ 1,500/-** is granted.

16. The petitioner claimed ₹6,000/- under the head of remuneration paid to bystanders. The petitioner sustained only minor injuries in the accident and she was treated as an outpatient. Hence the claim under this head is rejected.

17. The petitioner claimed ₹1,00,000/- for treatment expenses already spent and ₹1,00,000/- for future treatment. The petitioner has produced Ext.A8 series medical bill for ₹3,671/-. In the Medical Bills, a total amount of ₹1,099/- objected by the third respondent, stating that the Bills produced are of the years 2024 and 2025. The accident was on 02.12.2020. Considering the above, I find the objections against the medical bill are valid. I am inclined to allow ₹2,572/- under the head of medical expenses. The injuries are minor in nature. Therefore the claim of compensation for future treatment is rejected.

18. The petitioner claimed ₹1,00,000/- under the heading of compensation for pain and suffering. Every injury in a road traffic accident generates pain and suffering for the victim, and it is the duty of the Tribunal to award an adequate amount towards compensation for pain and suffering. The estimation on this behalf depends largely on the nature and gravity of injuries, the period of treatment, and the procedure followed during the course of treatment. Here, the petitioner suffered minor injuries. So, towards pain and suffering, an amount of ₹10,000/- is granted.

19. The petitioner claimed ₹6,00,000/- under the heading of continuing or permanent disability. The petitioner suffered minor injuries only in the accident and was treated as an outpatient. The petitioner has not produced a

disability certificate from properly constituted medical board. Therefore, the claim for compensation for continuing permanent disability is rejected.

20. The petitioner claimed ₹1,00,000/- under the head loss of amenities of life and ₹2,00,000/- under the head loss of earning power. Now the question is how far the injuries have affected the amenities and enjoyment of life, and the earning power of the petitioner. The petitioner has sustained only minor injuries in the accident. Hence the above claim for compensation under these heads are rejected.

21. The petitioner claimed ₹2,00,000/- for future prospects and also claimed ₹1,00,000/- for disfiguration. The petitioner has sustained only minor injuries in the accident, and hence the compensation under these grounds is rejected.

22. The compensation claimed by the petitioner and the compensation payable to the petitioner under different heads are summarised in the table below:

Sl. No.	Head of claim	Amount claimed ₹	Amount Awarded ₹	Basis-vital details in a nut shell
1	Loss of earnings	1,00,000/-	12,500/-	(12,500x1 month)
2	Transport to hospital	3,000/-	1,000/-	Reasonable expense
3	Extra nourishment	10,000/-	1,000/-	Reasonable expenses
4	Damage to clothing and articles	2,000/-	1,500/-	Reasonable expense
5	Medical expenses	1,00,000/-	2,572/-	(As per Ext.A8 series bills)
6	Future medical expenses	1,00,000/-	Nil	Since injuries are minor in nature

7	Bystander expenses	6,000/-	Nil	Treated as outpatient
8	Compensation for loss of earning power	2,00,000/-	Nil	No permanent disability
9	Compensation for pain and sufferings	1,00,000/-	10,000/-	Considering the nature of injury
10	Compensation for permanent disability	6,00,000/-	Nil	No permanent disability
	Compensation for loss of amenities and enjoyment of life	1,00,000/-	Nil	Minor injury
11	Future prospects	2,00,000/-		Minor injury
	Compensation for disfiguration	1,00,000/-		Minor injury
	Total Claim limited: ₹4,00,000/-	₹16,21,000/-	₹28,572/- Rounded of to ₹28,575/-	

23. **Issue No.5:** - In view of my findings on the above issues, petitioner is entitled to get compensation of ₹28,575/- (Rupees Twenty Eight thousand Five Hundred and Seventy five only) with interest at the rate of 8% (Eight percentage) per annum from the date of petition (30.09.2021) till the date of realisation with proportionate costs from the respondents. Issue is answered accordingly.

In the result, petition is allowed as follows:-

1. The petitioner, having Aadhar Card No. 4486 3851 0289 is granted compensation of ₹28,575/- (Rupees Twenty Eight Thousand Five Hundred and Seventy five only) with interest at the rate of 8% (Eight percentage) per annum from the date of petition (30.09.2021) till the date of deposit of the amount or till realisation with proportionate cost.

2. Respondent No.3 shall furnish a cheque for **₹3,373/-**(Rupees Three thousand three hundred and seventy three only) towards court fee and **₹4,000/-**(Rupees Four thousand only) towards Legal Benefit Fund payable in favour of M.A.C.T., Kozhikode.
3. Respondent No.3 shall deposit within 30 days by NEFT or RTGS or any other electronic mode the entire balance amount directly to the Bank Account of the petitioner bearing No.40226101020588 at Kerala Gramin Bank, Thalayad Branch, IFSC Code:KLGB0040226.
4. On such deposit respondent No.3 shall submit a letter to this Tribunal enclosing a copy of the said bank advice in the prescribed format and serve a copy of the same on the claimants or their counsel as the case maybe.
5. Respondent No.3 shall provide form 16 – A to the claimant so as to enable him to seek refund of tax deducted at source.
6. The PAN Card No. of the petitioner is FJOPP0287A.

(Dictated to the Confidential Assistant, typed by her directly to the computer, corrected and pronounced by me in the open Court, this the 28th day of April, 2026).

Sd/-

Addl. Motor Accidents Claims Tribunal-IV

Addl.District and Sessions Judge-V

Petitioner Witness: Nil

Petitioner Exhibits:

A1	11.12.2020	Copy of FIR in Crime No. 1141/2020 of Thamarassery P S, Kozhikode Rural
A2	06.02.2021	Copy of Final Report in Crime No. 1141/2020 of Thamarassery P S, Kozhikode Rural
A3	02.12.2020	Copy of Accident Register-Cum-Wound Certificate of Pushpa issued from Govt. Taluk Hospital, Thamarassery
A4 Series		O P Case Sheet of Pushpa issued from Govt. Taluk Hospital, Thamarassery (2 Nos)
A5 Series		Prescription of Pushpa (5 Nos)
A6		Copy of Aadhar card of Pushpa bearing No. 8346 6914 9823
A7		Bank details of Kerala Gramin Bank of Pushpa of Kerala Gramin Bank, Thamarassery
A8 Series		Medical Bills of Pushpa for ₹.3,671/- (12` Nos)

Respondent No.1 to 3 Witness & Exhibits: Nil

Court Witness / Expert Witness: Nil

Court Exhibits : Nil

Sd/-

**Addl. Motor Accident Claims Tribunal IVth /
Addl.District and Sessions Judge-V**

PARTICULARS OF COST LIST

Petitioner's Cost in OP(MV)-1325/2021

SI No	Particulars	Amount allowed by court in Rs.	Remarks
1.	Stamps on Vakalath	6.00	
2.	Court fee.	3373.00	
3.	KLBF	4000.00	
4.	Stamps on Petition	15.00	
5.	Batta.	105.00	
6.	Stamps on Documents	10.00	
7.	Advocate fee	3086.00	
8.	Junior Advocate fee	1543.00	
9.	Clerical Charges	200.00	
	TOTAL	12338.00	

Proportionate cost of ₹.882/- (Eight Hundred and Eighty Two Rupees only) is allowed.

Sd/-

**ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL-IV /
ADDL. DISTRICT & SESSIONS JUDGE-V**