

**IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL/
ADDITIONAL DISTRICT AND SESSIONS COURT, VATAKARA**

Present: Sri.Ranjith.E

MACT/ Additional District and Sessions Judge

Tuesday, the 31st day of March, 2026

OP(MV) 1168/2021

Between:

Nazar Sidique.T, aged 33 years, S/o Beevi,
Valiya Parambath House, Bank Road, Maniyur
Village, Palayad, Pathiyarakkara, Vatakara
Taluk, Kozhikode District, Pin: 673 105.

Petitioner

And:

1. Ramkumar.T.I, S/o Damodaran Namboodiri, age not known, 24/2B, Nila Padmaraga Apartments, Kannankulangara, Near Vellakinavu, Tripunithura, Ernakulam, Pin: 682 301.
2. Remith, aged 32 years, S/o Govindan Nambiar, Alora House, Kuttiyattur, Mayyil PO, Kannur District, Pin: 670 602.
- 3 National Insurance Company Limited, Kozhikode Division II, Second Floor, Noor Complex, Arayidath Palam, Near SBT, Mavoor Road, PB No.811, Kozhikode District, Pin: 673 004.

Respondents

This petition coming on this the 30th day of March,2026 for final hearing before me in the presence of S/Sri.K.K.Sajir, Subin Raj.M & T.M.Ansar, Advocates for Petitioner and of Sri.P.A.Abhilash, Advocate for 1st and 2nd Respondents and of Sri.P.K.Dinesh Chandran, Advocate for 3rd Respondent and having stood over to this day for consideration, this tribunal passed the followings:-

AWARD

The Original Petition is filed U/s. 164 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') seeking compensation.

2. The case of the petitioner in brief is as follows:- At 10.45 p.m. on 26.02.2019, the car bearing registration No. KL.39.M.2228 (hereinafter referred to as 'the car') driven by the 2nd respondent in a rash and negligent manner hit the motorcycle bearing registration No. KL.18.P.5098 (hereinafter referred to as 'the motorcycle') consequent on which the petitioner sustained grievous injuries. The accident occurred at Nut Street Junction, Vatakara. Immediately after the accident, the petitioner was taken to Asha Hospital, Vatakara and thereafter to IQRAA Hospital, Kozhikode. Since, the accident, the petitioner has been continuing his treatment and the accident has ruined his health. A chance of complete recovery is quite remote. The accident could have been avoided, if the 1st respondent was a bit more careful and drove the car at a manageable speed. After the accident, the petitioner couldn't go for his work. The petitioner is self employed, doing mobile business and his monthly income is ₹50,000/-. The respondent Nos. 1 and 3 are the registered owner and the insurer respectively of the car. Even though, the loss caused to the petitioner cannot be compensated in terms of money, he limits his claim to a sum of ₹15,00,000/-. The respondents are jointly and severally liable to pay compensation to the petitioner. Hence, the petition.

3. The respondent Nos. 1 and 2 filed the written statement as follows:- The petition is not maintainable either in law or on facts. The respondent Nos. 1 and 2 deny the entire averment in the petition except those that are expressly admitted. There is no cause of action for the petition. The 2nd respondent drove the car in a moderate speed and while the car was proceeding from Kannur to Kozhikode, the motorcycle ridden by the petitioner in a rash and negligent manner hit against the car at Nut Street Junction, Vatakara. The accident occurred, when the petitioner proceeded with the motorcycle ignoring the traffic light and violating the traffic rules including riding on a one way road. It is not correct to state that the accident occurred because of the rash and negligent driving of the car by the 2nd respondent. On the basis of the complaint lodged by the petitioner, Vatakara police registered a crime as Crime No. 226/2019 against the 2nd respondent with regard to this road accident. Subsequently

after the investigation, it has been revealed that the petitioner himself was responsible for the accident and consequentially the police submitted a police report against him in the crime alleging the offence U/s. 279 of IPC. It is against this final report, the petitioner filed a protest complaint. The petitioner is making attempts to extract money from the respondents by making false claims. The petitioner himself is the tortfeasor who is solely responsible for the accident and, therefore the respondent Nos. 2 and 3 have no liability to pay any compensation to the petitioner. The claim for compensation is made without any basis and the amount claimed is exorbitant. The details of the amount claimed in the petition is not correct. The averment in the petition that the petitioner is self employed, doing mobile business and his monthly income is ₹50,000/- is not correct. The petitioner didn't undergo treatment as claimed by him. The 2nd respondent has a valid Driving Licence and the car was validly insured with the 3rd respondent at the time of the accident. If at all, any compensation amount, has to be paid, it has to be paid by the 3rd respondent, the insurer.

4. The 3rd respondent filed the written statement as follows:- The 3rd respondent denies the entire averment in the petition except those that are expressly admitted. The petition is filed after six months from the date of the accident and therefore, it is barred by limitation. With regard to the road accident, the police submitted the Final Report against the petitioner alleging the offence U/s. 279 of IPC and therefore, the petition is not maintainable. It is true that the car was validly insured with the 3rd respondent during the accident in question. It is not correct to state that, the accident occurred due to the rash and negligent driving of the car by the 2nd respondent. There was no negligence at all on the part of the 2nd respondent. The accident occurred only due to the negligence of the petitioner. The petitioner who rode the motorcycle in a rash and negligent manner hit against the car at Nut Stree Junction, Vatakara. The accident occurred, when the petitioner proceeded with the motorcycle ignoring the traffic light and violating the traffic rules including riding on a one way road. Therefore, the 3rd respondent is not liable to pay any compensation to the petitioner. The owner and insurer of the motorcycle were not arrayed as the parties in the case

and therefore the petition is bad for non-joinder of necessary parties. The averment in the petition, that the petitioner is self employed doing mobile business and his monthly income is ₹50,000/- is not correct. The claim for compensation is made without any basis and the amount claimed is exorbitant. The details of the amount claimed in the petition is not correct. It has to be ensured that the petitioner has not filed any other petitions seeking compensation with regard to the accident in question. In case, this Tribunal is inclined to grant any compensation, the prevailing rate of interest may only be awarded. In the above circumstances, it is humbly prayed that the above petition may be dismissed with costs.

5. From the rival pleadings, the issues are re-framed as follows:-

- i) Whether the petitioner sustained grievous injuries due to an accident arising out of the use of a motor vehicle?
- ii) Relief and costs?

6. The petition was originally filed U/s. 166 of the Act. The petitioner did not adduce any oral evidence. On the side of the petitioner, Ext.A1 to Ext.A14 were exhibited. The respondent Nos. 1 and 2 did not adduce any evidence either oral or documentary. On the side of the 3rd respondent, RW1 was examined and Ext.B1 to Ext.B4 were marked. When the matter was posted for hearing, the petitioner filed an application to amend the petition in order to enable him to seek relief of compensation U/s. 164 of the Act, instead of Section 166 of the Act. The said application was allowed and therefore the adjudication is being made now in this case U/s. 164 of the Act. After, the amendment, none of the parties adduced any further evidence.

7. Issue No. (i):- The case of the petitioner is that during the road accident which took place at 10.45 p.m. on 26.02.2019, he sustained grievous injuries. According to the petitioner, it was the 2nd respondent who drove the car at the time of the accident in question, and it was this car belonging to the 1st respondent and which was driven negligently that hit against the motorcycle resulting in the accident.

8. Both the respondents have no case that, an accident as alleged by the petitioner never took place. But, the parties are at variance as to who was at fault. In other words, according to the petitioner, it was the 2nd respondent who is responsible for the accident whereas, according to the respondents it is the petitioner who is responsible. The said aspect can be discussed in the later part of this Judgment.

9. The learned counsel for the 3rd respondent vehemently argued before me that Section 164 of the Act came into operation only on 01.04.2022 and therefore, it cannot be given any retrospective effect. In order to substantiate his contention, the learned counsel for the 3rd respondent has placed reliance on a decision reported in **Branch Manager, United India Insurance Company Ltd. Kozhikode v. Mujeeb Rahman A. P.**¹ Further, according to the learned counsel, if Section 163A of the Act is applied to the facts of the case, the petitioner is not entitled to the compensation on the basis of compensation on a structured formula as envisaged U/s. 164 of the Act. The above said contentions are refuted by the learned counsel for the petitioner.

10. I have heard the rival submissions. In **Ram Murti v. Punjab State Electricity Board**², the Hon'ble Apex Court has in an application preferred U/s. 166 of the Act, granted compensation by taking note of Section 164 of the Act and observed that the benefit of the beneficial provision should be enured to the benefit of the claimant. It is to be noted that, in this case, the award in question was passed by the Tribunal on 12.04.1994 and therefore, it is needless to say that the incident should have occurred in the case either in the year 1994 or prior to it. In **New India Assurance Co. Ltd. v. Urmila Halder**³, the Hon'ble Apex Court has in the 4th paragraph of the Judgment raised a question as to whether the amendment in Section 163A of the Act which came into effect on 22.05.2018 can be applied retrospectively. It can be seen that, in the 9th paragraph of the Judgment, the Hon'ble Apex Court

1 2025 KHC OnLine 74.

2 2023 KHC OnLine 2955.

3 2024 KHC OnLine 8591.

agree with the view taken by the Hon'ble High Court of Calcutta, that it is a procedural amendment which can be given retrospective effect and, it is nothing substantive, so as to affect the merits of the issue. In ***K.R.Jagadish & Anr. v. M/s National Insurance Co. Ltd. & Anr.***⁴, the Hon'ble Apex Court has with regard to an incident which occurred in the year 2011 granted compensation by looking into the beneficial aspect of the Act. The decisions in ***New India Assurance Co. (supra)*** case and ***K.R.Jagadish (supra)*** were considered by the Hon'ble High Court of Kerala in ***Raju v. Vinu & Ors.***⁵ and it was observed that the Act being a beneficial legislation the law prevailing at the time of adjudication, if more favourable, has to be applied. From the above made discussions, I do hereby apply Section 164 of the Act retrospectively to the incident in the case at hand i.e., the incident which occurred on 26.02.2019.

11. The learned counsel for the 3rd respondent vehemently argued before me that, the petitioner having opted to proceed U/s. 166 of the Act cannot subsequently be permitted to convert his claim U/s. 164 of the Act, when he is convinced that there is no chance of success in a proceeding U/s. 166 of the Act. In order to substantiate his contention, the learned counsel for the 3rd respondent placed reliance on the decision reported in ***Deepal Girishbhai Soni & Ors. v. United India Insurance Co. Ltd.***⁶ Refuting the said submission, the learned counsel for the petitioner submitted that, even if the petitioner did not come up with an application to convert the claim as one under Section 164 of the Act, the court can give him an opportunity to do so and this submission was made by the learned counsel for the petitioner by placing reliance on the decision reported in ***Valsamma Chacko & Anr. v. M.A. Titto & Ors.***⁷

4 2025 ICO 2136.

5 2025 KHC OnLine 977.

6 (2004) 5 SCC 385.

7 Special Leave Petition © No. 27621 of 2019 decided on 13.02.2025 by the Hon'ble Supreme Court.

12. I have heard the submissions made by both the counsel in this regard. It is evident from a two member Bench decision in **Valsamma Chacko** (*supra*), that the question as to whether a claimant can be permitted to convert his claim as one U/s. 164 of the Act, when he initially brought his case U/s. 166 of the Act and fails to satisfy the negligence on the opposite party rider/driver is now left to the decision of a larger bench. A three Judge Bench of the Hon'ble Apex Court in **Deepal Girishbhai Soni** (*Supra*) has in the 59th paragraph answered in negative the question that, if in a case the Tribunal upon considering the relevant materials comes to the conclusion that no case has been made out for awarding the compensation U/s. 166 of the Act, would it be at liberty to award compensation in terms of 163A of the Act. But, in the case at hand, a finding has not yet rendered that the petitioner fails to prove the negligence on the part of the 2nd respondent. Therefore, I find that the petitioner can be permitted to make his claim U/s. 164 of the Act, as the Act being a beneficial legislation and further, the law prevailing at the time of adjudication, if more favourable, can be applied.

13. Ext.A1 is the true copy of the First Information Report in Crime No. 226/2019 of Vatakara police station. It can be seen from this document that because of the road accident which took place at 10.45 p.m on 26.02.2019, the petitioner sustained grievous injuries. Ext.A5, a true copy of the Accident Register-Cum-Wound Certificate shows that the petitioner sustained fracture on left tibia. The same is also evident from Ext.A6 Outpatient Card and Ext.A7 Discharge Summary. It is needless to say that, the medical documents show that the injuries sustained by the petitioner are grievous within the meaning of Section 326 of the Indian Penal Code, 1860 (Section 116 of the Bharatiya Nyaya Sanhita). It is to be noted that none of these documents are disputed. There are materials available on record to show that the petitioner sustained grievous injuries during this road accident.

14. It is contended on behalf of the 3rd respondent, that the accident occurred due to the negligence of the petitioner. Such, a contention, if permitted to be raised U/s. 164 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') it will

bring that Section in par with Section 166 of the Act in which section such a contention has relevance. The Hon'ble Apex Court has held so while dealing with pre-amended section 163A of the pre-amendment Act. Reliance can be placed on the decision reported in ***United India Insurance Co. Ltd. V. Sunil Kumar & Anr.***⁸ Sub-section (2) of Section 163A is in pari materia with Sub-section (2) of Section 164 of the Act. So, it is evident that the negligence on the part of the driver pales into insignificance in a proceeding U/s. 164 of the Act.

15. From, the above discussion, it has to be said that the petitioner sustained grievous injuries due to the road accident arising out of the use of a motor vehicle. This issue is answered in favour of the petitioner.

16. Issue No. (ii):- It has been already held that the petitioner sustained grievous injuries due to the road accident arising out of the use of a motor vehicle. That being the case, the petitioner is entitled to compensation as pleaded by him.

17. Now, the question is as to the rate of interest. According, to the 3rd respondent, in case the Tribunal is awarding compensation, an interest at the rate of 6% per annum may only be awarded as it being the prevalent rate of interest. I cannot subscribe to the views expressed by the learned counsel for the 3rd respondent in this regard. It is to be noted that the compensation is awarded for the injuries and trauma suffered by the applicant. Considering the rate of interest, followed in certain bank transactions, I do in the interest of justice hereby order interest at the rate of 8% per annum on the compensation amount ordered to be paid to the applicant. The compensation amount has to be paid by the 3rd respondent, as it being the insurer. This issue is accordingly answered.

In the result,

The Original Petition is allowed and an award is passed in favour of the petitioner as follows:-

a) The 3rd respondent is directed to pay ₹2,50,000/- to the petitioner together with the interest at the rate of 8% per annum from the date of petition i.e., 30.12.2021 till the date of realization together with proportionate costs;

b) The 3rd respondent needs to pay to the petitioner only that amount after deducting ₹14,372/- being the Court Fee from out of the amount arrived at as per the above clause (a); and the 3rd respondent shall furnish cheque for this sum (i.e., ₹14,373/-) payable by the petitioner in favour of the Motor Accidents Claims Tribunal, Vatakara;

c) The amount so payable to the petitioner shall be deposited by the 3rd respondent in his bank account bearing No. 10710100248550 (IFSC Code FDRL0001071) with Federal Bank Ltd, Vatakara Branch;

d) As and when the payment is made as stated above, the 3rd respondent shall after notice to the petitioner file a statement before the Motor Accidents Claims Tribunal, Vatakara regarding compliance of the order along with a copy of the transaction records certified by the bank concerned;

e) The office of the Motor Accidents Claims Tribunal, Vatakara shall make necessary entries in the registers of this Tribunal evidencing payment of the amount to the petitioner.

(Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court, this the 31st day of March 2026).

Sd/-

MACT/ Additional District & Sessions Judge,
Vatakara

Petitioner's Witness : NIL

Petitioner's Exhibits :

Ext.A1	05.03.2019	: Copy of FIR in Cr. No.226/2019 of Vatakara Police Station
Ext.A2	05.03.2019	: Copy of FIS in Cr. No.226/2019 of Vatakara Police Station
Ext.A3	30.08.2019	: Copy of Petition filed by Petitioner before Judicial First Class Magistrate Court, Vatakara
Ext.A4	03.01.2022	: Copy of Judgment in CC 915/2019 in CMP 5368/2019 of Judicial First Class Magistrate-1, Vatakara

Ext.A5	26.02.2019	: Copy of Accident Register cum Wound Certificate issued by Asha Hospital, Vatakara
Ext.A6	26.02.2019	: Out Patient Card issued from Asha Hospital, Vatakara
Ext.A7	09.06.2019	: Discharge Summary issued from IQRAA Hospital, Kozhikode
Ext.A8 series	Nil	: Medical Prescriptions issued from Prof.Gopinath Orthopaedic Centre(GOC), Kozhikode
Ext.A9	15.06.2022	: Disability Certificate issued by Dr.Chinmoy.M, Orthopedic Surgeon, District Hospital, Vatakara.
Ext.A10	Nil	: Copy of SecoPndary School Leaving Certificate of Petitioner
Ext.A11	Nil	: Copy of Aadhar Card of Petitioner
Ext.A12	Nil	: Copy of Bank Passbook of Petitioner
Ext.A13	Nil	: Copy of PAN Card of Petitioner
Ext.A14 series	Nil	: Medical Bills

Respondent's Witness :

RW1 15.12.2024 : Deposition of RW1, Shine.K.P

Respondent's Exhibits :

Ext.B1	30.04.2019	: Certified copy of Final Report in Cr. No.226/2019 of Vatakara Police Station
Ext.B2	06.03.2019	: Certified 08.03.2019 Copy of Scene Mahazar in Cr. No.226/2019 of Vatakara Police Station
Ext.B3	08.03.2019	: Certified copy of Report of Inspection of Motor Vehicle involved in an accident
Ext.B4	Nil	: Copy of Policy Schedule cum Certificate of Insurance

Court Witness/ Exhibits : NIL

Sd/-
MACT/ Additional District & Sessions Judge,
Vatakara