

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,  
KOLLAM

Present: Sri. Rajesh. R, MACT, Kollam

Tuesday, the 31<sup>st</sup> day of March, 2026/10<sup>th</sup> day of Chaithra, 1948

**OP(MV) No. 462/2021 and OP(MV) No. 582/2021**

**OP(MV) No. 462/2021**

Between Sumangala, aged 64 years, W/o. Bhaskaran,  
Petitioner: Bindhu Bhavan, Kayyamthadam, Ealavumthitta,  
Mezhuveli, Pathanamthitta.

By Advs.: Sri.Muhammed Sujith and Smt. Simimol. A

And  
Respondents :

1. Sheeja.M. Das, W/o. P.K. Rajeev, Indeevaram,  
Kodumthara, Pathanamthitta.
2. P.K. Rajeev, Indeevaram, Kodumthara,  
Pathanamthitta.
3. The Manager, Liberty GIC Ltd., Maryland Arcade,  
Residency Road, Kadappakkada.

Addl. The Manager, Legal, SBI GIC Ltd., D.D. Trade  
R3 Tower, 3<sup>rd</sup> Floor, Kadavanthara, Cochin.  
( R3 is deleted and additional R3 is impleaded as  
per order in IA.05/2025 dated 05.03.2025.)

By Adv: Sri. S. Dileepkumar for R3  
( The 1<sup>st</sup> and 2<sup>nd</sup> respondents remained exparte)

**OP(MV) No. 582/2021**

Between Bhaskaran, aged 70 years, S/o. Kesavan,  
Petitioner: Bindhu Bhavan, Kayyamthadam, Elavumthitta,  
Mezhuveli, Pathanamthitta.

By Advs.: Sri.Muhammed Sujith and Smt. Simimol. A

And

Respondents :

1. Sheeja.M. Das, W/o. P.K. Rajeev, Indeevaram, Kodumthara, Pathanamthitta.
2. P.K. Rajeev, Indeevaram, Kodumthara, Pathanamthitta.
3. The Manager, Liberty GIC Ltd., Maryland Arcade, Residency Road, Kadappakkada.

Addl. The Manager, Legal, SBI GIC Ltd.,  
R3 ( R3 is deleted and additional R3 is impleaded as per order in IA.04/2025 dated 06.02.2025.)

By Adv: Sri. S. Dileepkumar for R3  
( The 1<sup>st</sup> and 2<sup>nd</sup> respondents remained exparte)

These OP(MV)s are coming on for hearing before me on 18.03.2026 and having stood over to 31.03.2026 for consideration, this Tribunal passed the following:-

### C O M M O N A W A R D

#### 1. OP (MV) No.462/2021

Petition for compensation filed under Section 166 of the Motor Vehicles Act claiming compensation for the injuries sustained by the petitioner in the motor accident occurred on 18/02/2021.

2. The petitioners' case in brief is that on 18/02/2021, at about 11.30 am , while the petitioner had travelled in the car bearing Reg.No. KL 03 AC 8970, drove by her husband through Mylapra- Pathanamthitta road. When the said car reached near DPO Junction at Thazhee Vettipuram, another car bearing Reg.No.KL 03 AE 4464, drove by the 2<sup>nd</sup> respondent in a rash and negligent manner dashed into the car in which petitioner travelled. Due to the impact of the accident the petitioner

was injured and hospitalized. Petitioner has suffered physical pain, mental agony and financial loss. Petitioner was 64 year old homemaker and her monthly income was ₹30,000/-. Pathanamthitta Police have registered FIR No.276/2021 for offences under section 279,337 and 338 of IPC against the 2<sup>nd</sup> respondent, the driver of the car bearing Reg.No.KL 03 AE 4464. This petitioner has been claiming for a compensation of ₹5,00,000/- from these respondents.

3. The 1<sup>st</sup> and 2<sup>nd</sup> respondents remained exparte.

4. The additional 3<sup>rd</sup> respondent filed written statement which can be summarized as follows:-

The accident was occurred not due to any faulty act of the 2<sup>nd</sup> respondent. The accident occurred due to the rash and negligent driving of the driver of the car bearing Reg.No. KL 03 AC 8970. The 2<sup>nd</sup> respondent did not have valid driving licence at the time of accident. So for the violation of contractual policy conditions, the additional 3<sup>rd</sup> respondent is not liable to compensate. The 2<sup>nd</sup> respondent was driving the car bearing Reg.No.KL 03 AE 4464 with ample care and caution by keeping proper side. Respondent admit about the issuance of insurance policy for the car bearing Reg.No.KL 03 AE 4464. The insured had not informed the insurer about the accident or handed over the necessary details of the vehicle which is a violation of policy condition. The 3<sup>rd</sup> respondent challenge and deny the averments of the petitioner regarding her age, occupation and income. Petitioner is burdened to prove the injury sustained, treatment undergone by her, the medical expenses and related aspects. The petitioner did not suffer from any disability as claimed. The claim of compensation has been excessive. In the event of passing award reasonable rate of interest may be imposed.

5. The issues which arise for consideration are:

1. Whether the accident occurred on 18/02/2021 due to the rash and negligent driving of the car bearing Reg.No.KL 03 AE 4464 by the 2<sup>nd</sup> respondent as alleged?
2. Whether the petitioner sustained injuries in the accident as alleged?
3. Whether the petitioner is entitled to recover compensation from the respondents? If so what is the quantum of award and from whom to be recovered ?
4. Relief and costs?

**6. OP (MV) No. 582/2021**

Petition for compensation filed under Section 166 of the Motor Vehicles Act claiming compensation for the injuries sustained by the petitioner in the motor accident occurred on 18/02/2021.

7. The petitioners' case in brief is that on 18/02/2021, at about 11.30 am, while the petitioner was driving the car bearing Reg.No. KL 03 AC 8970, through Mylapra- Pathanamthitta road, near DPO Junction at Thazhee Vettipuram another car bearing Reg.No.KL 03 AE 4464, drove by the 2<sup>nd</sup> respondent in a rash and negligent manner dashed into the car. Due to the impact of the accident the petitioner was injured and hospitalized. He has suffered physical pain, mental agony and financial loss. Petitioner was 70 year old farmer and his monthly income was ₹30,000/-. Pathanamthitta Police have registered FIR No.276/2021 for offences under section 279,337 and 338 of IPC against the 2<sup>nd</sup> respondent, the driver of the car bearing Reg.No.KL 03 AE 4464. This petitioner has been claiming for a compensation of ₹1,00,000/- from these respondents.

8. The 1<sup>st</sup> and 2<sup>nd</sup> respondents remained exparte.

9. The additional 3<sup>rd</sup> respondent filed written statement which can be summarized as follows:-

The accident was occurred not due to any faulty act of the 2<sup>nd</sup> respondent. The accident occurred due to the rash and negligent driving of the car bearing Reg.No. KL 03 AC 8970 by the petitioner. The 2<sup>nd</sup> respondent did not have valid driving licence at the time of accident. So for the violation of contractual policy conditions, the additional 3<sup>rd</sup> respondent is not liable to compensate. The 2<sup>nd</sup> respondent was driving the car bearing Reg.No.KL 03 AE 4464 with ample care and caution by keeping proper side. Respondent admit about the issuance of insurance policy for the car bearing Reg.No.KL 03 AE 4464. The insured had not informed the insurer about the accident or handed over the necessary details of the vehicle which is a violation of policy condition. The 3<sup>rd</sup> respondent challenge and deny the averments of the petitioner regarding his age, occupation and income. Petitioner is burdened to prove the injury sustained, treatment undergone by him, the medical expenses and related aspects. The petitioner did not suffer from any disability as claimed. The claim of compensation has been excessive. In the event of passing award, reasonable rate of interest may be imposed.

10. The issues which arise for consideration are:

1. Whether the accident occurred on 18/02/2021 due to the rash and negligent driving of the car bearing Reg.No.KL 03 AE 4464 by the 2<sup>nd</sup> respondent as alleged?
2. Whether the petitioner sustained injuries in the accident as alleged?
3. Whether the petitioner is entitled to recover compensation from the respondents? If so what is the quantum of award and from whom to be recovered ?
4. Relief and costs?

11. Since these two cases sprung up from the very same crime and incident, in the interest of justice, convenience, clarity and for avoiding conflicting verdicts, they are considered together and OP (MV) 462/2021 was taken as the leading case.

12. Exts. A1 to A12 were marked from the side of the petitioners. Respondents have neither tendered any document nor adduced any oral evidence.

13. Heard both sides.

14. **Point No. 1 in OP (MV) 462/2021 & 582/2021**

The petitioners produced Ext.A4, which contain both First Information Statement as well as First Information Report No.276/2021 of Pathanamthitta Police Station. The investigation officer has found that there was negligence on the side of the accused/2<sup>nd</sup> respondent and hence the Ext.A4 charge sheet was filed against him in FIR No.276/2021 for offences under section 279, 337 and 338 of IPC. Due to the rash and negligent driving of the car bearing Reg.No.KL 03 AE 4464 by its driver, it hit on a car bearing Reg.No. KL 03 AC 8970 and thereby all the petitioners sustained injuries and fracture.

15. It is prima facie evident from Ext.A4, final report that the accident happened due to the rash and negligent driving of the car bearing Reg.No.KL 03 AE 4464 by the 2<sup>nd</sup> respondent. In **New India Assurance Company Ltd. Vs. Pazhaniammal (2011 (3) KLT 648)**, the Division Bench of the Hon'ble High Court held that **as a general rule it can safely be accepted that production of the police charge sheet is prima facie sufficient evidence of negligence for the purpose of a claim under S. 166 of the Motor Vehicle Act.** In this case as per Ext.A4, final report the police concluded after investigation that the accident in which the petitioner sustained injuries was caused as a result of the rash and negligent riding of the offending vehicle by the 2<sup>nd</sup> respondent. The prima facie proof of negligence on the

part of the 2<sup>nd</sup> respondent which is established by Ext.A4, final report is not rebutted by the respondents by adducing contra evidence. *The Hon'ble High Court of Kerala held in **Balan.R V. Abhiraj.R and others [2021 (4) KHC 380]** that production of police charge sheet is prima facie sufficient evidence to find negligence.* Deviation from police charge is possible only when evidence is adduced to disbelieve the charge sheet, but no evidence is adduced. Hence issue No.1 is found in favour of the petitioners.

16. **Issue No. 2 & 3 in OP (MV)462/2021**

Ext.A3, relevant wound certificate issued from the MGM Muthoot Hospitals, Pathanamthitta would reveal that the petitioner sustained mild transverse over 5<sup>th</sup> metacarpal area, fracture base of 5<sup>th</sup> metacarpal right hand. The Ext.A7, relevant discharge summary issued from the MGM Muthoot Hospitals, Pathanamthitta would reveal that the petitioner was admitted in that hospital on 18/02/2021 and was discharged on 19/02/2021. In the diagnosis fracture base of the 5<sup>th</sup> right metacarpal, multiple contusions head and neck and contusion on brain were clearly mentioned.

17. The petitioner's case is that she was a homemaker and had earned ₹30,000/- per month. However there is no evidence to prove the income of the petitioner. In the said circumstances the notional income of the petitioner has to be fixed based on legal principles and it is fixed as ₹13,000/- as the accident occurred in the year 2021. Relying on the decision reported in **A.Gopinathan and Others Vs. Afzal Basha and Another [2020 (3) KHC666]** wherein the Hon'ble High Court of Kerala held that the notional income of a house wife can be fixed at ₹4,500/- in the case of an accident occurred in the year 2004 .

18. Considering the nature of injuries sustained by the petitioner she might have been incapacitated to do her household chores for four months. Hence towards loss of earning the petitioner is entitled to get compensation of ₹52,000/-(₹13000/-x 4 months). Considering the nature of the injuries sustained by the petitioner and the

pain and suffering undergone by her, it is reasonable to award an amount of ₹70,000/- as compensation for pain and suffering. An amount of ₹55,000/- can be fixed as compensation for loss of amenities. It is reasonable to award an amount of ₹2,000/- towards damage to clothing, an amount of ₹1,000/-(2x500) towards bystander's expenses, an amount of ₹1,000/- towards extra nourishment and an amount of ₹3,000/- towards transport to hospital. Even though the petitioner claims an amount of ₹50,000/- towards medical expenses and an amount of ₹11,978/- is awarded based on Ext.A8 medical bills. The petitioner claims an amount of ₹50,000/- towards future treatment expenses, however there is no evidence to show that future treatment is required and hence no amount is awarded under that head.

19. The table of compensation advanced by the petitioner and awarded by Tribunal is given below.

Sl. No.	Head of Claim	Amount Claimed	Amount Awarded
a	Loss of earnings	1,00,000/-	52,000/-
b	Partial loss of earnings	-	
c	Food and nourishment conveyance	7,000/-	1,000/-
d	Transport to hospital	13,000/-	3,000/-
e	Damage to clothing and articles	5,000/-	2,000/-
f	Other expenses		
g	Others: (1) Medicine	50,000/-	11,978/-
	(2) Bystander expenses	25,000/-	1,000/-
h	Compensation for pain and sufferings	75,000/-	70,000/-
i	Compensation continuing or permanent disability if any Compensation for loss of earning power	1,25,000/-	-
j.	Loss of amenities	50,000/-	55,000/-
	Compensation for future treatment	50,000/-	-
	<b>Total</b>	<b>₹5,00,000/-</b>	<b>₹1,95,978/-</b>
<b>(Rupees One Lakh Ninety Five Thousand Nine Hundred and Seventy Eight only )</b>			

20. Eventhough the insurer has contended through their written statement that the 2<sup>nd</sup> respondent driver did not have the valid driving licence at the material time of accident, no effort was made to probabalise the same. Neither in the relevant FIR or in Final report there exist any mention regarding the non holding of the driving licence by the driver of the offending vehicle. Further the insurer have not filed any petition seeking an order of direction given to the owner or driver of the offending car to furnish the motor driving licence of the 2<sup>nd</sup> respondent at the material point of accident. Facts being so, Tribunal cannot presume any adverse inference without any basis. So the contention of the insurer to order pay and recovery is hereby declined.

21. Admittedly the offending vehicle had valid insurance coverage with the additional 3<sup>rd</sup> respondent at the time of accident. So the additional 3<sup>rd</sup> respondent is liable to indemnify the 1<sup>st</sup> respondent and to compensate the petitioner and issue No.2 & 3 are found in favour of the petitioner.

22. **Issue No. 2 & 3 in OP (MV) 582/2021**

Ext.A10, relevant wound certificate issued from the MGM Muthoot Hospitals, Pathanamthitta would reveal that the petitioner sustained abrasion both wrist and contusion on distal end of left forearm.

23. The petitioner's case is that he was a farmer and had earned ₹30,000/- per month. However there is no evidence to prove the income of the petitioner. So the monthly notional income of the petitioner is taken as ₹6,000/-.

Considering the nature of injuries sustained by the petitioner he might have been incapacitated to do his works for two weeks. Hence towards loss of earning the

petitioner is entitled to get compensation of ₹3,000/-. Considering the nature of the injuries sustained by the petitioner and the pain and suffering undergone by him, it is reasonable to award an amount of ₹20,000/- as compensation for pain and suffering. An amount of ₹10,000/- can be fixed as compensation for loss of amenities. It is reasonable to award an amount of ₹1,000/- towards damage to clothing and an amount of ₹1,000/- towards transport to hospital. An amount of ₹1,096/- is awarded towards medical expenses based on Ext.A11 medical bills.

24. The table of compensation advanced by the petitioner and awarded by Tribunal is given below.

Sl. No.	Head of Claim	Amount Claimed	Amount Awarded
a	Loss of earnings	30,000/-	<b>3,000/-</b>
b	Partial loss of earnings	-	
	Food and nourishment	2,000/-	-
c	Transport to hospital	3,000/-	<b>1,000/-</b>
d	Damage to clothing and articles	2,000/-	<b>1,000/-</b>
f	Other expenses		
g	Others: (1) Medicine		<b>1,096/-</b>
	(2) Bystander expenses	3,000/-	-
h	Compensation for pain and sufferings	25,000/-	<b>20,000/-</b>
i	Compensation continuing or permanent disability if any Compensation for loss of earning power	35,000/-	
j.	Loss of amenities	-	<b>10,000/-</b>
	<b>Total</b>	<b>₹1,00,000/-</b>	<b>₹36,096/-</b>
<b>(Rupees Thirty Six Thousand and Ninety Six only )</b>			

25. Eventhough the insurer has contended through their written statement that the 2<sup>nd</sup> respondent driver did not have the valid driving licence at the material time of accident, no effort was made to probablisise the same. Neither in the relevant

FIR or in Final report there exist any mention regarding the non holding of the driving licence by the driver of the offending vehicle. Further the insurer have not filed any petition seeking an order of direction given to the owner or driver of the offending car to furnish the motor driving licence of the 2<sup>nd</sup> respondent. Facts being so, Tribunal cannot presume any adverse inference without any basis. So the contention of the insurer to order pay and recovery is hereby declined.

26. Admittedly the offending vehicle had valid insurance coverage with the additional 3<sup>rd</sup> respondent at the time of accident. So the additional 3<sup>rd</sup> respondent is liable to indemnify the 1<sup>st</sup> respondent and to compensate the petitioner and issue No.2 & 3 are found in favour of the petitioner.

27. **Issue No.4: in OP (MV) No.462/2021**

In the result, OP is allowed in part and award is passed in favour of the petitioner as follows :

1. Petitioner is entitled to recover an amount of **₹1,95,978/- (Rupees One Lakh Ninety Five Thousand Nine Hundred and Seventy Eight only)** with 8% interest per annum thereon from the date of filing of the original petition, ie, from 27/03/2021 till date of realization and proportionate costs from the additional 3<sup>rd</sup> respondent.

2. The additional 3<sup>rd</sup> respondent is directed to produce crossed cheque for ₹4,373/- towards court fee and for ₹5,000/- towards legal benefit fund in favour of the Motor Accident Claims Tribunal, Kollam within one month from the date of this award. Amount due to the petitioner shall be transferred directly to the credit of the bank account of the petitioner through NEFT or RTGS or any other electronic mode as per the direction in the Official Memorandum No.D1-1/62475/2016 dated 19/09/2025 read with circular No.1/2025 of the Hon'ble High Court of Kerala.

1	Name of the person (s) entitled to compensation	Sumangala
2.	Name of bank and branch	Kerala State Co-operative Bank Anandavalleswaram
3.	Bank IFSC Code	KSBK0001105
4.	Account Number (s)entitled to compensation	110512309207320
5.	Pan Card No.	<b>EENPS3811E</b>

3. Office shall issue free copy of the award to the petitioner and the additional 3<sup>rd</sup> respondent forthwith.

**28. Issue No.4: in OP (MV) No.582/2021**

In the result, OP is allowed in part and award is passed in favour of the petitioner as follows :

1. The petitioner is entitled to recover an amount of **₹36,096/- (Rupees Thirty Six Thousand and Ninety Six only)** with 8% interest per annum thereon from the date of filing of the original petition, ie, from 23/04/2021 till date of realization and proportionate costs from the additional 3<sup>rd</sup> respondent.

2. The additional 3<sup>rd</sup> respondent is directed to produce crossed cheque for ₹373/- towards court fee and for ₹1,000/- towards legal benefit fund in favour of the Motor Accident Claims Tribunal, Kollam within one month from the date of this award. Amount due to the petitioner shall be transferred directly to the credit of the bank account of the petitioner through NEFT or RTGS or any other electronic mode as per the direction in the Official Memorandum No.D1-1/62475/2016 dated 19/09/2025 read with circular No.1/2025 of the Hon'ble High Court of Kerala.

1	Name of the person (s) entitled to compensation	Bhaskaran
2.	Name of bank and branch	Kerala State Co-operative Bank Anandavalleswaram
3.	Bank IFSC Code	KSBK0001105
4.	Account Number (s)entitled to compensation	110512301211442
5.	Pan Card No.	<b>AIAPB0488R</b>

3. Office shall issue free copy of the award to the petitioner and the additional 3<sup>rd</sup> respondent forthwith.

(Dictated to Confidential Assistant transcribed and typed by her corrected and pronounced by me in open court this the 31<sup>st</sup> day of March, 2026.)

Sd/-  
Rajesh. R  
Motor Accident Claims Tribunal.

**Appendix:-**

**Exhibits for the Petitioner:-**

A1	22.02.2021	Copy of F I R and F I S
A2	23.02.2021	Copy of Scene Mahazar
A3	18.02.2021	Copy of Wound Certificate
A4	20.03.2021	Copy of Final report
A5	25.02.2021	Copy of Vehicle Mahazar

A6	05.03.2021	Copy of AMVI report
A7	19.02.2021	Discharge Summary
A8	---	Medical Bills
A9	---	Copy of PAN Card
A10	18.02.2021	Copy of Wound Certificate
A11	---	Medical Bills
A12	---	Copy of PAN Card

Exhibits for Respondents : Nil

Witness Examined for Both sides : Nil

Id/-  
Motor Accident Claims Tribunal

Note as per Rule 7(2) of destruction of records Rules 2004.(“ The parties should apply as soon as possible for the return of all documents which they may wish to preserve, as the record will be liable to be destroyed twelve years from this date”).

Data Entry By : Bindhu. R.  
Compared By : Smitha. L. S

**MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM****Memo of Cost****OP(MV) No. 462/2021**

1.	Court fee	₹4,373/-
2.	Legal Benefit Fund	₹5,000/-
3.	Vakkalath fee	₹ 6/-
4.	Process fee	₹ 90/-
5.	Stamp for Exhibits	₹ 46/-
6.	Petition fee	₹ 5/-
7.	Writing Fee	₹ 500/-
8.	Senior Advocate Fee	₹12,198/-
9.	Junior Advocate Fee	₹6,099/-
	Total	₹28,317/- =====

$$\text{Proportionate cost} = \frac{1,95,978 \times 28,317}{5,00,000} = \frac{11,099/-}{=====}$$

(Rupees Eleven Thousand and Ninety Nine only )

Id/-

Motor Accident Claims Tribunal

**MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM**

**Memo of Cost**

**OP(MV) No. 582/2021**

1.	Court fee	₹373/-
2.	Legal Benefit Fund	₹1,000/-
3.	Vakkalath fee	₹ 6/-
4.	Process fee	₹ 90/-
5.	Stamp for Exhibits	₹ 10/-
6.	Petition fee	₹ 5/-
7.	Writing Fee	₹ 500/-
8.	Senior Advocate Fee	₹3,387/-
9.	Junior Advocate Fee	₹1,693/-
	Total	₹7,064/-
		=====

$$\text{Proportionate cost} = \frac{36,096 \times 7,064}{1,00,000} = 2,549/-$$

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(Rupees Two Thousand Five Hundred and Forty Nine only )

Id/-

Motor Accident Claims Tribunal