

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOLLAM

Present: Sri.Rajesh.R, MACT, Kollam

Monday, the 27<sup>th</sup> day of April, 2026 /7<sup>th</sup> day of Vaisakha, 1948

**OP(MV) No. 1549/2021**

Between  
Petitioner:-

Sivadasan, aged 54 years, S/o. Raveendran,  
Revathi Bhavanam, Kallumthazham. P.O,  
Kilikolloor, Kollam.

By Adv.: Sri.S. Abdul Karim

And  
Respondents :

1. Sheena Mathew Thazhathu, D/o. Mathew Isac, Keshuram, Pongumoodu, Medical College, Thiruvananthapuram
  2. Jacob, S/o. Punnoose, Keshuram, Pongumoodu, Medical College, Thiruvananthapuram. Now residing at 7<sup>th</sup> Cross Vikas Nagar, Tippa Sandra Banglore, Karnataka.
  3. The Branch Manager, Maruti Insurance Broking Pvt.Ltd., Popular Vehicle & Service Ltd., H & C Compound, Mundakkal West, Kollam-691001. (Deleted)
- Addl. R3 The Branch Manager, Oriental Insurance Co.Ltd., St.Mary's Building, 3<sup>rd</sup> Party Claim Hub, Ulloor, Medical College.P.O, Thiruvananthapuram.  
(R3 is deleted and additional R3 is impleaded as per order in IA. 05/2025 on 18.07.2025)

By Adv: Sri.Alex Thomas for R3  
[The 1<sup>st</sup> and 2<sup>nd</sup> respondents remained exparte]

This OP(MV) is coming on for hearing before me on 06-04-2026 and having stood over to 27-04-2026 for consideration, this Tribunal passed the following:-

**A W A R D**

Petition filed under Section 166 of the Motor Vehicles Act claiming compensation for the injuries sustained by the petitioner in the motor accident occurred on 16/12/2020.

2. The petitioner's case is that on 16/12/2020, at about 7.45 am, while the petitioner was riding the motorcycle bearing Reg.No.KL02 AP 4438, through Kollam –Thiruvananthapuram NH and when reached near Appuppanada at Mangadu, a car bearing Reg.No.KL22 D 7958 drove by the 2<sup>nd</sup> respondent in a rash and negligent manner hit him. The injured had to avail treatment from NS Hospital, Kollam. Petitioner has suffered physical pain, mental agony and financial loss. Kilikolloor police have registered crime No.1858/2020 for offences under section 279, 337 and 338 of IPC against the 2<sup>nd</sup> respondent. Petitioner was aged 54 year old mason earning ₹25,000/- per month during the material period of accident. The respondents are respectively the owner, driver and insurer of the offending car. Petitioner has been seeking a total compensation of ₹6,00,000/-.

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

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

The vehicle bearing Reg.No.KL02 AP 4438, was properly insured by the 3<sup>rd</sup> respondent on the date of occurrence. Though the incident was occurred on 16/12/2020, crime was registered belatedly on 23/12/2020. The delay was not properly explained. According to the 3<sup>rd</sup> respondent, it was due to the negligence of the petitioner the accident was occurred. The 3<sup>rd</sup> respondent has challenged all the contentions made in the claim petition. Petitioner is burdened to prove all his cases with support of reliable documentary evidence. Petitioner and respondents 1 and 2 are colluding for their best in interest. Petitioner was born on 1965, and as on the date of accident, he was more than 54 years.

5. The issues which arise for consideration are:

1. Did the accident occur on 16/12/2020 due to the rash and negligent driving of the car as alleged?
2. Has 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. Relieves and costs?

6. The petitioner did not adduce any oral evidence, but tendered Exts.A1 to A11. Respondents have neither tendered any document nor adduced any oral evidence.

7. Heard both sides.

**8. Point No.1 :**

To prove the accident, the petitioner has produced Ext.A1, which contain both First Information Statement as well as First Information Report No. 1858/2020 of Kilikolloor Police Station. The final report filed by the police after conducting investigation was marked as Ext.A2. The investigation officer has found that there was negligence on the side of the accused/2<sup>nd</sup> respondent and hence the Ext.A2 charge sheet was filed against him in FIR No.1858/2020 for offences under section 279,337 and 338 of IPC.

9. It is prima facie evident from Ext.A2, final report that the accident happened due to the rash and negligent driving of the offending car 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.A2, 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 driving of the offending car.

10. The prima facie proof of negligence on the part of the driver of the offending vehicle by the 2<sup>nd</sup> respondent has been established by Ext.A2 final report, has not been 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 the negligence attributed.* Moreover a reading of the Ext.A1,A2 and A3 documents clearly probalilised the contention of the petitioner. Hence point No.1 is found in favour of the petitioner.

11. **Point No. 2 & 3:**

The Ext.A6 relevant wound certificate issued from the NS Memorial Institute of Medical Sciences, Palathara, Kollam would reveal that the petitioner sustained abrasion 2cm x2cm with hematoma on right side of forehead, 2.5cm x1.5cm on nose, 2cm x1cm on left of left eye, 3.5cm x1.5cm on right forearm, 1cm x 1cm left knee, 1cmx1cm left ankle, multiple abrasions 1cmx1cm over left thumb & 1<sup>st</sup> knuckle, tinny hairline fracture involving the outer cortex of right side of frontal bone, soft tissue swelling of the scalp in right frontal region. The Ext.A7, relevant treatment certificate issued from the NS Memorial Institute of Medical Sciences, Kollam would reveal that the petitioner sustained hematoma over right eyebrow, multiple abrasion right forearm, fracture hairline cortex right frontal bone.

12. The petitioner's case is that he was a mason earning ₹25,000/- per month during the material period of accident. However there is no evidence to prove the income of the petitioner. It is the settled preposition of law that notional income of any person shall not be taken lesser than the minimum wages notified by the Government from time to time (see: Karmjit Singh V Amandeep Singh and Another reported in 2025 ACJ 392 by Hon'ble Supreme Court; Angad Tiwari and Another V National Insurance Company Ltd and Another reported in 2025 ACJ 312 by Hon'ble Supreme Court; Latheef and Others V.Noufal P.P and Others reported in 2025 ACJ

313 by Hon'ble High court of Kerala). As per the notification of Kerala Labour Skill Development and Employment Department dated 11/02/2019, the minimum wages for an unskilled labourer is ₹710/- per day. It can be assumed that a daily wages worker will have 24 days work in a month. So in this case notional income of the petitioner can be taken as (₹710/-x 24 ) ₹17,040/- per month.

13. Considering the nature of injuries sustained by the petitioner he might have been incapacitated to do his works for four months. Hence towards loss of earning the petitioner is entitled to get compensation of **₹68,160/-** (₹17,040/-x4 months). 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 **₹60,000/-** as compensation for pain and suffering. An amount of **₹45,000/-** can be fixed as compensation for loss of amenities. It is reasonable to award an amount of **₹2,000/-** towards damage to clothing and an amount of **₹3,000/-** towards transport to hospital. Even though the petitioner claims an amount of ₹25,000/- towards medical expenses and an amount of **₹5,670/-** is awarded based on Ext.A8 medical bills.

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

Sl. No.	Head of Claim	Amount Claimed	Amount Awarded
a	Loss of earnings from 16/12/2020 to 6 months	2,00,000/-	<b>68,160/-</b>
b	Partial loss of earning	-	-
c	Transport to hospital	20,000/-	<b>3,000/-</b>
d	Extra nourishment	20,000/-	-
e	Damage to clothing and articles	5,000/-	<b>2,000/-</b>
f.	Others: (1) Medicines	25,000/-	<b>5,670/-</b>
g	(2) Bystander expenses		
h	Compensation for pain and sufferings	75,000/-	<b>60,000/-</b>
	Compensation for continuing or permanent disability if any	2,50,000/-	-

	Compensation for loss of earning power Compensation for future treatment		
i	Compensation for loss of amenities in life	75,000/-	<b>45,000/-</b>
j	Future treatment	50,000/-	
	<b>Total</b>	<b>₹7,20,000/- (Limited to ₹6,00,000/-)</b>	<b>₹1,83,830/-</b>
<b>( Rupees One Lakh Eighty Three Thousand Eight Hundred and Thirty only)</b>			

15. 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. So the point No.2 & 3 are also found in favour of the petitioner.

16. **Point No.4**

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 **₹1,83,830/- (Rupees One Lakh Eighty Three Thousand Eight Hundred and Thirty only)** with 8% interest per annum thereon from the date of filing of the original petition, ie, from 09/11/2021 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 ₹5,373/- towards court fee and for ₹6,000/- 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	Sivadasan
2.	Name of bank and branch	Kerala State Co-operative Bank Evening Branch, Kollam
3.	Bank IFSC Code	KSBK0000013
4.	Account Number (s)entitled to compensation	101312301215907
5.	Pan Card No.	<b>NQJPS7609F</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 27<sup>th</sup> day of April, 2026.)

Sd/-  
Rajesh.R  
Motor Accident Claims Tribunal

**Appendix:-**

**Exhibits for the Petitioner:-**

A1	23.12.2020	Copy of FIR & FIS
A2	29.01.2021	Copy of Final report
A3	24.12.2020	Copy of Scene Mahazar
A4	06.01.2021	Copy of Vehicle Mahazar
A5	06.01.2021	Copy of AMVI report
A6	16.12.2020	Copy of Wound certificate
A7	---	Copy of Treatment Certificate

A8	---	Medical Bills
A9	01.03.2024	Medical Certificate
A10	16.12.2020	CT Scan Report
A11	--	Copy of PAN card

Exhibits for the 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 : Binu.R

**MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM****Memo of Cost****OP(MV) No. 1549/2021**

1.	Court fee	₹ 5,373/-
2.	Legal Benefit Fund	₹ 6,000/-
3.	Vakkalath fee	₹ 6/-
4.	Process fee	₹ 120/-
5.	Stamp for Exhibits	₹ 32/-
6.	Petition fee	₹ 5/-
7.	Writing Fee	₹ 500/-
8.	Advocate Fee	₹ 11,591/-
	Total	₹ 23,627/-
		=====

$$\text{Proportionate cost} = \frac{1,83,830 \times 23,627}{6,00,000} = \frac{7,238/-}{=====}$$

(Rupees Seven Thousand Two Hundred and Thirty Eight only)

Id/-  
Motor Accident Claims Tribunal