

**IN THE COURT OF THE ADDL. MOTOR ACCIDENTS CLAIMS
TRIBUNAL, THALASSERY**

Present:- Sri. Sri.Vimal. J, Addl. Motor Accidents Claim Tribunal /
Addl. District Judge-IV.

Tuesday, the 24th day of March, 2026/ 03rd Chaithra, 1948.

O.P.(MV) No. 118/2021

Santhosh Kumar. P, S/o. Kelappan, aged 46 years, residing]
at Paremml House, Puliyalnambram P.O, Balan Peedika,] Petitioner
Peringathur, Kannur Dist. Pin-670675]

Vs.

1. Rafeek, S/o. Abdulla, age not known, residing at]
Narikodankandiyil House, Peringathur P.O,]
Thalassery, Kannur Dist. Pin 670 675]
(Owner of KL-58-G- 1226, Yamaha Motor Cycle)]

2. Amith Kumar, S/o. Anil Kumar, aged 15 years,]
(Minor) rep. By Father Anil Kumar, residing at]
Thundiyl House, Peringathur, P.O. Olipil,]
Thalassery, Kannur District, Pin 670 765.]
(Driver of KL-58-G-1226, Yamaha Motor Cycle)

Suppl. Narikkoden Kandiyil Rajeena, W/o. Late. Rafeeqe,] Respondents
R3 Narikkoden Kandiyil House, Peringathur ,. P.O.]
Kannur District.]

Suppl. Nisha Fathima, D/o. Late Rafeek, Narikkoden]
R4 Kandiyil House, Peringathur ,. P.O. Kannur District.]

Suppl. Ayisha, D/o. Late Rafeek, Narikkoden Kandiyil]
R5 House, Peringathur ,. P.O. Kannur District.]

Suppl. Thanha Sherin, D/o. Late Rafeek, Narikkoden]
R6 Kandiyil House, Peringathur ,. P.O. Kannur District.]
Suppl. R3 to R6 impleaded and amended as per]
order in IA 4/23, & IA 5/23 dated: 11.01.2024)]

This petition is filed under section 166 of the Motor Vehicles Act
Court fee paid Rs.1.00/-

This petition coming on the 26th day February 2026 for final hearing before me in the presence of Smt. Soosy.V. Advocate for petitioner; Sri. K.Viswan , Advocate for respondent No.2; Suppl. R3 to R6 called absent set exparte; Respondent No.1 reported dead; and having stood over for consideration till this day, the court passed the following.

A W A R D

This petition is filed under section 166 of the Motor Vehicles Act (for short, "the Act").

2. The claimant was injured in a motor accident that occurred on 07.10.2020 at about 02:30 p.m., near Balan Peedika, Peringathur. The claimant was travelling in a motorcycle bearing Registration No. KL-58-G-4739 from Kariyad to Peringathur. When he reached the place of occurrence, another motorcycle bearing No.KL-58-G-1226 driven by 2nd respondent (a minor aged 15 years), in a rash and negligent manner, hit against the petitioner and sustained grievous injuries. The accident occurred solely due to the reckless and negligent driving of the 2nd respondent.

3. Immediately after the accident, the injured was taken to General Hospital, Thalassery. As the injuries were grievous in nature, he was referred to Indira Gandhi Co-operative Hospital, Thalassery, where he underwent treatment from 01.10.2020 to 07.10.2020. He was again admitted to Indira Gandhi Co-operative Hospital, Thalassery, from 24.10.2020 to 27.10.2020.

4. The petitioner sustained following injuries:-

1. Partially avulsed right big toe,
2. First metatarsal exposed and fractured parts visible,
3. First right big toe tendon reaptured,

4. Avulsed skin over the medial aspect of right foot,
5. Avulsed skin over the right knee.

5. The petitioner claims that the accident occurred solely due to the rash and negligent driving of the 2nd respondent minor, who was driving the vehicle without a valid driving licence. R1, Rafeek (since deceased), was the owner of the offending vehicle. R1 having died during the pendency of the petition, his legal heirs Supl. R3 (Rajeena, wife), Supl. R4 (Niha Fathima, daughter), Supl. R5 (Thanha Sherin, minor daughter) and Supl. R6 (Ayisha, minor daughter) have been impleaded as respondents. Hence, all the respondents are jointly and severally liable to pay Rs.10,00,000/- as compensation.

6. On the side of the petitioner, Exhibits A1 to A9 and X1 were marked. The second respondent entered appearance. R3 to R6 were absent and set ex-parte.

7. Heard the counsel for the petitioner and the second respondent.

8. The following issues arise for consideration:-

1. *Whether the petitioner sustained injuries in the accident?*
2. *Whether the accident occurred due to the rash and negligent driving of the second respondent?*
3. *Whether the petitioner is entitled to compensation? If so, who is liable to pay the same?*
4. *If issue Nos.1 to 3 are decided in favour of the petitioner, what shall be the quantum of compensation?*
5. *Relief and order as to costs?*

9. **Issue No.1 & 2:-** Exhibit A2 was produced by the claimant to demonstrate that he sustained injuries in the accident. Ext. A2 is the final report in Crime No.680/2020 of Chokli Police Station. The final report confirms that the petitioner was injured and that the accident occurred due to the negligence of R2,

the driver of the vehicle. In ***New India Assurance Company Ltd. v. Pazhani Ammal, 2011 (3) KLT 648***, the Division Bench of the Hon'ble High Court of Kerala emphasized that, in the absence of any contrary evidence from the respondents, the police charge sheet can be accepted as a reliable piece of evidence for establishing negligence. However, the same decision also notes that the court can require more proof if it suspects collusion between the vehicle's owner and driver in order to deceive the insurance provider.

10. The respondents have not presented any evidence to challenge the findings of the police charge sheet. Hence, based on Exhibit A2, it can be concluded that the petitioner sustained injuries in the accident due to the negligence of R2. Accordingly, these issues are found in favour of the petitioner.

11. **Issues 3 and 4:-** The petitioner has claimed total compensation to the tune of Rs.10,00,000/- under various heads as shown in the schedule hereunder.

12. The petitioner stated that he is an electrician and claims to earn an income of Rs.25,000/- per month. However, no documents have been submitted to substantiate the petitioner's monthly income. In ***Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited 2011 (13) SCC 236*** the Supreme Court fixed the monthly income of a coolie as Rs.4,500/- per month notionally who met with a road accident in the year 2004, at the age of 35 years. It was held that in a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time. In ***Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd. (2014) 2 SCC 735***, taking note of the earlier decision in Ramachandrappa's case (supra), the Apex Court estimated the monthly income of a vegetable vendor, who met with a road accident in the year 2008, at the age of 24 years, notionally as Rs.6,500/-. In the said decision, the Apex Court held that, a labourer in an

unorganised sector doing his own business cannot be expected to produce documents to prove his monthly income. The Hon'ble Supreme Court has also recognized the principle that there would be incremental enhancement in the case of even self-employed individuals in the unorganised sector (Vide: ***National Insurance Co. Ltd. v. Pranay Sethi 2017 (16) SCC 680***). Hence considering the increase in cost of living and economic advancement over the years, it can be safely assumed that even a person who works in an unorganized sector would be eligible for incremental addition of at least 10 percent every 3 years.

13. Applying the principles in Ramachandrappa's case (supra), Syed Sadiq (supra) and Pranay Sethi (supra), I am of the view that Rs.12,500/- can be fixed as the notional income in the case of petitioner for the accident which occurred in the year 2020. In the absence of any evidence regarding the petitioner's monthly income, his monthly income can be fixed at the rate of Rs.12,500/- as notional income for the purpose of calculating compensation.

14. The petitioner has claimed Rs.1,25,000/- towards loss of earnings. Considering the nature of injuries sustained by the petitioner, it can be concluded that the petitioner could not have worked atleast for a period of 4 months. Further, a period of 1 month can be added for bed rest and recuperating from the injuries. Hence, Rs.62,500/- is allowed as compensation towards loss of earnings for 5 months (Rs.12,500 x 5 months).

15. The petitioner has claimed Rs.50,000/- for compensation for mental agony, shock, permanent disability discomfort and loss of amenities. As per Ext.X1, the petitioner had sustained 5% permanent disability. The petitioner was 46 years old at the time of the accident. The multiplier in this case is 13 since the petitioner was aged 46 years. So, the calculation of compensation will be as follows: Annual income before accident (12,500x12=1,50,000)x13 (multiplier) x5/100 (percentage of permanent disability). The same will come to Rs.97,500/-.

16. The petitioner has claimed Rs.90,000/- compensation for loss of earning capacity, earning power, loss of future prospects etc. The Tribunal has already awarded Rs.97,500/- under the head compensation for loss of earnings on account of permanent disability. The Full Bench of the Hon'ble High Court of Kerala in ***Oriental Insurance Company Limited v. Hari Prasad (AIR 2006 Ker 125)***, has held that loss of earning power is one of the consequences that follows from permanent disability; and it was specifically directed that the Tribunals, while awarding compensation under the head permanent disability, should take notice of loss of earning power and shall not take into consideration the loss of earning power as a separate head after fixation of compensation for permanent disability.

Loss of amenities

17. I shall now consider the quantum of compensation to be given to the petitioner for the loss of amenities. The Division Bench of the Honourable High Court of Kerala in ***National Insurance Co. Ltd. v. Anoopkumar [2014 (1) KLT 266]***, in Paragraph 6 of the judgment held as follows:

6. We have also noticed that some Motor Accidents Claims Tribunals in the State have construed the decision of this Court in George v. Thomas (2013 (1) KLT 575), wrongly, by holding that for disability, compensation has to be awarded only under one head. We reiterate that we have only held that apart from (1) compensation for loss of earning power and (2) compensation for disability/loss of amenities and enjoyment of life, there is no third head, because some Tribunals used to award compensation for (1) disability (2) loss of earning capacity and (3) loss of amenities and enjoyment in life separately under three separate heads, which should not be done. We make it clear that the head, 'loss of amenities and enjoyment in life' should take in its fold loss of good marriage prospects, disfigurement, loss of expectation of life and the like, which would affect his personal life adversely because of the disability.

18. Considering the nature of injuries sustained by the petitioner and the percentage of disability, I am of the view that the petitioner can be awarded Rs.50,000/- as compensation for loss of amenities.

19. The accident occurred at Balan Peedika at Peringathur and the injured was taken to Genral Hospital, Thalassery and then to Indhira Gandhi Co-operative Hospital for treatment. Considering the distance between the place of accident and the hospitals where she underwent treatment, I am of the view that Rs.5,000/- can be awarded as compensation under the head transport expenses.

20. The petitioner has claimed Rs.8,000/- towards expenses incurred for extra nourishment. Considering the nature of the injuries sustained by the petitioner and the treatment undertaken by the petitioner, I am of the view that Rs.8,000/- can be awarded as compensation.

21. The petitioner was travelling in a two-wheeler at the time of the accident and sustained injuries. Hence, it can be concluded that he might have sustained damage to clothing. However, I am of the view that Rs.2,000/- can be awarded towards damage to clothing.

22. Petitioner has claimed Rs.6,00,000/- under the head medical expenses. He produced Ext.A5 series medical bills to the tune of Rs.95,085/-. The above documents show that the said amounts were expended by the petitioner in connection with the treatment and the same is entitled to be reimbursed. Accordingly, Rs.95,085/- is awarded towards medical expenses.

23. The petitioner has sought Rs.1,00,000/- for pain and suffering. Given the nature of the injuries sustained by the petitioner and the fact that petitioner sustained 5% permanent disability, I am of the view that an amount of Rs.1,00,000/- can be awarded for pain and suffering.

24. Thus, the total compensation to which the petitioner claimed and he is found entitled can be summarized as below:

SUMMARY OF CLAIMS RAISED AND ALLOWED

Sl. No.	Head of claim	Amount Claimed (Rs)	Amount Awarded (Rs)	Basis-vital details in a nutshell
1	Loss of earning	1,25,000/-	62,500/-	12,500 x 5
2	Transport to hospital	25,000/-	5,000/-	Reasonable estimation
3	Extra nourishment	8,000/-	8,000/-	Reasonable estimation
4	Damage to clothing	2,000/-	2,000/-	Reasonable estimation
5	Medical expenses	6,00,000/-	95,085/-	Ext.A.5 series
6	Compensation for pain and suffering	1,00,000/-	1,00,000/-	Reasonable estimation
7	Compensation for for mental agony, shock, permanent disability discomfort and loss of amenities	50,000/-	97,500/- 50,000/-	(12,500x12=1,50,000)x13x5/100 (loss of amenities)
8	Compensation for loss of earning capacity, earning power, loss of future prospects etc	90,000/-	--	Reasonable estimation
	TOTAL	10,00,000/-	4,20,085/-	

25. From the above discussion, it can be seen that the petitioner is entitled to Rs.4,20,085/- (Rupees Four lakhs twenty thousand and eighty five only) towards compensation.

26. The next question to be considered is who is liable to pay compensation. The liability to pay compensation has to be determined in the light of the admitted fact that the offending vehicle was driven by the 2nd respondent, a minor, without a valid driving licence. The same constitutes a clear violation of the provisions of the Motor Vehicles Act, 1988. The 1st respondent, being the owner of the vehicle (since deceased), is therefore primarily liable to pay the compensation. It is to be noted that the 1st respondent died during the pendency of the proceedings and his legal representatives, have been impleaded as respondents 3 to 6. However, since the 1st respondent died, the question is whether R3 to R6 can be mulcted with liability to pay compensation to the petitioner. Therefore this court has appointed Advocate A.S. Madhusoodhanan as Amicus Curiae. The learned amicus would contend that the R2 cannot be mulcted with any liability since he was a minor at the time of accident. He would place reliance upon section 2 of the Kerala Torts (Miscellaneous Provisions) Act, 1976 to submit that the compensation amount can be recovered from the estate of the deceased. Section 2 of the Kerala Torts (Miscellaneous Provisions) Act, 1976 provides that all causes of action subsisting against a person survive against his estate, except in specified excluded categories, which do not include claims for compensation arising out of motor accidents. Therefore, the cause of action in the present case survives against the estate of the deceased owner. The Hon'ble High Court of Kerala in *Jaya and Others v. Shaji and Others 2014 (1) KHC 4*, has held that, in view of Section 2 of the said Act, the restrictive principle embodied in Section 306 of the Indian Succession Act, 1925 stands diluted, and causes of action, except those expressly excluded, survive to and against the estate of the deceased.

27. Therefore the liability of the deceased 1st respondent survives against his estate, and respondents 3 to 6, being his legal representatives, are liable to satisfy the award, however only to the extent of the estate inherited by them and

not in their personal capacity. Hence, respondents 2 to 6 are jointly and severally liable to pay the compensation, subject to the above limitation in respect of respondents 3 to 6. Hence, these issues are found partly in favour of petitioner.

28. **Issue No.5:-** In view of the above findings, this petition is allowed in part as follows.

In the result, R3 to R6 are directed to make the following payments within a period of one month.

1. *Award is passed in favour of the petitioner to realize from R3 to R6 a sum of Rs.4,20,085/- (Rupees four lakhs twenty thousand and eighty five only) together with interest at the rate of 8% per annum from the date of petition [08.02.2021] till realization of the amount with costs at proportionate rate.*
2. *Respondents 3 to 6 are held jointly and severally liable to satisfy the award. However, in so far as respondents 3 to 6, being the legal representatives of the deceased 1st respondent, are concerned, their liability shall be limited to the extent of the estate of the deceased that has come into their hands.*
3. *R3 to R6 shall furnish a cheque for Rs.9,373/- (Rupees nine thousand three hundred and seventy three only) being the balance court fee in favour of MACT, Thalassery.*
4. *R3 to R6 shall produce a cheque for Rs.10,000/- (Rupees ten thousand only) being the additional court fee towards legal benefit fund in favour of MACT, Thalassery.*
5. *R3 to R6 is directed to transfer the entire balance amount due to the petitioner in the Savings Bank Account shown below within a period of one month as directed by Hon'ble High Court in circular number 1/2025 dated 19.09.2025.*

Name of Bank	Name of Branch	Account Number	IFSC Code
Canara Bank	Peringathur	110225763554	CNRB0007770

6. R3 to R6 shall instruct their bank to ensure the deposit of the amount by way of direct transfer to the account of the petitioners mentioned above, containing the following information in the prescribed format by way of compliance with the award.

1	OP(MV) Number	
2	On the file of Motor Accidents Claims Tribunal	
3	Date of award	
4	Amount Deposited	
5	Amount of FD/No.	
6	Name of minor	
7	Income Tax Deduction at Source	
8	Bank Transaction Reference No./Unique Transaction Reference (UTR) No.	

7. After depositing the compensation amount, R3 to R6 shall submit statement of transfer details to this Tribunal, enclosing a copy of bank advice, in the format prescribed in Circular No.1/25 dated 19.09.2025 of the Hon'ble High Court of Kerala, and also serve copy on the petitioner and their counsel forthwith.
8. R3 to R6 is direct to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at source.
9. The copy of Exts.A9 bank passbook produced by the petitioner and duly attested by the bank manager shall form part of award for the purpose of facilitating the transfer of compensation amount to the bank account of the petitioner.

(Dictated to the Confidential Assistant and typed by her directly into the computer and pronounced by me in open Court, this the 24th day of March, 2026.)

sd/-

ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL/
ADDL. DISTRICT JUDGE-IV.

PETITIONER'S EXHIBITS:-

SI. No.	Date	Exhibit number	Description
1	07.10.2020	A1	True Copy of FIR (Crime No. 680/2020 of Chokli Police Station)
2	26.12.2020	A2	Final Report
3	01.10.2020	A3	Wound Certificate issued from Baby General Hospital Thalassery
4	-----	A4(Series)	Discharge summary(2 Nos).
5		A5(Series)	Medical Bills(27 Nos)
6	-----	A6	Self attested copy of PAN Card of the petitioner
7	-----	A7	Self attested copy of Aadhar Card of the petitioner
8	-----	A8(Series)	Photographs (3 Nos)
9	-----	A9	Attested copy of Bank passbook of the petitioner
10	14.02.2024	XI	Medical Board Report

RESPONDENTS' EXHIBITS:- Nil

sd/-

ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL/
ADDL. DISTRICT JUDGE-IV.

sk/-

Fair/ Copy order in OPMVNo. 118/2021
Dated 24-03-2026