THE MOTOR ACCIDENTS CLAIMS TRIBUNAL/ ADDITIONAL DISTRICT AND SESSIONS COURT, TALIPARAMBA

Present:- Sri.**Prasanth.K.N**, Motor Accidents Claims Tribunal/ Additional District and Sessions Judge

Friday, the 13th day of March, 2026/ 22nd Phalguna, 1947

O.P.(MV) No. 12 OF 2022

1. Amal John, aged 23 years, residing at Ullattu House, Eruvatty, Eruvatty (PO), Thimiri, Kannur Dist. 670581	Petitioner

Vs.

1. Deepu Raju, S/o.Leela.K.N, aged 35 years, residing at Kuruvikattu, Alakodu, Kannur Dt. 670571. Owner of the Bolero Pick up Goods bearing No. KL 59 X 2261. 2. The Branch Manager, Oriental Insurance Company Ltd., K P Rialto, Thana (PO), Kannur, Kerala, 670012, Policy No. 442500/31/2022/463 period of Insurance – 27-04-2021 to 26-04-2022 3. **Supplemental 3rd respondent**: Bijith Mohan, S/o.Mohan, residing at Kuruvikattu House, Manakkadavu (PO), Alakodu. (Driver of the Bolero Pick up Goods bearing No. KL 59 X 2261.) Amendment as per order in IA 05/2025 dated 05-05-2025.	Respondents

This petition coming on the 7th day of February, 2026 for final hearing before me in the presence of Sri.P.M.Nandakumar, Advocates for the petitioner; and of Sri.V.V.Sivaprakash, Advocate for the 2nd respondent; Respondent Nos.1 & 3 are being called absent set exparte and having stood over for consideration till this day, and the tribunal passed the following:-

AWARD

SUMMARY OF THE CASE

No	Heading	Description	Remarks
1	Details of parties	Petitioner - Injured, R1 –Owner, R2 -Insurer, R3 - Driver	
2	Accident details	A pickup van hit a motorcycle, and the pillion rider sustained injuries - **Injury case**	
3	Occurrence	17.09.2021 - Ext.A1	FIR 319/2021, Alakkode PS
4	Final Report	29.09.2021 - Ext.A2	U/s 279, 338 IPC
5	Petition	22.12.2021	U/s 166 MV Act
6	Licence	DL	Transport DL for R1, IA 7/25
7	Insurance	Insured	Admitted
8	Age	22	Adhar card
9	Job	Sales man	Not proved
10	Income	₹20,000 - Claimed	MW Act - ₹18,225
11	Injuries Ext.A3, A4, A5, A6	TBI Thin Tentorial SDH +SAH, Maxilla and mandible fracture, Fracture left clavicle, Fracture left 4th and 5th metacarpal, Dento alveolar fracture lower jaw, Lacerated wound on forehead – sutured, Multiple abrasions on face, Subarachnoid haemorrhage, Tentorial haemorrhage, Para symphysis fracture of Mandible, Dento alveolar fracture IRT, MID palatine fracture, C5 spine fracture, right traumatic optic neuropathy	
12	Treatment	**ORIF mandible and maxilla**	
13	Disability	3%	Dental disability
		Ext.X1	Govt. MC Hospital, Kannur
		Multiplier - 18	Future prospects – Nil
14	Hospitalization	Ten days	18.09.2021 to 18.09.2021 18.09.2021 to 27.09.2021
15	Medical bill	₹1,15,515	Ext.A7 series
16	Evidence	Exts.A1 to A9, X1	No oral evidence
	Compensation	₹16,54,000 - Claimed	**₹7,22,000 -** Allowed

1. This petition is filed under **Section 166** of the Motor Vehicles Act, 1988, to seek compensation for the injuries suffered by the petitioner in an accident.

Case of the petitioner

2. On 17.09.2021 at about 4.30 pm, the petitioner was travelling as a pillion rider in a motorcycle bearing Regn. No. KL.13. AB.3457 at Vayattuparamba, a pickup van bearing Regn. No. KL.59. X.2261, driven by the third respondent in a rash and negligent manner, hit the motorcycle, and the pillion rider sustained grievous injuries. After the accident, the petitioner was taken to the Aster MIMS Hospital, Kannur, and the Government Medical College Hospital, Pariyaram, where he was treated as an inpatient. The first respondent was the owner, the second respondent was the insurer, and the third respondent was the driver of the offending vehicle. The petitioner avers that he was a 23-year-old and has claimed an amount of ₹16,54,000 as compensation for her injuries.

3. The first and third respondents did not appear on summons and were set ex parte. The second respondent entered an appearance and filed a written statement.

Case of the respondent

4. The second respondent disputed the negligence, job, income, and vehicle's involvement in the accident and stated that the compensation claimed under different heads was excessive and unreasonable. It is also contended that the first respondent did not have a driving licence to drive a transport vehicle at the time of the accident, and disputed the validity of the fitness certificate and the permit for the offending vehicle. However, it is admitted that the pickup van bearing Regn. No. KL.59. X.2261 was insured with the second respondent.

5. Based on the above pleadings, the following points were framed for consideration.

Points for consideration

1. ***Did the accident occur due to the first respondent's rash and negligent driving of the pickup van bearing Regn. No. KL.59. X. 2261?***
2. ***Has the petitioner sustained any injuries in the accident?1,15,515***
3. ***Is the petitioner entitled to any compensation? If so, what is the quantum?***
4. ***Who is liable to pay the compensation?***
5. ***Reliefs and costs?***

6. Neither side has adduced any oral evidence. Exts. A1 to A9 documents were marked on the petitioner's side, and no document was marked from the second respondent's side. The certificate issued by the medical board of the Government Medical College Hospital, Kannur, is marked as Ext.X1.

7. Heard the counsel for the petitioner and the respondents.

Point No.1/ Negligence

8. To prove the accident and negligence, the petitioner relies on Ext.A1 FIR and Ext.A2 final report. These records show that the police had registered a case regarding the incident as Crime No. 319/2021 of Taliparamba Police Station and filed the final report under **Section 173 (2) of Cr.P.C**, inculpating the third respondent. According to the final report, the driver of the

pickup van has been charged under **Sections 279 and 338** of the **IPC** for rash and negligent driving, which caused the accident.

9. The Hon'ble High Court of Kerala has held in ***New India Assurance Company V. Pazhaniammal, 2011 (3) KHC 595*** and ***Kolavan V. Salim, 2018 KHC 77,*** that the production of a police charge sheet, as a general rule, is sufficient evidence of negligence for a claim under **Section 166** of the Motor Vehicles Act unless the contrary is proved. Once the claimant produces the charge sheet, the burden of proof shifts to the party who does not accept the charge sheet to adduce contrary evidence. The respondents could not adduce rebuttal evidence to challenge the final report, so the petitioners' case concerning the cause of the accident, which appears believable and probable, must be accepted. Hence, in the light of Exts.A1 and Ext.A2 documents, I hold that the evidence adduced is sufficient to prove that the accident occurred due to the rash and negligent driving of the first respondent. Point No.1 is answered in favour of the petitioner accordingly.

<u>Point No.2/ Cause of injury</u>

10. To prove the injuries suffered by the petitioner and the treatment details, he has produced the Ext.A3, A4 wound certificates, Ext.A5, A6 discharge summaries and Ext.A7 medical bills. The wound certificate would show that on 17.09.2021 at about 8.30 pm, the petitioner was treated in the Aster MIMS Hospital, Kannur, for the injuries sustained in a motor vehicle accident on the same day. The discharge summary shows that the petitioner was treated as an

inpatient at Aster MIMS Hospital, Kannur, from 18.09.2021 to 18.09.2021, and at Government Medical College Hospital, Pariyaram, from 18.09.2021 to 27.09.2021. The following are the injuries and treatment of the petitioner, as per the wound certificate and the discharge summaries.

a. **TBI Thin Tentorial SDH +SAH**

b. **Maxilla and mandible fracture**

c. **Fracture left clavicle**

d. **Fracture left 4th and 5th metacarpal**

e. **Dento alveolar fracture lower jaw**

f. **Lacerated wound on forehead – sutured**

g. **Multiple abrasions on face**

h. **Subarachnoid haemorrhage**

I. **Tentorial haemorrhage, Para symphysis fracture of Mandible, Dento alveolar fracture IRT**

j. **MID palatine fracture**

k. **C5 spine fracture, right traumatic optic neuropathy**

Treatment -ORIF mandible and maxilla

11. The petitioner sustained injuries in the accident, as substantiated by the FIR, the final report, discharge summary and wound certificate. The respondent does not challenge the factum of the accident, the final report, or the medical documents. Considering all these documents, it is sufficient to show that the petitioner sustained the injuries in the accident. Point No.2 is answered in favour of the petitioners accordingly.

Discussion on Point No.3

Medical & Bystander expenses

12. The petitioner has produced undisputed Ext.A7 medical bills to the tune of ₹1,15,515. Considering the nature of the injuries and the medical bills, I am inclined to award **₹1,15,515**under the head of medical expenses. The discharge summary shows that he was hospitalized as an inpatient for ten days. Considering the aforementioned, I am inclined to award **₹10,000** for ten days at **₹1,000** per day under the head of bystander expenses.

Pain and suffering & loss of amenities

13. Considering the nature of the injuries, long treatment, five fractures, head injury and disability, I am inclined to award an amount of **₹2,50,000** under the head of pain and suffering and **₹1,00,000** under the head of loss of amenities.

Transportation, clothing & nourishment

14. Considering the two admissions, two discharges and reviews at Pariyaram and Kannur, I am inclined to grant an amount of **₹6,000** under the head of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing and articles. Under the heading of extra nourishment, considering the ten-day hospitalization, I am inclined to grant **₹10,000.**

Discussion on Income

15. The petition states that the petitioner was a salesman, earning a monthly income of ₹20,000, and due to the injuries sustained in the accident, he

had lost his income. He produced Ext.A8 Copy of his Degree certificate issued by Bharathiar University. However, the petitioner has not adduced any evidence to prove his income. Therefore, the notional income of the petitioner will be assessed in accordance with judicial precedents and statutory obligations. This court holds that the commonly cited judgment in ***Ramachandrappa V. Manager, Royal Sundaram Alliance Insurance Company Ltd., 2011 (13) SCC 236***, is not a binding precedent in the present scenario. The ratio decidendi applies only to the factual scenario of that case, and there was no discussion regarding the long-standing principles for evaluating income. It is a 2004 case from Karnataka, and the Hon'ble Apex Court delivered its judgment in 2011. The standard of living and the cost of living vary widely across states; for this reason, notifications under the Minimum Wages Act are issued by the State Government after analysing various factors.

16. The concept of right to work and living wages was enshrined by **Article 43** of the Indian Constitution, which states that the wages of a worker shall ensure a decent standard of living and social justice. Therefore, the Minimum Wages Act was introduced to prevent the exploitation of labourers by securing minimum wages, ensuring a basic standard of living, and promoting social justice in conformity with constitutional directives. It is held by the Hon'ble Supreme Court in ***Gurpreet Kaur V. United Insurance Co. Ltd, 2022 (6) KHC 601***, and ***Jithendra V. Sadiya, 2025 KHC 7101,*** that the notifications under the Minimum Wages Act can be a guiding factor in cases where there is no

evidence available to evaluate monthly income.

17. As far as the State of Kerala is concerned, the Government has brought the minimum wage rates in **G.O.(P). No. 29/2021/Fin, w.e.f 11.02.2021,** for unskilled workers at ₹18,225 per month. Therefore, this court is of the considered view that, as beneficial legislation, the minimum wages can be taken into account in accident claims, and the petitioner's notional monthly income can be fixed at **₹18,225.** The nature of the injuries suffered by the petitioner, along with the consideration of his age, leads me to the view that he had not been in a position to attend to any work for six months. Therefore, the petitioner is entitled to an amount of **₹1,09,350** (6 x18,225) on account of loss of income.

Discussion on Disability

18. At the petitioner's request, he was referred to the medical board, Government Medical College Hospital, Kannur, to assess the disability suffered due to injuries. After examining the petitioner, the medical board issued a certificate marked as Ext.X1, which stated that the petitioner had suffered a **3% disability**. The petitioner has produced a copy of his Aadhaar card to prove his age, which shows his year of birth as 06.09.1999. Since the accident occurred on 17.09.2021, the petitioner was 22 years old at the time of the accident, and the multiplier applicable is **'18',** in view of the decision of the Hon'ble Apex Court in ***Sarla Verma V. Delhi Transport Corporation, 2009 KHC 4634*****.** Applying a multiplier of 18 and considering the petitioner's 3% disability, the compensation

for functional disability would be **₹1,18,098** (18,225x12x18x3/100). Point No.3 is answered in favour of the petitioner accordingly. The claims under other heads are rejected for lack of evidence.

19. The compensation under the different heads is summarized as follows.

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of Earnings	2,64,000	1,09,350	18,225 x 6 months
2	Partial loss of earnings	1,00,000	Nil	Nil
3	Transport to the hospital	30,000	6,000	Reasonable estimate
4	Damage to clothing	10,000	3,000	Reasonable estimate
5	Extra nourishment	50,000	10,000	10-day hospitalization
6	Medical expenses	3,00,000	1,15,515	Ext.A7
7	Bystander expenses		10,000	10 days x800
8	Pain and Suffering	2,00,000	2,50,000	Reasonable estimate
9	Disability	5,00,000	1,18,098	18,225x12x18x3/100
10	Loss of amenities		1,00,000	Reasonable estimate
11	Loss of earning power	2,00,000	Nil	No evidence
12	**Total**	**16,54,000**	**₹7,21,963**	**Just compensation**

<u>Point No.4/ Liability</u>

20. It has already been found that the driver of the pickup van, the third respondent, is responsible for the accident of his rash and negligent driving. The first respondent, the vehicle's owner, is liable to compensate the petitioner. Admittedly, the vehicle was insured with the second respondent and had a valid policy at the time of the accident. The second respondent contended that the third respondent did not have a valid transport vehicle driving licence at the time of the accident. He did not produce his driving licence, even after the direction

in IA 7/2025. So, an adverse inference could be drawn against him under **Section 114 (h)** of the Evidence Act. However, the insurer has no case that the first respondent did not had a driving licence at the time of the accident, except the pleading of the absence of transport vehicle driving licence.

21. According to **Section 2 (21)** of the Motor Vehicles Act, *"light motor vehicle means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road roller the unladen weight of any of which, does not exceed 7500 kilograms."* The offending vehicle was a Bolero pick-up van with a maximum weight of 3,490 kg. So, it is clear that the offending vehicle is an LMV as envisaged under the Motor Vehicles Act.

22. It is the settled position of law that the driver holding a driving licence to drive an LMV (non-transport) can also drive a transport vehicle with an unladen weight of less than 7500 kg. It is held in ***Mukund Dewangan V. Oriental Insurance Company, 2017 (14) SCC 663***, and ***M/S Bajaj Alliance General Insurance Co. LTD. V. Rambha Devi, 2024, Live Law (SC) 859*** that *"a driver who is having a licence to drive a light motor vehicle, and is driving transport vehicle, of that class is not required additionally to obtain an endorsement to drive a transport vehicle."* Therefore, no need of transport driving licence for a driver to driven the bolero pick up van.

23. So, the second respondent, the insurer, is liable to indemnify the first respondent and compensate the petitioner. Point No.4 is answered in favour of the petitioner accordingly.

Interest and Cost/ Point No.5

24. According to **Section 171** of the Motor Vehicle Act, the Tribunal can direct a simple interest in addition to the compensation in motor vehicle accident cases. However, the interest rate is not fixed by the statute. Therefore, relying on the Judgment rendered by a three-bench of the Hon'ble Supreme Court in ***Supe Dei V. National Insurance Co. Ltd, 2009 KHC 4551*** and ***Kaushnuma Begum V. New India Assurance Co. Ltd, 2001 (2) SCC 9***, it is reiterated that **9%** is the appropriate rate of interest in Motor Vehicle accident compensation cases. As a result of the above discussion, the interest rate is fixed accordingly.

25. Thus, the petitioner is entitled to a compensation of **₹7,21,963** rounded to **₹7,22,000.** Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, I hold that the petitioner is entitled to recover the proportional costs of the proceedings from the second respondent.

As a result, the petition is allowed in part as follows,

1. The petitioner is entitled to realize an amount of **₹7,22,000 (Rupees Seven Lakh Twenty-Two Thousand only)** as compensation from the second respondent with interest @ **9%** per annum from **22.12.2021,** the date of application, until deposit/realization.
2. The second respondent/insurer is ordered to deposit a cheque for ₹15,909 (Rupees Fifteen Thousand Nine Hundred and Nine only), the balance of the court fee payable to this Tribunal.

3. The second respondent/insurer shall also furnish an additional cheque for ₹16,540(Rupees Sixteen Thousand Five Hundred and Forty only) as the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.
4. The second respondent/insurer is directed to deposit the entire balance due to the petitioner into the petitioner's bank account listed below within one month.

Name of the person	Amal John
Name of the Bank & Branch	Federal Bank, Eriam
Account Number	13280100108458
IFSC Number	FDRL0001328

5. The second respondent/insurer shall instruct their bank to ensure the deposit of the amount by direct transfer to the account of the petitioner mentioned above, containing the following information in the prescribed format, in compliance with the award.

1	OP(MV)Number	
2	On the file of MACT	
3	Date of award	
4	Amount deposited	
5	Amount of FD/No	
6	Name of the minor	
7	Income Tax Deduction at Source	
8	Bank Transaction Reference No/UTR	

6. After deposing the compensation amount, the third respondent/insurer shall submit a statement of transfer details to this Tribunal, enclosing a copy of the 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 a copy on ***the petitioner and their counsel forthwith.***
7. The second respondent/insurer is directed to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at the source.

(Dictated to the Confidential Assistant, transcribed and prepared by her, in computer, corrected and pronounced by me in open court on the 13th day of March 2026.)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	19-09-2021	FIR No. 319/2021 of Alacode Police Station
A2	29-09-2021	Final report
A3	17-09-2021	Carbon copy of Wound Certificate (Aster MIMS)
A4	17-09-2021	Carbon copy of Wound Certificate (Govt.Medical College Hospital, Kannur)
A5	18-09-2021	Discharge summary (Aster MIMS)
A6	27-09-2021	Discharge summary (Govt.Medical College Hospital, Kannur)
A7 series	--	Medical Bills
A8	13-05-2022	Certificate
A9	--	Copy of Aadhar Card

Third Party Exhibits

X1	18-07-2025	Medical Board Certificate

Petitioner's Witness - Nil

Respondent's Witness - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA