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

Monday, the 16th day of March, 2026/ 25th Phalguna, 1947

O.P.(MV) No. 80 OF 2022

1. Unnikrishnan.P, S/o.T.Ambu, aged 43 years, Palliyath House, Kozhummal, Kozhummal PO Peralam, Kannur Dist. 670521. Aadhar No. 598550184309, Bank A/c.No. 40512101008966, Kerala Gramin Bank, Peralam Branch, IFSC Code: KLGB0040512	Petitioner

Vs.

1. Sunil.K, S/o.Bhaskaran, aged 39 years, Kadiyan House, Vattapoyil, Puthoor, (PO) Karivelloor, Kannur Dist. 670521. Drier cum owner of KL 59 N 2476 Motor Cycle 2. Branch Manager, Oriental Insurance Co.Ltd. Perumba, Payyanur, Near Perumba Juma Masjid, Payyanur (PO), 670307. Policy No. 441690/31/2020/1063 Insurer of KL 59 N 2476 Motor Cycle	Respondents

This petition coming on the 31st day of January, 2026 for final hearing before me in the presence of Smt.Dhanya.A, Advocate for the petitioner; of Sri.Renjana.S, Advocate for the 1st respondent; and of Sri.Manoj.P.B, Advocate for the 2nd respondent 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 - Driver/Owner, R2 - Insurer	
2	Accident details	Collision between two motorcycles, and the rider sustained grievous injuries - **Injury Case**	
3	Occurrence	19.12.2019 - Ext.A1	FIR 1226/2019, Payyannur PS
4	Final report	06.01.2020 - Ext.A2	U/s 279, 338 of IPC
5	Petition	26.03.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Age	44	Adhar card
9	Job	Welder	Not Proved
10	Income	Claimed - ₹30,000	MW Act - ₹17,820
11	Injuries Ext.A3, A4	Wound on the right ear, wound on the right hand, wound on the middle finger, wound on the ring finger, dorsal avulsion wound on the little finger, extensor tendon repair, #Undisplaced fracture on the zygomatic wall, Ear lobe injury, and shoulder tenderness	
12	Hospitalization	2 days - Ext.A4	9.12.2019 to 20.12.2019
13	Medical bill	₹8,227	Ext.A6 series
14	Evidence	Exts.A1 to A6	No oral evidence
15	Compensation	₹3,26,000 - Claimed	**₹2,71,500 -** 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 19.12.2019, at 6.30 pm, the petitioner was riding a motorcycle bearing Regn. No. KL.13. R.3628 at Peralam, another motorcycle bearing Regn.

No. KL.59. N.2476, driven by the first respondent in a rash and negligent manner, collided with the other, and the rider sustained grievous injuries. After the accident, the petitioner was taken to the Saba Hospital, Payyannur, where he was treated as an inpatient. The first respondent was the owner-cum-driver, and the second respondent was the insurer of the offending vehicle. The petitioner avers that he was a 30-year-old and has claimed an amount of **₹3,26,000** as compensation for his injuries in the accident.

3. The first respondent appeared but no written statement filed. The second respondent entered an appearance and filed a written statement.

<u>Case of the respondent</u>

4. The second respondent disputed the negligence, job, income, and vehicle's involvement in the accident, stating that the amount of compensation claimed in the petition under different heads is excessive and unreasonable. This respondent contended that the first respondent did not have a driving licence at the time of the accident. However, it is admitted that the motorcycle bearing Regn. No. KL.59. N.2476 was insured with the second respondent and was involved in the alleged accident.

5. Based on the above pleadings, the following points are raised for consideration.

Points for consideration

1. ***Did the accident occur due to the first respondent's rash and negligent driving of the motorcycle bearing Regn. No. KL.59. N.2476?***
2. ***Has the petitioner sustained any injuries in the accident?***
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 A6 documents were marked on the petitioner's side, and no document was marked from the second respondent's side.

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 indicate that the police registered a case regarding the incident under Crime No. 1226/2019 at the Payyannur Police Station and filed a final report under **Section 173(2)** of the **Cr.P.C**., inculpating the first respondent. According to the final report, the rider of the motorcycle has been charged under **Sections 279 and 338** of the IPC for rash and negligent driving, which caused the accident. The final report shows that the accident was caused by the negligence of the first respondent, the driver of the motorcycle.

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 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.

Point No.2/ Cause of injury

10. To prove the injuries suffered by the petitioner and the treatment details, he has produced the Ext.A3 wound certificate, Ext.A4 discharge card, Ext.A5 prescription and Ext.A6 medical bills. The wound certificate shows that on 19.12.2019 at 7.00 pm, the petitioner was treated in Saba Hospital, Payyannur, for the injuries sustained in a motor vehicle accident on the same day. The discharge bill shows that the petitioner was treated as an inpatient in Saba Hospital, Payyannur, from 19.12.2019 to 20.12.2019. The following are the injuries and treatment of the petitioner, as per the wound certificate and the

discharge summary.

a. Wound on the right ear

b. Wound on the right hand

c. Wound on the middle finger

d. Wound on the ring finger

e. Dorsal avulsion wound on the little finger

f. Extensor tendon repair

g. #Undisplaced fracture on the zygomatic wall

h. Ear lobe injury, and shoulder tenderness

11. The petitioner sustained injuries in the accident, which is substantiated by the FIR, final report, wound certificate, and discharge summary. 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.

<u>Discussion on Point No.3</u>

<u>Medical & Bystander expenses</u>

12. The petitioner has produced Ext.A6 medical bills to the tune of ₹8,227. Considering the nature of the injuries and the medical bills, I am inclined to award **₹8,227** for medical expenses. The discharge bill shows that he had been hospitalized as an inpatient for two days. Considering the aforementioned, I am inclined to award **₹2,000** for **two days**, at ₹1,000 per day, under the head of bystander expenses.

<u>Pain and suffering & Amenities</u>

13. Considering the nature of injuries, fracture and an extended period of treatment, I am inclined to award an amount of **₹1,00,000** under the head of pain and suffering and **₹60,000** under the head of loss of amenities.

<u>Transportation, Clothing & Nourishment</u>

14. Considering the admission, discharge, and three reviews at Payyannur, I am inclined to award an amount of **₹5,000** (1000x 5 times, 10 km) under the heading of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing and articles. Considering the hospitalization and treatment, I am inclined to grant **₹4,000** under the heading of extra nourishment**.**

<u>Calculation of income</u>

15. The petition states that the petitioner was a welding worker earning a monthly income of ₹30,000, and due to the injuries sustained in the accident, he had lost his income. 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. 81/2019/Fin, w.e.f 09.07.2019,** for unskilled workers at ₹17,820 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 **₹17,820.** 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 four months. Therefore, the

petitioner is entitled to an amount of **₹89,100** (5x17,820) on account of loss of income.

18. The compensation to which the petitioner is entitled under 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	1,20,000	89,100	17,820 x 5 months
2	Transport to the hospital	8,000	5,000	1000x 5 times, 10 km
3	Damage to clothing	3,000	3,000	Reasonable estimate
4	Extra nourishment	Nil	4,000	2 days Hospitalization
5	Amenities	Nil	60,000	Reasonable estimate
6	Medical expenses	40,000	8,227	Ext.A6 series
7	Bystander expenses	5,000	2,000	2 days X 1000
8	Pain and suffering	1,00,000	1,00,000	Reasonable estimate
9	Loss of earning power	50,000	Nil	No evidence
10	**Total**	**₹3,26,000**	**₹2,71,327**	**Just compensation**

Point No.4/ Liability

19. It has already been established that the first respondent, the motorcycle rider, is responsible for the accident due to his rash and negligent driving, and as the vehicle's owner, he is vicariously liable. Admittedly, the said vehicle was insured with the second respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. The second respondent contended that the first respondent did not have a valid driving licence at the time of the accident. However, the driver denied the contention and produced a copy of the driving licence IA 7/2025 before the court. Therefore, 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.

Point No.5/ Interest and Cost

20. 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.

21. Thus, the petitioner is entitled to a compensation of ₹2,71,327**,** rounded to **₹2,71,500.** 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 **₹ 2,71,500 (Rupees Two Lakh Seventy-One Thousand Five Hundred only)** as compensation from the second respondent with interest @ **9%** per annum from **26.03.2022,** the date of application, until deposit/realization.

2. The second respondent/insurer is ordered to deposit a cheque for ₹2,629 (Rupees Two Thousand Six Hundred and Twenty-Nine only), the balance of the court fee payable to this Tribunal.
3. The second respondent/insurer shall also furnish an additional cheque for ₹3,260 (Rupees Three Thousand Two Hundred and Sixty 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 amount due to the petitioner **within one month** into the petitioner's bank account listed below.

Name of the person	Unnikrishnan P
Name of the Bank & Branch	Kerala Gramin Bank, Peralam
Account Number	40512101008966
IFSC Number	KLGB0040512

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 second 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 16th of March 2026)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	20-12-2019	Certified copy of FIR No. 1226/2019 of Payyanur Police Station
A2	06-01-2020	Certified copy of Final report
A3	19-12-2019	Certified copy of wound certificate
A4	20-12-2019	Discharge card
A5 series	--	Medical Prescriptions
A6 series	--	Medical Bills

Petitioner's Witness - Nil

Respondent's Exhibits & Witness - Nil

Third Party Exhibits - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA