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

Thursday, the 12th day of March, 2026/ 21st Phalguna, 1947

O.P.(MV) No. 353 OF 2022

1. Ayisha.K.P, W/o.Aboobacker.K.C, aged 65 years, Shabana Manzil, Kalliassery Central, Anchampeedika (PO), Mottammal.S.O, Mottammal, Kannur Dist. Kerala – 670331 Aadhar No. 754422055027 A/c.No. 3154101014335, IFSC CNRB0003154 Canara Bank, Kannur Puthiyatheru Branch	Petitioner

Vs.

1. Rijesh Thomas, S/o.Thomas, aged 38 years, Thekkemuriyil House, Karuvanchal (PO), New Naduvil, Taliparamba Taluk, Kannur Dt. 670571. Driver of KL 13 Y 5677 Bus. 2. Abdussalim.P.V, S/o.Abdulla, aged 40 years, Palliputhiya Veettil, Pullooppi (PO), Kanniparamba, Kannur, Mayyil, Kannur Taluk, Kannur Dist. 670602. Owner of KL 13 Y 5677 Bus. 3. The Branch Manager, New India Assurance Company Ltd., Kannur Branch, (760801) 963/2, Sadhoo Building, Near Municipal Bus Stand, Kerala, 670001. Policy No. 76080131200100009523	Respondents

This petition coming on this day for hearing before me in the presence of S/Sri.A.V.Sajith Kumar & Ujval Unni Marar, Advocates for the petitioner; and of Sri.V.V.Sivaprakash, Advocate for the 3rd respondent; Respondent Nos. 1 & 2 are being called absent set exparte and the tribunal passed the following:-

AWARD

SUMMARY OF THE CASE

No	Heading	Description	Remarks
1	Details of parties	Petitioner - Injured, R1 - Driver, R2 - Owner, R3 - Insurer	
2	Accident details	A passenger fell from the bus and sustained grievous injuries - **Injury case**	
3	Occurrence	23.12.2021 - Ext.A1	FIR 886/2021, Kannapuram PS
4	Final report	08.01.2022 - Ext.A2	U/s 279, 337, 338 IPC
5	Petition	10.05.2022	U/s 166 MV Act
6	Licence	Admitted	No fitness - IA 5/2024
7	Insurance	Insured	Complied
8	Age	65	Ext.A4
9	Job	Coolie	Not proved
10	Income	Claimed - ₹25,000	Minimum Wages Act - ₹18,225
11	Injuries Ext.A2, A7	Fracture on the left ulna, Fracture on the left spine, minimum compression fracture, Pain, tenderness and contusion on the left wrist, Tenderness and contusion on the humoral region, **CRIF**	
12	Hospitalization	3 days - Ext.A7	23.12.2021 to 25.12.2021
13	Medical bill	₹5,203	Ext.A6 series
14	Evidence	Exts.A1 to A8, B1	No oral evidence
15	Compensation	₹3,00,000 - Claimed	**₹3,34,000 -** 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 23.12.2021, at about 3.00 p.m., while the petitioner was trying to board the bus, bearing No. KL.13. Y.5677, at Kallyasserry, the bus driver negligently moved the bus forward, which caused the petitioner to fall, and she

suffered grievous injuries. After the accident, the petitioner was taken to the A.K.G Memorial Co-operative Hospital, Kannur, where she was treated as an inpatient. The first respondent was the bus driver, the second respondent was the owner, and the third respondent was the insurer of the offending vehicle. The petitioner avers that she was 65 years old and has claimed an amount of **₹3,00,000** as compensation for his injuries in the accident.

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

<u>Case of the respondent</u>

4. The 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. The third respondent disputed the validity of the fitness certificate for the offending bus. However, it is admitted that the bus bearing No. KL.13. Y.5677 was insured with the third respondent.

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

<u>Points for consideration</u>

1. ***Did the accident occur due to the first respondent's rash and negligent driving of the bus bearing No. KL.13. Y.5677?***

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 A8 documents were marked on the petitioner's side, and Ext.B1 document was marked on the third 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 show that the police had registered a case regarding the incident as Crime No. 886/2021 of Kannapuram Police Station and filed the final report under **Section 173(2)** of Cr.P.C, inculpating the first respondent. As per the final report, the bus driver 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 as a general rule, the production of a police charge sheet 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 petitioner's case concerning the cause of the accident, which appears believable and probable, must be accepted. Hence, in 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.A5 OP records, Ext.A6 medical bills, Ext.A7 discharge card, and Ext.A8 discharge bills. The wound certificate shows that on 23.12.2021, at 5.01 pm, the petitioner was treated in A.K.G Memorial Co-operative 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 A.K.G Memorial Co-operative Hospital, Kannur, from 23.12.2021 to 25.12.2021. As per the wound certificate and discharge summary, the petitioner sustained the following injuries.

a. Fracture on the left ulna

b. Fracture on the left spine

c. Minimum compression fracture

d. Pain, tenderness and contusion on the left wrist

e. Tenderness and contusion on the humoral region

f. CRIF

11. The petitioner sustained injuries in the accident, as substantiated by the FIR, final report, wound certificate, and discharge card. 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 bills and bystander expenses

12. The petitioner has produced Ext.A6 series medical bills to the tune of ₹5,203. Considering the nature of the injuries and the medical bills after deducting the photocopy bills I am inclined to award **₹5,203** for medical expenses. The discharge summaries show that he was hospitalized as an inpatient for three days. Considering the above, I am inclined to award **₹3,000** for **three 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, hospitalization, fractures and treatment period, I am inclined to award an amount of **₹1,00,000** under the head of pain and suffering and **₹1,00,000** under the head of loss of amenities.

Transportation, clothing & extra nourishment

14. Considering the admission, discharge, and eight reviews at Kannur, I am inclined to award an amount of **₹10,000** under the heading of transport to the hospital. On a reasonable estimation, an amount of **₹3,000** was granted under the heading of damage to clothing and articles. Under the heading of extra nourishment, considering the 3-day hospitalization, I am inclined to grant **₹3,000.**

Discussion on Income

15. The petition states that the petitioner was a coolie worker earning a monthly income of ₹25,000, and due to the injuries sustained in the accident, she had lost her income. However, the petitioner has not adduced any evidence to prove her 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 1948 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. **Article 39(d)** ensured equal pay for men and women in its directive principles. 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** (6x18,225) 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	75,000	1,09,350	18,225 x 6 months
2	Transport to the hospital	10,000	10,000	admission, 8 reviews
3	Damage to clothing	5,000	3,000	Reasonable estimate
4	Extra nourishment	10,000	3,000	3 days Hospitalization
	Loss of amenities		1,00,000	Reasonable estimate
5	Medical expenses	50,000	5,203	Ext.A6 series
6	Bystander expenses	Nil	3,000	3 days X 1,000
7	Pain and Suffering	1,50,000	1,00,000	Reasonable estimate
	Total	**₹3,00,000**	**₹3,33,553**	**Just compensation**

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

19. It has already been found that the driver of the bus, the first respondent, is responsible for the accident of his rash and negligent driving. The second respondent, the vehicle's owner, is liable to compensate the petitioner. The third respondent, the insurer, contended that the offending bus had no fitness certificate during the accident. The second respondent did not produce a fitness certificate, despite the direction in IA 5/2024. So, an adverse inference could be drawn against the owner under **Section 114 (h)** of the Evidence Act that the offending vehicle did not have a valid fitness certificate during the accident period.

20. It is held by the full bench of the Hon'ble High Court in ***Pareed Pillai Vs. Oriental Insurance Co. Ltd, 2018 (5) KHC 1***, *"Absence of permit or*

fitness certificate, in case of a transport vehicle, is a fundamental breach and not a technical breach - Insurer can pay and recover in such case". Hence, the third respondent, the insurer, is liable to indemnify the second respondent and compensate the petitioner. So, being the vehicle owner and in violation of **Section 147 r/w 149** of the Motor Vehicles Act, 1988, the second respondent is vicariously liable, and the third respondent will be entitled to recover the award amount from the second respondent. Point No.4 is answered in favour of the petitioner accordingly.

Interest and Cost/ Point No.5

21. 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 rate of interest 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. Upshot to the above discussion, the rate of interest is fixed accordingly.

22. Thus, the petitioner is entitled to a compensation of **₹3,33,553**, rounded to **₹3,34,000.** 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 third respondent.

23. The petitioner has claimed compensation of ₹3,00,000 only. The Hon'ble High Court held in ***Sreekumar V. Divisional Manager, National Insurance Company, 2022 (3) KHC 467*** and ***Kavitha Balothiya V. Santhosh Kumar, 2024 LiveLaw (SC) 546,*** *"Once it is found that compensation to which the claimant is entitled, be it under any particular head or aggregate, is more than what is claimed, its denial after assessment would result in denial of just compensation."* Hence, there is no restriction on compensation being awarded only up to the amount claimed by the claimant. In this case, the evidence adduced by the petitioner proves that he is entitled to more than the amount claimed in the petition and that it is necessary to fulfil the concept of ***just compensation***.

<u>As a result, the petition is allowed in part as follows,</u>

1. The petitioner is entitled to realize an amount of **₹3,34,000 (Rupees Three Lakh Thirty Four Thousand only)** as compensation from the third respondent, with interest @ **9%** per annum from **10.05.2022,** the date of application, until deposit/realization.
2. The third respondent/insurer is ordered to deposit a cheque for ₹2,709 (Rupees Two Thousand Seven hundred and Nine only), the balance of the court fee payable in the name of this Tribunal.
3. The third respondent/insurer shall also furnish an additional cheque for ₹3,340 (Rupees Three Thousand Three Hundred and Forty only) as the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

4. The third 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	Ayisha.K.P
Name of the Bank & Branch	Canara Bank, Kannur Puthiyatheru Branch
Account Number	3154101014335
IFSC Number	CNRB0003154

5. The third respondent/insurer shall instruct their bank to effect 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 third respondent/insurer is directed to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at the source.

8. After depositing the award amount, the third respondent will be entitled to recover it from the second respondent with interest at 9% per annum from the date of deposit until realization.

(Dictated to the Confidential Assistant, transcribed and prepared by her in computer, corrected, and pronounced by me in open court on this 12th of March 2026)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	25-12-2021	Copy of FIR No.886/2021 of Kannapuram Police Station.
A2	08-01-2022	Final report
A3	23-12-2021	Photocopy of Wound Certificate
A4	--	Photocopy of Aadhar Card
A5 series	--	Medical Prescriptions
A6 series	--	Medical Bills
A7 series	--	Discharge Summary
A8	25-12-2021	Discharge Bill

Respondent's Exhibits

B1	--	Insurance Certificate

Petitioner's Witness - Nil
Respondent's Witness - Nil
Third Party Exhibits - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA