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

Wednesday, the 20th day of May, 2026/ 30th Vishakha, 1948

O.P.(MV) No. 359 OF 2022

1. Rincy Devasia, D/o.Devasia, aged 31 years, Thazhathuveettil, Uthoor, Naduvil Post, New Naduvil, Kannur Dist. 670582. Aadhar No. 3324 2859 1263 A/c.No. 24362010000451, Canara Bank, Naduvil Branch, IFSC CNRB0014244	Petitioner

Vs.

1. Vince.V.Mathew, S/o.Mathew Thomas, Aged 33 years, Vettickathadathil House, Thadikkadavu Post, Kannur Dist. 670571. Driver of KL 59 T 8388 number bus 2. Manoj Kumar.P.V, S/o.Kunhiraman, Keloth House, Poomangalam, Karimbam (PO), Kannur Dist. 670142. Owner of KL 59 T 8388 number bus 3. The Manager, United India Insurance Co.Ltd., Near Bharath Gas Agency, Pinarayi (PO), Kannur Dist. 670741. Policy No. 3003833120P114613942	Respondents

This petition coming on this day for hearing before me in the presence of Sri.T.P.Lakshmanan, Advocate for the Petitioner; and of Sri.T.P.Ramachandran, Advocate for the 3rd respondent; Respondent Nos.1 & 2 are being called absent set exparte and the tribunal passed the following:-

<u>AWARD</u>

SUMMARY OF THE CASE

No	Heading	Description	Remarks
1	Details of parties	Petitioner - Injured, R1 - Driver, R2 - Owner, R3 - Insurer	
2	Accident details	Collision between buses, and the passenger sustained grievous injuries - **Injury Case**	
3	Occurrence	18.01.2022 - Ext.A1	FIR 57/2022, Baliapattam PS
4	Final report	28.01.2022 - Ext.A3	U/s 279, 337, 338 IPC
5	Petition	08.06.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Age	31	Adhar card
9	Job	Nurse	Not proved
10	Income	Claimed - ₹25,000	MW Act - ₹18,225
11	Injuries Ext.A2	# Fracture of the nasal bone, contusion and abrasion over the nose	
12	Hospitalization	5 days - Ext.A2	18.01.2022 to 22.01.2022
13	Medical bill	₹33,249	Ext.A4 series
14	Evidence	No oral evidence	Exts.A1 to A4 & B1
15	Compensation	₹5,00,000 - Claimed	**₹2,24,500 -** 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.

<u>Case of the petitioner</u>

2. On 18.01.2022, at 7.50 hrs., the petitioner was travelling in a bus bearing Regn. No. KL.59. T. 8388, driven by the first respondent in a rash and negligent manner, hit a KSRTC bus bearing Regn. No. KL.15. 9947, at Pappinissery, and the petitioner sustained injuries. After the accident, the

petitioner was taken to AKG Memorial Co-operative Hospital, Kannur, where he was treated as an inpatient. The first respondent was the driver, the second respondent was the owner, and the third respondent was the insurer of the offending vehicle. The petitioner avers that he was a 31-year-old and has claimed an amount of **₹5,00,000** as compensation for his injuries in the accident.

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

Case of the respondents

4. The third respondent disputed the negligence, job, income, and vehicle involvement in the accident and stated that the compensation claimed in the petition under different heads is excessive and unreasonable. The insurer disputed the validity of the fitness certificate for the offending bus. The third respondent admitted that the bus bearing Regn. No. KL.59. T. 8388 was insured with the third 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 bus bearing Regn. No. KL.59. T. 8388?***

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 A4 documents were marked on the petitioner's side, and Ext.B1 document was marked on the 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.A3 final report. These records show that the police had registered a case regarding the incident as Crime No. 57/2022 of the Baliapattam Police Station and filed the final report under **Section 173 (2)** of Cr.P.C, inculpating the first respondent. According to the final report, the bus driver has been charged under **Sections 279, 337, and 338** of the **IPC** for rash and negligent driving that caused the accident. The final report shows that the accident was caused by the negligence of the first respondent, the bus driver.

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 A3 documents, this court holds 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.A2 wound certificate and Ext.A4 medical bills. The wound certificate shows that on 18.01.2022 at about 8.00 am, the petitioner was treated in AKG Memorial Co-operative Hospital, Kannur, for the injury sustained in a motor vehicle accident on the same day. The wound certificate shows that the petitioner was treated as an inpatient at the AKG Memorial Co-operative Hospital, Kannur, from 18.01.2022 to 22.01.2022. The following are the injuries and treatment of the petitioner, as per the wound certificate and the discharge summary.

a. **Fracture of the nasal bone**

b. **Contusion and abrasion over the nose**

11. The petitioner had sustained injuries in the accident, as substantiated by the FIR, the final report, the wound certificate, and the 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. Hence, this court holds that the petitioner has proven that the injured person sustained injuries in the motor vehicle 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.A4 medical bills to the tune of ₹33,249. Considering the nature of the injuries and the associated medical bills, I am inclined to award **₹33,249** for medical expenses. The wound certificate shows that he was hospitalized as an inpatient for five days. Also, considering this, this court is inclined to award **₹5,000** for **5 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, 5 days of hospitalization and treatment, this court is inclined to award an amount of **₹60,000** under the head of pain and suffering and **₹40,000** under the head of loss of amenities.

Transportation, Clothing & Nourishment

14. Considering the admission and discharge and reviews at Kannur, this court is inclined to award **₹5,000** under the heading of transport to the hospital. Under a reasonable estimation, an amount of **₹3,000** is granted under the heading of damage to clothing. Considering the five-day hospitalisation, this court is inclined to grant **₹5,000** under the heading of extra nourishment.

Calculation of income

15. The petition states that the petitioner was a nurse earning a monthly income of ₹25,000, 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. **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 four months. Therefore, the petitioner is entitled to an amount of **₹72,900** (4x18,225) 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	1,00,000	72,900	18,225 X 4 months
2	Transport to the hospital	15,000	5,000	Reasonable estimate
3	Damage to clothing	5,000	3,000	Reasonable estimate
4	Extra nourishment	50,000	5,000	5 days Hospitalization
5	Loss of amenities		40,000	Reasonable estimate
6	Bystander expenses		5,000	5 days X 1000
7	Medical expenses	50,000	33,249	Ext.A4 series
8	Pain and Suffering	1,00,000	60,000	Reasonable estimate
9	Disability	1,60,000	Nil	No evidence
10	Disfigurement	20,000	Nil	No evidence
11	**Claim limited to**	**₹5,00,000**	**₹2,24,149**	**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. Admittedly, the vehicle was insured with the third respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. However, the third respondent contended that the bus lacked a valid fitness certificate at the time of the accident. Therefore, the first respondent produced Ext.B1 copy of the fitness certificate issued by the Sub-Regional Transport Office in Payyannur, which proves that the vehicle had a valid fitness certificate at the time of the accident. So, the third respondent, the insurer, is

liable to indemnify the second respondent and compensate the petitioner.

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 **₹2,24,149**, rounded to **₹2,24,500.** Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, this court holds that the petitioner is entitled to recover the proportional costs of the proceedings from the third respondent.

As a result, the petition is allowed as follows,

1. The petitioner is entitled to recover an amount of **₹2,24,500** (Rupees Two Lakh Twenty-Four Thousand and Five Hundred only) as compensation from the third respondent, with interest @ **9%** per annum from **08.06.2022**, the date of application, until deposit/realization.
2. The third respondent/insurer is ordered to deposit a cheque for ₹4,369 (Rupees Four Thousand Three Hundred and Sixty-Nine only), the balance of the court fee payable to this Tribunal.

3. The third respondent/insurer shall also furnish an additional cheque for ₹5,000 (Rupees Five Thousand 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 due to the petitioner into the petitioner's bank account listed below **within one month.**

Name of the person	Rincy Devasia
Name of the Bank & Branch	Canara Bank, Naduvil Town
Account Number	24362010000451
IFSC Number	CNRB0014244

5. The third 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 third 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 20th of May 2026)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	18.01.2022	Copy of FIR No.57/2022 of Baliapattam Police Station.
A2	15.01.2022	Carbon copy of Wound certificate
A3	28.01.2022	Copy of Final report
A4 series	--	Medical Bills

Respondent’s Exhibits

B1	22.12.2025	Reply of right information Act 2005

Petitioner's Witness - Nil

Respondent’s Witness - Nil

Third Party Exhibits - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL
TALIPARAMBA