

**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

Tuesday, the 28th day of April, 2026/ 8th Vishakha, 1948

O.P.(MV) No. 365 OF 2022

1. Ramesan.T.P, S/o.T.P.Janaki Amma, Aged 50 years, Thaliyil Poduval, Kaniyankunnu, Peralam, Kozhummal (PO), Karivellur, Kannur Dist. 670521.		Petitioner
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Vs.

1. Ramesan K.P, S/o.Krishnan Nambiar, aged 49 years, Kodakkal Puthiyaveettil, Near Madathumpadi Temple, Kandamkulangara, Kunhimangalam (PO), Kannur Dist. 670309. Driver & RC Owner of KL 13 AG 4699 LMV Motor Car.		Respondents
2. The Manager, National Insurance Company Ltd Branch Office Payyanur, 1 st Floor, Perumal Building, Perumba, Payyanur (PO), Kannur Dt. Policy No. 571103312210000188. Insurer of KL 13 AG 4699 LMV Motor Car.		

This petition coming on this day for hearing before me in the presence of Sri.M.V.Vinod, Advocate for the Petitioner; and of Sri.M.M.Shajith, Advocate for the 2nd respondent; 1st respondent is 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 - Owner/Driver, R2 - Insurer	
2	Accident details	A car hit a motorcycle, and the rider sustained grievous injuries Injury Case	
3	Occurrence	12.04.2022 - Ext.A1	FIR 313/2022, Payyannur PS
4	Final report	13.04.2022-Ext.A2	U/s 279, 338 IPC
5	Petition	18.06.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Age	50	Proved - Ext.A13
9	Job	Office Attendant	Proved – Ext.A10
10	Income	Claimed - ₹45,539	Allowed - ₹45,539 - Ext.A11
11	Injuries Ext.A3	Degloving injury right calf with exposed muscle about 6x5x3cm, Lacerated wound of about 3x2x1cm leg, public diastasis + fracture olecranon right elbow, Blunt trauma abdomen, Rectal extraperitoneal perforation, Mesenteric Haematoma, splenic laceration, Right fibula fracture, Degloving injury right Lower Limb, Grade 4 splenic injury, Traumatic anal perforation & colostomy for colostomy closure, Scrotal sinus with old pubic symphysis fracture	
	Treatment	ORIF with plating with an infected implantation site, Laparoscopy	
12	Disability	12%	Ext.X1
		Total disability	Govt. MC Hospital, Kannur
		Multiplier - 9	Future prospects - Nil
13	Hospitalization	63 days Ext.A4 to A9	12.04.2022 to 26.04.2022 04.05.2022 to 17.05.2022 17.05.2022 to 29.05.2022 02.05.2022 to 02.05.2022 28.06.2022 to 06.07.2022 05.01.2023 to 16.01.2023
14	Medical bill	₹13,88,798	Ext.A16 series
15	Evidence	No oral evidence	Exts.A1 to A17, X1
16	Compensation	₹18,00,000 - Claimed	₹25,30,500- 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 12.04.2022, at 3.00 pm, the petitioner was riding his motorcycle bearing Regn. No. KL.59. E.3616 at Annoor, a car bearing Regn. No. KL.13. AG.4699, driven by the first respondent in a rash and negligent manner, collided with the motorcycle, and the petitioner sustained injuries. After the accident, the petitioner was taken to Aster MIMS Hospital, Kannur and KMC Hospital, Mangalore, 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 50-year-old and has claimed an amount of **₹18,00,000** as compensation for his injuries in the accident.

3. The first respondent did not appear on the summons and was set ex parte. The second respondent entered into an appearance and filed a written statement.

Case of the respondent

4. The 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. However, it is admitted that the car bearing Regn. No. KL.13. AG.4699 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 car bearing Regn. No. KL.13. AG.4699?*
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 A17 documents were marked on the petitioner's side, and no documents were marked on the respondent's side. The certificate issued by the Medical Board, Government Medical 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. 313/2022 of Payyannur Police Station and filed the final report under **Section 173 (2)** of Cr.P.C, inculpatng the first respondent. As per the final report, the car driver has been charged under **Sections 279 and 338** of the IPC for rash and negligent driving, which caused this accident. The final report shows that the accident was caused by the

negligence of the first respondent, the driver of the car.

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 contra 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, 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 injuries

10. To prove the injuries suffered by the petitioner and the treatment details, he has produced the Ext.A3 wound certificate, Ext.A4 to A9 discharge summaries, Ext.A14 scan report, Ext.A15 medical prescription and Ext.A16 series of medical bills. The wound certificate shows that on 12.04.2022 at about 12.40 pm, the petitioner was treated in Aster MIMS Hospital, Kannur, for the injury sustained in a motor vehicle accident on the same day. The discharge summaries show that the petitioner was treated as an inpatient at Aster MIMS

Hospital, Kannur, from 12.04.2022 to 26.04.2022, from 04.05.2022 to 17.05.2022, and from 02.05.2022 to 02.05.2022. KMC Hospital, Mangalore, from 17.05.2022 to 29.05.2022, from 28.06.2022 to 06.07.2022 and from 05.01.2023 to 16.01.2023. The following are the injuries and treatment of the petitioner, as per the wound certificate and the discharge summaries.

- a. Degloving injury right calf with exposed muscle about 6x5x3cm*
- b. Lacerated wound of about 3x2x1cm leg, public diastasis + fracture olecranon right elbow*
- c. Blunt trauma abdomen, Rectal extraperitoneal perforation*
- d. Mesenteric Haematoma, splenic laceration, Right fibula fracture*
- e. Degloving injury right Lower Limb, Grade 4 splenic injury*
- f. Traumatic anal perforation & colostomy for colostomy closure*
- g. Scrotal sinus with old pubic symphysis fracture*

Treatment ORIF with plating with an infected implantation site, Laparoscopy

11. The petitioner had sustained injuries in the accident, as substantiated by the FIR, the final report, the wound certificate, and the discharge summaries. 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 had sustained the injuries in the accident. Hence, this court holds that the petitioners have proven that the injured person sustained injuries in the motor vehicle accident. Point No.2 is

answered in favour of the petitioners accordingly.

Discussion on Point No.3

Medical bills & Bystander expenses

12. The petitioner has produced Ext.A16 series medical bills to the tune of ₹13,88,798. Considering the nature of the injuries and the associated medical bills, this court is inclined to award an amount of **₹13,88,798** under the head of medical expenses. The discharge summaries show that he was hospitalized as an inpatient for sixty-three days. Also, considering this, the court is inclined to award ₹63,000 for 63 days, at **₹1,000** per day, under the head of bystander expenses.

Pain and suffering& Amenities

13. Considering the nature of injuries, long-term treatment, fractures and 12% disability, this court is inclined to award an amount of **₹3,00,000** under the head of pain and suffering and **₹2,00,000** under the head of loss of amenities.

Transportation, Clothing & Nourishment

14. The petitioner has produced Ext.A17 series ambulance bills to the tune of ₹24,500. Considering the six admissions, six discharges, and reviews at Kannur and Mangalore, this court is inclined to award an amount of **₹35,000** under the heading of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing. Considering the sixty-three-day hospitalisations, this court is inclined to grant **₹63,000** under the heading of

extra nourishment.

Calculation of income

15. The petition states that he was an Office Attendant at the revenue department and was earning a monthly income of ₹45,539, and due to the injuries sustained in the accident, he lost his income. To support the claim, the petitioner has produced Ext.A10 service details, Ext.A11 salary details, and Ext.A12 leave details, all issued by the Revenue Divisional Officer, Taliparamba. The salary certificate proves that the petitioner was earning **₹45,539** monthly income at the time of the accident, and the leave certificate proves that the petitioner was on leave from 11.04.2022 to 30.06.2022, from 01.07.2022 to 16.07.2022, and from 05.01.2023 to 31.01.2023.

16. The nature of the injuries suffered by the petitioner, along with the consideration of Exts.A10, Ext.A11 and Ext.A12, this court is of the view that he has not been in a position to attend to any work for a period of four months. In *George V. Krishna Venu, 2020(3) KHC 784*, it is held that *“when an employee, consequent to a motor accident, is forced to avail leave due to his credit, the employee is liable to be compensated for the said period for loss of earnings.”* Therefore, the petitioner is entitled to an amount of **₹1,82,156 (4 x 45,539)** for loss of income.

Loss of disability

17. At the petitioner's request, he was referred to the Medical Board, Government Medical College Hospital, Kannur, to assess the disability suffered

due to the injuries sustained. After examining the petitioner, the medical board issued a certificate, marked as Ext. X1. In Ext.X1, it is stated that the petitioner has suffered a **12% total disability**. The petitioner produced a copy of his driving licence, Ext.A13, to prove his age, which shows his date of birth as 15.02.1972. Since the accident occurred on 12.04.2022, the petitioner was 50 years old. It has not been proved that due to the injuries he had sustained, any loss of income during his service period up to the age of 56 or until retirement. So, he is not entitled to disability compensation until his superannuation period. To calculate compensation for continuing permanent disability and loss of earning power at the post-retirement age, probable income must be considered.

18. The Hon'ble High Court held in *Raju Sebastian V. United India Insurance, 2021(5) KHC 662*, that “*probable monthly income after retirement stage, should be fixed by taking 50% of the income of the person unless there are valid reasons to adopt another method.*” Since there is no other valid reason to adopt another method, the post-retirement monthly income of the petitioner can be reasonably fixed as **₹22,770 (45,539/2)** as per the above decision. The multiplier to be applied at ages 56 to 60 is 9, as per the decision in *Sarla Verma V. Delhi Transport Corporation, 2009 KHC 4634*. Applying the multiplier of 9 and considering the petitioner's disability of 12%, the compensation for the petitioner's functional disability would be **₹2,95,099 (22,770 x 12 x 9x 12/100)**. The claims under the other heads are rejected for want of evidence.

19. 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	2,73,234	1,82,156	45,539 X 4 months
2	Transport to hospital	40,000	35,000	Ext.A17
3	Damage to clothing	5,000	3,000	Reasonable estimate
4	Extra nourishment	50,000	63,000	63 days Hospitalization
5	Loss of amenities	75,000	2,00,000	Reasonable estimate
6	Medical expenses	12,00,000	13,88,798	Ext.A16 series
7	Bystander expenses	Nil	63,000	63 days X 1000
8	Pain and Suffering	1,50,000	3,00,000	Reasonable estimate
9	Disability	3,00,000	2,95,099	22,770 x 12 x 9x 12/100
10	Loss of earning power	2,50,000	Nil	No evidence
	Claim limited to	₹18,00,000	₹25,30,053	Just compensation

Point No.4/ Liability

20. It has already been established that the first respondent, the car driver, 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. 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

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 *Supreetha 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 **₹25,30,053**, rounded to **₹25,30,500**. 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 second respondent.

23. The petitioner has claimed compensation of ₹18,00,000 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, provided it is 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**.

As a result, the petition is allowed as follows,

1. The petitioner is entitled to realize an amount of **₹25,30,500 (Rupees Twenty-Five Lakh Thirty Thousand Five Hundred only)** as compensation from the second respondent with interest @ **9%** per annum from **18-06.2022**, the date of application, until deposit/realization.
2. The second respondent/insurer is ordered to deposit a cheque for ₹24,674 (Rupees Twenty-Four Thousand Six Hundred and Seventy-Four only), the balance of the court fee payable in the name of this Tribunal.
3. The second respondent/insurer shall also furnish an additional cheque for ₹25,305 (Rupees Twenty-Five Thousand Three Hundred and Five 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	Ramesan T P
Name of the Bank & Branch	State Bank of India, Payyannur
Account Number	67316932643
IFSC Number	SBIN0070259

5. The second 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 depositing 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 28th of April 2026)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	18-04-2022	Copy of FIR No. 313/2022 of Payyanur Police Station.
A2	30-04-2022	Copy of Final report
A3	12-04-2022	Copy of Wound Certificate
A4	26-04-2022	Discharge Summary
A5	17-05-2022	Discharge Summary

A6	29-05-2022	Discharge Summary
A7	02-05-2022	Discharge Summary
A8	28-06-2022	Discharge Summary
A9	16-01-2023	Discharge Summary
A10	27-05-2025	Details of Service
A11	27-05-2025	Salary Certificate
A12	27-05-2025	Certificate
A13	--	Copy of Driving license
A14 series	--	Scan report
A15 series	--	OP records
A16 series	--	Medical Bills
A17 series	--	Ambulance Bills

Third Party Exhibit

X1 21-11-2024 Medical Board Certificate

Petitioner's Witness - Nil

Respondent's Exhibits & Witness - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL
TALIPARAMBA