

**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. 374 OF 2022

1. Arjun.T.Baiju, S/o.Baiju.T.P, aged 17 (Minor)
Thengil (H), Vellad (PO), Vellad amsom,
represented by his father Baiju.T.P,
S/o.Purushothaman Nambiar, Thengil (H),
Vellad (PO), Vellad amsom, Kannur Dt.
670571. Aadhar No. 3644 7463 1716

Petitioner

Vs.

1. Aneesh.E.N, S/o.Narayanan, Aged 29 years,
Elayidamparambil (H), Panathadi (PO),
Mayilatti, (Driver of KL 59 U 201 Bus)
2. Jijo Jacob, S/o.Jacob, Maliyackal (H),
Vayattuparamba, Vellad (PO), Kannur Dt.
RC Owner of KL 59 U 201 Bus
3. The Branch Manager, Oriental Insurance
Company Ltd., Marina Shopping Centre,
National Highway, Taliparamba, Kerala,
670141. Policy No. 443400/31/2020/24795
Insurer KL 59 U 201 Bus

Respondents

This petition coming on this day for hearing before me in the presence of
Sri.Danish Lukose, Advocate for the petitioner; and of Sri.M.P.Kuberan,
Advocate for the 3rd respondent; Respondent Nos. 1 and 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 minor passenger was thrown out of a bus and sustained grievous injuries - Injury case	
3	Occurrence	23.11.2021 - Ext.A1	FIR 255/2021, Kudiyanmala PS
4	Final report	13.12.2021 - Ext.A2	U/s 279, 338 IPC
5	Petition	31.03.2022	U/s 166 MV Act
6	Licence	DL admitted	No fitness - IA 7/2025
7	Insurance	Insured	Complied
8	Age	17	Adhaar card
9	Job	Student	Not disputed
10	Income	Nil	Nil
11	Injuries Ext.A2, A4	Traumatic brain injury – bilateral frontal lobe contusions ,Stappled wound over parieto-occipital scalp right, Minimal SAH and minimal SDH right fronto-temporal region, Multiple abrasions over the right hand, lower back, gluteal area, left side, Hemorrhagic contusions in bilateral inferior frontal lobes, Minimal subdural haemorrhage along the anterior flax	
12	Hospitalization	4 days - Ext.A5	23.11.2021 to 26.11.2021
13	Medical bill	₹38,593	Ext.A8 series
14	Evidence	Exts.A1 to A8	No oral evidence
15	Compensation	₹4,00,000 - Claimed	₹ 2,62,000 - 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 23.11.2021, at about 2.00 pm, the minor petitioner was travelling in a bus bearing No. KL.59. U.201 at Naduvil, driven by the first

respondent in a rash and negligent manner, the petitioner fell down from the bus and suffered grievous injuries. After the accident, the petitioner was taken to the Co-operative Hospital, Alakode, 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 bus. The petitioner avers that he was a 17-year-old student and has claimed an amount of **₹4,00,000** as compensation for his injuries in the accident.

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

Case of the respondents

4. The third respondent disputed the negligence, 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.59. U.201 was insured with the third respondent

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 No. KL.59. U.201?*
- 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 no document was marked on the third respondent's side. The petitioner was a minor at the time of filing this petition, and thereafter, he was declared a major as per the order dated 21.07.2025 in IA 04/2025 of this petition.

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 registered a case regarding the incident as Crime No. 255/2021 at the Kudiyanmala Police Station and filed the final report under **Section 173(2) of Cr.P.C.**, inculpatng the first respondent. According to 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 counter-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 discharge summary, Ext.A6 CT scan report, Ext.A7 OP records and Ext.A8 medical bills. The wound certificate shows that on 23.11.2021, at 5.15 pm, the petitioner was treated in 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 23.11.2021 to 26.11.2021. The following are the injuries and treatment of the

petitioner, as per the wound certificate and the discharge summary.

- a. Traumatic brain injury – bilateral frontal lobe contusions**
- b. Stappled wound over parieto-occipital scalp right**
- c. Minimal SAH and minimal SDH right fronto-temporal region**
- d. Multiple abrasions over the right hand, lower back, gluteal area, left side**
- e. Hemorrhagic contusions in bilateral inferior frontal lobes**
- f. Minimal subdural haemorrhage along the anterior flax**

11. The petitioner sustained injuries in the accident, as 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.

Discussion on Point No.3

Medical bills and bystander expenses

12. The petitioner has produced Ext.A8 medical bills to the tune of ₹38,593. Considering the nature of the injuries and the medical bills, I am inclined to award **₹38,593** for medical expenses. The discharge summaries show that he was hospitalized as an inpatient for four days. Considering the above, I am inclined to award **₹4,000** for **four 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 and a long

treatment period till 28.05.2022, 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 & Nourishment

14. Considering the admission, discharge, and six 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 4-day hospitalization, I am inclined to grant **₹6,000**.

15. 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	Nil	Nil	Student
2	Transport to the hospital	15,000	10,000	admission, 6 reviews
3	Damage to clothing	5,000	3,000	Reasonable estimate
4	Extra nourishment	5,000	6,000	4 days Hospitalization
5	Loss of amenities		1,00,000	Reasonable estimate
6	Medical expenses	1,50,000	38,593	Ext.A8 series
7	Bystander expenses	5,000	4,000	4 days X 1,000
8	Pain and Suffering	70,000	1,00,000	Reasonable estimate
9	Disability	50,000	Nil	No evidence
10	Loss of earning power	50,000	Nil	No evidence
11	Future treatment	50,000	Nil	No evidence
	Total	₹4,00,000	₹2,61,593	Just compensation

Point No. 4/ Liability

16. 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 7/2025. Thus, 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.

17. 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.

Point No.5/ Interest and Cost

18. 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.

19. Thus, the petitioner is entitled to a compensation of **₹2,61,593**, rounded to **₹2,62,000**. 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.

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

1. The petitioner is entitled to realize an amount of **₹2,62,000 (Rupees Two Lakh Sixty-Two Thousand only)** as compensation from the third respondent, with interest @ **9%** per annum from **21.05.2022**, the date of application, until deposit/realization.
2. The third respondent/insurer is ordered to deposit a cheque for **₹3,369 (Rupees Three 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 **₹4,000 (Rupees Four 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	Arjun T Baiju
Name of the Bank & Branch	Kerala Gramin Bank, Karuvanchal
Account Number	40461101039993
IFSC Number	KLGB0040461

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 depositing 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 13th of March 2026)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	24-11-2021	Certified copy of FIR No. 255/2021 of Kudiyanmala Police Station
A2	13-12-2021	Certified copy of Final report
A3	23-11-2021	Certified copy of wound certificate
A4	--	Copy of School Certificate
A5	26-11-2021	Discharge Summary
A6	23-11-2021	Scanning report
A7 series	--	Medical Prescriptions
A8 series	--	Medical Bills

Petitioner's Witness - Nil

Respondent's Exhibits & Witness - Nil

Third Party Exhibits - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA