

**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. 744 OF 2022

1. Dince Mathew, S/O.M.M.Mathew, aged 36 years, Munjanattu House, Rayarom, Alakode, Kannur Dt. A/c.No. 67305300000696 IFSC SIBL0000673, South Indian Bank, Karuvanchal Branch.

Petitioner

Vs.

1. Jose.M.P, S/o.Paily, aged 56 years, Mamkuzhiyil House, Payyavoor.P.O, Payyavoor amsom, Vembuva, Kannur Dt. 670633. Driver & RC Owner of KL 59 A 2261 Car.
2. The Manager, The New India Assurance Co. Ltd., Kannur Branch, Sadhoo Building, Near Old Municipal Bus Stand, Kannur Dt. 670001. Policy No.76080931200200006543

Respondents

This petition coming on the 1st day of December, 2025 for final hearing before me in the presence of S/Sri.Thankachan Mathew & Jojo Thomas, Advocates for the petitioner; of Sri.Athul Babu, Advocate for the 1st respondent; and of Sri.V.V.Sivaprakash, 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	A car hit a motorcycle, and the rider sustained grievous injuries - Injury Case	
3	Occurrence	03.01.2022 - Ext.A1	FIR 10/2022, Payyavoor PS
4	Final report	21.01.2022 - Ext.A4	U/s 279, 338 of IPC
5	Petition	02.07.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Age	39	Adhar card
9	Job	Electrician	Not Proved
10	Income	Claimed - ₹20,000	MW Act - ₹18,225
11	Injuries Ext.A3	#Fracture left humerus, Deformity, tenderness, oedema, and ROM on left arm, Abrasion 1x2 cm right knee, abrasion 1x1cm right ankle, Abrasion 0.5x1cm right medial aspect, Abrasion 2x1cm left knee, Minor abrasions left foot and ankle, Graze abrasion left hand below thumb, Minor abrasion right middle finger knuckle, Minor abrasion on right middle finger knuckle	
12	Hospitalization	4 days - Ext.A3	03.01.2022 to 06.01.2022
13	Medical bill	₹63,922	Ext.A5 series
14	Evidence	Exts.A1 to A5	No oral evidence
15	Compensation	₹4,00,000 - Claimed	₹3,03,000 - 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 03.01.2022, at 18.45 hrs., the petitioner was riding a motorcycle bearing Regn. No. KL.59. W.3272 at Payyavoor, a car bearing Regn.

No. KL.59. A.2261, driven by the first respondent in a rash and negligent manner, hit the motorcycle, and the rider sustained grievous injuries. After the accident, the petitioner was taken to the Mercy Hospital, Payyavoor, Co-operative Hospital in Taliparamba, 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 32-year-old and has claimed an amount of ₹4,00,000 as compensation for his injuries in the accident.

3. The respondents appeared and filed their objections.

Case of the respondents

4. The respondents 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 second respondent contended that the first respondent did not have a driving licence at the time of the accident. However, it is admitted that the car bearing Regn. No. KL.59. A.2261 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.59. A.2261?*

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 A5 documents were marked on the petitioner's side, and Ext.B1 and B2 documents were marked from the first respondents' 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.A4 final report. These records indicate that the police registered a case regarding the incident under Crime No. 10/2022 at the Payyavoor Police Station and filed a final report under **Section 173(2)** of the **Cr.P.C.**, inculcating the first respondent. According to the final report, the driver of the car 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 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 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 A4 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 and Ext.A5 medical bills. The wound certificate shows that on 03.01.2022 at 6.55 pm, the petitioner was treated in Mercy Hospital, Payyavoor, 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 Co-operative Hospital, Taliparamba, from 03.01.2022 to 06.01.2022. The following are the injuries and treatment of the petitioner, as per the wound certificate and the discharge summary.

a. #Fracture left humerus

b. Deformity, tenderness, oedema, and ROM on left arm

c. Abrasion 1x2 cm right knee, abrasion 1x1cm right ankle

d. Abrasion 0.5x1cm right medial aspect

e. Abrasion 2x1cm left knee

f. Minor abrasions left foot and ankle

g. Graze abrasion left hand below thumb

h. Minor abrasion right middle finger knuckle

I. Minor abrasion on right middle finger knuckle

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.

Discussion on Point No.3

Medical & Bystander expenses

12. The petitioner has produced Ext.A5 medical bills to the tune of ₹63,922. Considering the nature of the injuries and the medical bills, I am inclined to award **₹63,922** for medical expenses. The discharge bill shows that he had been hospitalized as an inpatient for three days. Considering the aforementioned, I am inclined to award **₹4,000** for **four days**, at ₹1,000 per day, under the head of bystander expenses.

Pain and suffering & Amenities

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 **₹50,000** under the head of loss of amenities.

Transportation, Clothing & Nourishment

14. Considering the admission, discharge, and reviews at Payyavoor and Taliparamba, I am inclined to award an amount of **₹5,000** 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 4-day hospitalization, I am inclined to grant **₹4,000** under the heading of extra nourishment.

Calculation of income

15. The petition states that the petitioner was an electrician earning a monthly income of ₹20,000, 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. 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	10,000	5,000	Admission and reviews
3	Damage to clothing	10,000	3,000	Reasonable estimate
4	Extra nourishment	50,000	4,000	4 days Hospitalization
5	Amenities		50,000	Reasonable estimate
6	Medical expenses	1,00,000	63,922	Ext.A5 series
7	Bystander expenses		4,000	4 days X 1000
8	Pain and suffering	75,000	1,00,000	Reasonable estimate
9	Disability	30,000	Nil	No evidence
10	Loss of earning power	25,000	Nil	No evidence
11	Total	₹4,00,000	₹3,02,822	Just compensation

Point No.4/ Liability

19. 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. 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, which was marked as Ext.B1. 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 ₹3,02,822, rounded to **₹3,03,000**. 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 second respondent.

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

1. The petitioner is entitled to realize an amount of **₹3,03,000 (Rupees Three Lakh Three thousand only)** as compensation from the second respondent with interest @ **9%** per annum from **02.07.2022**, the date of application, until deposit/realization.
2. The second 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 second 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 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	Dince Mathew
Name of the Bank & Branch	The South Indian Bank, Karuvanchal
Account Number	0673053000000696
IFSC Number	SIBL0000673

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 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 12th of March 2026)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	05-01-2022	Certified copy of FIR No. 10/2022 of Payyavoor Police Station
A2	03-01-2022	Certified copy of FIS
A3	03-01-2022	Certified copy of Wound Certificate
A4	21-01-2022	Final report
A5 series	--	Medical Bills

Respondent's Exhibits

B1	--	Driving license
B2	--	Insurance Certificate

Petitioner's Witness - Nil

Respondent's Witness - Nil

Third Party Exhibits - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA