

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

Present:- Sri. K.P. Pradeep, The MACT

Thursday, the 19th day of March, 2026

28th day of Palguna, 1947

OP (M.V) No.334/2022

Petitioner:-

Jose Joshi, S/o Joshi M Jose, Munjattu House,
Andoor, Elackad, Marangattupilly, Lalam
Village, Pin: 686 635.

By Adv. P K Jaisemon

Respondents :-

1. Chackochan Augustine, aged 20 years,
S/o Augustine, Moonnuthottiyil House,
Karoor Bhagom, Ponadu Kara, Lalam Village,
Pin: 686 574.
2. Shimmy George, Munnuthottiyil House, Pala,
Karoor P O, Arunapuram, Kottayam, Pin: 686 574.
3. The New India Assurance Co. Ltd, Pala P O,
Pala, Pin: 686 575.

R1& R2- Ex-parte

R3- By Adv. T M Babu

This O.P. having been finally heard on 16.03.2026 and the
Tribunal on 19.03.2026 passed the following :-

AWARD

Petition filed under section 166 of the Motor Vehicles Act 1988.

2. The averments in the petition are that on 28.11.2021 at 12.45
p.m., the petitioner (Jose Joshi, S/o Joshi M. Jose) was riding his
scooter bearing Reg.No. KL-35-H-3158 through the side of the
Nedumpara - Karoor road. At that time, a motorcycle bearing Reg.No.

KL-05-W-0356 ridden by the 1st respondent in a rash and negligent manner and hit against the petitioners scooter. As a result of which, petitioner was fell down and sustained severe injuries. The accident occurred due to the rash and negligent riding of the motorcycle bearing Reg.No. KL-05-W-0356, by 1st respondent.

3. Immediately after the accident, the petitioner was taken to Marian Medical Centre, Pala and thereafter referred to Mar Sleva Medicity Pala and treated there as inpatient from 28.11.2021 to 01.12.2021. The respondents 1 to 3 are the driver, owner and insurer respectively of the motorcycle bearing Reg.No. KL-05-W-0356. At the time of accident petitioner was 'working in Kuwait' and he used to earn ₹50,000/- per month as income.

4. The 1st and 2nd respondents did not file written statement hence they were called absent and set ex-parte.

5. 3rd respondent filed written statement by contending that the motorcycle bearing Reg.No. KL-05-W-0356 had been insured with 3rd respondent in the name of 2nd respondent. The age, occupation and income of the deceased mentioned in the petition are not correct. The amount claimed by the petitioner is exorbitant. The accident occurred due to the negligence of the petitioner. The petition was filed in collusion between the petitioner and other respondents. Hence the 3rd respondent is not liable to pay compensation to the petitioner.

6. In view of the above said pleadings, the following issues have been raised for consideration:-

- (1) Whether the accident occurred due to the rash and negligent riding of the motorcycle bearing Reg.No. KL-05-W-0356, by the 1st respondent?
- (2) Whether the petitioner is entitled to compensation and if so, what is the quantum?
- (3) Who is liable to pay compensation ?
- (4) Reliefs and costs ?

7. From the side of the petitioner, no oral evidence was adduced. In order to prove the alleged accident and negligence on the part of the 1st respondent, the petitioner has produced Exts.A1 to A11 and the same were marked. No oral or documentary evidence was adduced from the side of the 3rd respondent.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that, on 28.11.2021 at 12.45 p.m., the petitioner (Jose Joshi, S/o Joshi M. Jose) was riding his scooter bearing Reg.No. KL-35-H-3158 through the side of the Nedumpara - Karoor road. At that time, a motorcycle bearing Reg.No. KL-05-W-0356 ridden by the 1st respondent in a rash and negligent manner and hit against the petitioners scooter. As a result of which, petitioner was fell down and sustained severe injuries. The accident occurred due to the rash and negligent riding of the motorcycle bearing Reg.No. KL-05-W-0356, by 1st respondent.

10. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 to A3. Ext.A1 is the copy of FIR in crime No.2748/2021 of Palai Police Station. Ext.A2 is the copy of FIS. Ext.A3 is the copy of Final Report. The offences alleged against the 1st respondent (accused in the final report) are punishable U/ss 279 and 338 of IPC. The Hon'ble High Court of Kerala in '**New India Assurance Company Ltd Vs. Pazhaniammal and Others**', cited in **2011(3) KHC 595**, has held as follows: *"Prima facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the indictee. If any one of the parties do not accept such charge sheet, the burden must be on such party to adduce oral evidence. If oral evidence is adduced by any party, in a case where charge sheet is filed, the tribunals should give further opportunity to others also to adduce oral evidence and in such a case the charge sheet will pale into insignificance and the dispute will have to be decided on the basis of the evidence."* In the absence of contra evidence, the above said evidence adduced by the petitioner, it is seen that the alleged incident took place due to rash and negligent riding of the motorcycle bearing Reg.No. KL-05-W-0356, by the 1st respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)** :- Ext.A4 is the copy of treatment certificate issued from Mar Sleeva Medicity, Palai. Ext.A6 is the copy of discharge summary issued from Mar Sleeva Medicity, Palai. The

above medical record shows that the petitioner had sustained thin extra axial Hematoma in right temporal convexity, small basifrontal hemorrhage-brain, hemorrhagic focus in right posterior temporal lobe - brain, fracture occipital bone - left side and pnenumocephalus.

12. Ext.A7 is the disability certificate issued from Smita Memorial hospital and research centre by Dr.Adarsh Manuel. Ext A9 series are the medical bills produced by the petitioner. Ext.A5 is the service certificate issued from General Trading and contracting company.

13. Ext.A8 is the copy of the SSLC Book of the petitioner and Ext.A10 is the copy of PAN card in which the date of birth of the petitioner has been shown as 22.07.1992. Hence he was 29 years of age on the date of accident. Ext.A11 is the copy of bank pass book of the petitioner.

14. The petitioner claims that he was 'working in Kuwait' and he used to earn Rs.50,000/- per month as income. Ext.A5 is the service certificate issued from General Trading and contracting company. But, there is nothing on record to show how much the petitioner was earning at the time of accident. So, for the purpose of determining the compensation payable under the head 'loss of earning' and the like, the only option left is to fix his monthly income notionally. In **Ramachandrappa's Case, the Hon'ble Supreme Court in 2011(13) SCC 236** had fixed ₹4,500/- as notional income of Coolie worker in the year 2004, when the victim was 37 years of age. In

Sayed Sadique Case [2014] 2 SCC 735, the income of the victim aged 24 years in the year 2008, ₹6,500/-was fixed for Coolie worker.

15. In a motor accident cases to grant compensation for permanent disability notional income has to be fixed. At the time of fixing the notional income the Court has to consider the minimum wages Act applicable in Kerala. At the same time in the absence of any salary certificate the minimum wage notification can be yardstick, but at the same time it cannot be absolute one to fix the income. In the absence of documentary evidence on record some amount of guess work is required to done. But at the same time guess work for assessing the income should not be totally detached from the reality. Merely because claimant was unable to produce documentary evidence to show the monthly income same does not justifies adoption of lowest tier of minimum wage while computing the income. Here in this case the petitioner claims that he was 'working in Kuwait' and petitioner was 29 years of age at the time of accident. Considering the age, nature of work and other relevant aspects I am of the view that notional income of the petitioner can be fixed as ₹20,000/- per month. Hence it is fixed as ₹20,000/- .

16. The above said injuries sustained by the petitioner prevented him from doing work atleast for 3 months. Therefore, I am inclined to award an amount of ₹60,000/- (20,000 x 3 months) under the head 'loss of earning' for the said period of 3 months.

17. Considering his frequent visits to hospitals in connection with

treatment, an amount of ₹6,000/- is awarded as 'Transportation expense'.

18. I am also inclined to award an amount of Rs.2,000/- as 'Damages to clothing'.

19. Since the petitioner sustained grievous injury he was admitted in the hospital and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹1,500/- (500 x 3) as 'Bystander Expense for 3 days.

20. Considering the injury sustained by the petitioner, I feel it just and proper to award an amount of ₹2,000/- as Extra Nourishment expense.

21. Ext.A9 series are medical bills produced by the petitioner and he claims that ₹40,220/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹40,220/-.

22. Taking into account of the injuries sustained by the petitioner, I am inclined to award an amount of ₹60,000/- under the head 'Pain and suffering'.

23. Considering the discomfort, unhappiness and inconvenience, the petitioner faced on account of the said injuries sustained in the accident, an amount of ₹45,000/- is also awarded as compensation for 'loss of amenities of life'.

24. Ext.A7 is the disability certificate issued by Dr.Adarsh Manuel

from Smita Memorial hospital and research centre. The doctor has assessed the disability of the petitioner due to the alleged road accident as 5%. It was objected by the 3rd respondent. The disability certificate issued by the doctor cannot be as such accepted, because it was issued by a single doctor. If the petitioner had sustained any severe injuries in the accident and due to that he had sustained disability definitely he should have taken steps to get the disability certificate from the medical board constituted by the Medical College Hospital. The board is a group doctors which will be constituted to assess the disability of the patient. The group of doctors will examine the patient and the injuries sustained and thereafter they will together assess the disability which has been caused in the accident and since it is a collective decision from the medical board, it cannot be discarded. Here in this case Ext.A7 was not issued by the medical board and therefore, considering the injuries sustained, other facts and circumstances of this case, I am of the view that disability can be fixed as 2% and there was no much dispute with regard to the same from the side of the petitioner as well as the 3rd respondent.

25. I have already fixed the notional income of the petitioner as ₹20,000/- per month. Thus, the annual income of the petitioner comes to the tune of ₹2,40,000/-(20,000 x 12). The loss of earning due to said functional permanent disability would be 2% of ₹2,40,000/- which is ₹4,800/- per annum. The petitioner is entitled

to get compensation on the basis of the multiplier 17. Therefore, the loss of future earnings on account of said permanent disability would be Rs.81,600/- (4,800x17).

26. The petitioner is thus entitled to get a total compensation of **₹2,98,350/- (Rupees Two Lakhs Ninety Eight Thousand Three Hundred and Fifty Only)** , as shown in the table below:-

<i>Sl. No.</i>	<i>Head of claim</i>	<i>Amount claimed (in Rupees)</i>	<i>Amount awarded (in Rupees)</i>	<i>(in Paise)</i>	<i>Basis-Vital Details in a nut shell</i>
<u>Part-I</u>					
1	Loss of earning	3,00,000	60,000	-	20,000x3
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	5,000	6,000	-	Travel to and from the hospital
4	Extra Nourishment	5,000	2,000	-	-
5	Damage to Clothing	2,000	2,000	-	-
6	Medical expenses	2,00,000	40,220	-	Ext.A9 series admitted medical bills.
7	By stander expenses	50,000	1,500		500x3
<u>PART II</u>					
8	Pain and suffering	1,00,000	60,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	2,00,000	81,600	-	20,000x12x17 x2%
10	Compensation for functional disability	Nil	Nil		
11	Compensation for Loss of earning power and amenities of life, mental agony etc	1,00,000	45,000	-	Considering the injury sustained by the petitioner

Claim Limited to ₹6,00,000/-	₹9,62,000/- =====	
Total award amount		₹2,98,320/- =====
Rounded off		₹2,98,350/- =====
(Rupees Two Lakhs Ninety Eight Thousand Three Hundred and Fifty Only)		

Accordingly Issue No.(2) is answered.

27. I have already found that the accident took place due to the negligent riding of the motorcycle bearing Reg.No. KL-05-W-0356, by 1st respondent, 2nd respondent is the owner of the motorcycle and hence he is vicariously liable to pay compensation to the petitioner. It is admitted by the 3rd respondent that the motorcycle had been insured with the 3rd respondent at the time of accident. Therefore, the respondents 1 to 3 are liable to pay compensation. Since there is valid insurance policy, the company has to indemnify the 2nd respondent and therefore, the company is liable to pay the compensation. Accordingly Issue No.(3) is answered.

28. **Issue No.(4):- In view of my findings on Issue Nos.(1), (2) and (3), the petition is allowed and award is passed as follows:-**

1. The 3rd respondent shall pay **₹2,98,350/- (Rupees Two Lakhs Ninety Eight Thousand Three Hundred and Fifty Only)**, together with interest at the rate of 9% per annum from the date of petition [05.04.2022] till realization, with proportionate costs.
2. The 3rd respondent is directed to deposit the award amount together with interest and costs to the account of the petitioner

ie, the Savings Bank Account of the petitioner, Account Number 10970100289919 of Federal Bank, Pala Branch with IFSC: FDRL0001097, as per the details produced by the petitioner and compliance of the same shall be reported to the MACT, Pala.

3. The 3rd respondent shall produce cheques for Rs.5,373/- and Rs.6,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.
4. The 3rd respondent is directed to file before the Tribunal a statement regarding compliance of the order along with a copy of transaction record certified by the bank concerned.
5. The office is directed to furnish a copy of said statement to the petitioner after due verification.
6. The office is directed to make necessary entries in the registers maintained in the office evidencing payment of amount to the claimant.
7. The 3rd respondent is directed to pay the amount within one month failing which the petitioner can recover the same in accordance with law.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 19th day of March, 2026.

Sd/-
K.P.PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX:

A1	03.12.2021	:	Photo copy of the FIR in Cr. No. 2748/2021 of Pala Police Station.
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A2	03.12.2021	:	Photo copy of the FIS given by Jose Joshi
A3	22.12.2021	:	Photo copy of the Final report.
A4	15.12.2021	:	Photo copy of the treatment certificate issued from Mar Sleeva Medicity Pala.
A5	01.12.2020	:	Service certificate issued from SBC general Trading and contracting Co. Ltd WLL, Kuwait.
A6	01.12.2021	:	Photo copy of the discharge summary issued from Mar Sleeva Medicity Pala.
A7	12.09.2025	:	Disability certificate issued by Adarsh Manuel, Consultant Nuerosurgeon, Smitha memorial Hospital and Research Centre, Thodupuzha.
A8	06.06.2008	:	Photo copy of the SSLC Book of Jose Joseph.
A9 series	Nil	:	Medical Bills for ₹ 40,220/- (10Nos)
A10	Nil	:	True copy of the Pan Card of Jose Joseph
A11	16.1.2025	:	True copy of the bank pass book of Jose Joseph issued from Federal Bank, Pala Branch.

Exhibits marked for the Petitioner:-

Exhibits marked for the Respondents : Nil

Court Exhibits : Nil

Third party Exhibits : Nil

Witness examined for the both parties: Nil

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.334/2022

Court Fee Paid	:	2356.00
Stamp for Vakkalath	:	6.00
Stamp for Exhibits	:	62.00
Stamp for Petitions	:	10.00
Service of Process	:	90.00
LBF	:	2983.00
Advocate fee	:	17317.00
Others	:	300.00
Total	:	₹ 23,124.00

Proportionate Costs = $\frac{23,124 \times 2,98,350}{6,00,000} = \text{₹}11,498/-$ (Allowed)
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//True Copy//

Typed by : Sreeja
Compared by : Greeshma

Sd/-

Motor Accidents Claims Tribunal

"The parties should apply as soon as possible for the return of all documents which they may wish to preserve; as the record will be liable to be destroyed after twelve years from this date".

**COPY OF AWARD IN
OP (M.V) No.334/2022
DATED: 19.03.2026**