<u>IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA</u>
Present:- Sri. K.P. Pradeep, The MACT

<u>Wednesday, the 20th day of May, 2026</u>
30th day of Vaisakha, 1948

<u>OP (M.V) No.444/2022</u>

<u>Petitioner</u>:-

Sethulekshmi K V, D/o Vasudevan Nair, Lekshmi Bhavan,
Niranam P O, Pathanamthitta District, Pin – 689 621.

By Adv.Don Jose and Adv. Tinu Scaria

<u>Respondents</u> :-

1. Firoz S, S/o Sharafudeen, S R Manzil, Peringala Muri P O, Kayamkulam, Alappuzha District, Pin – 690 559.
2. Sajna Sheheer, W/o Sheheer A, Chalil Veedu, Near Fish Market, Kayamkulam P O, Alappuzha District, Pin – 690 502.
3. New India Assurance Co. Ltd, Represented by its Manager, Muncipal Complex Building, Pala P O, Kottayam District, Pin – 686 575.

R1 By Adv. Naveen Michael.
R2 Ex-parte
R3 By Adv. Reji Thomas.

This O.P. Coming up for finally heard on 15.05.2026 and the Tribunal on 20.05.2026 passed the following :-

<u>AWARD</u>

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

2. The averments in the petition are that, on 04.02.2022 at 12.45 p.m, the petitioner (Sethulekshmi K.V, D/o Vasudevan Nair) was riding on a scooter bearing Reg.No KL-2J-J-5944 through Thiruvalla – Mavelikkara public road. When she reached the place

of occurrence, a car bearing Reg. No KL-29-P-7367 driven by 1st respondent came in a rash and negligent manner and hit the scooter of the petitioner. As a result of which, petitioner fell down the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of car bearing Reg. No KL-29-P-7367 by 1st respondent.

3. Immediately after the accident, the petitioner was taken to Care Craft Hospital, Harippadu. She was admitted in the hospital and treated there as inpatient for 4 days. The respondents 1 to 3 are the driver, owner and insurer respectively of the car bearing Reg. No KL-29-P-7367. At the time of accident petitioner was Manager, PRD Finance and she used to earn ₹40,000/- per month as income.

4. The 1st respondent filed written statement by contending that, the age, income and occupation of the petitioner mentioned in the original petition are not correct. The amount claimed by the petitioner is highly exorbitant. The accident occurred due to negligence of the petitioner. 1st respondent had valid driving license at the time of accident.

The respondent No 2 did not file written statement hence she was called absent and set exparte.

5. The 3rd respondent filed written statement by contending that the car bearing Reg. No KL-29-P-7367 had been insured with 3rd respondent Company in the name of 2nd respondent at the time of accident. The age, income and occupation of the petitioner mentioned in the original petition are not correct. The amount claimed by the petitioner is highly exorbitant. The petitioner has not sustained any disability due to accident as mentioned in the petition. Immediately after the accident the insured should have intimated about the accident to the insurance company, but it was not done and since there is violation of the policy condition the company is not liable to pay compensation. The petition was filed in collusion between the petitioner and other respondents. The accident was occurred due to negligence of the petitioner hence this 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 driving of car bearing Reg. No KL-29-P-7367 by 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 and Exts A1 to A15 were marked. No oral and documentary evidence adduced on the side of the respondents.

8. Heard.

9. **<u>Issue No.(1):-</u>** The case of the petitioner is that, on 04.02.2022 at 12.45 p.m, the petitioner (Sethulekshmi K.V, D/o Vasudevan Nair) was riding on a scooter bearing Reg. No KL-27-J-5944 through Thiruvalla – Mavelikkara public road. When she reached the place of occurrence, a car bearing Reg. KL-29-P-7367 No driven by 1st respondent came in a rash and negligent manner and hit the scooter of the petitioner. As a result of which, petitioner fell down the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of car bearing Reg. No KL-29-P-7367 by 1st respondent.

10. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 to A5. Ext.A1 is the copy of the FIR in Crime No 104/2022 of Pulikeezhu Police Station. Ext A2 is the copy of FIS. Ext A3 is the copy of

charge sheet. Ext A4 is the copy of scene mahazar. Ext A5 series are the copy of AMVI reports of the vehicles bearing Registration Nos KL-27-5944 and KL-29-P-7367, involved in the accident. The offences alleged against the 1st respondent (accused in the final report) are punishable U/ss. 279, 337 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: "Primafacie, 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 any contra evidence, from the above said evidence adduced by the petitioner, it is seen that the alleged incident took place due to rash and negligent driving of car bearing Reg. No KL-29-P-7367 by 1st respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)** :- Ext A6 is the copy of treatment

certificate issued from Care Craft Hospital, Harippadu. Ext A7 is the discharge summary issued from Care Craft Hospital, Harippadu. The above medical records reveals that the petitioner had sustained type 1 open fracture shaft of humerus right with radial nerve palsy, radial nerve palsy right hand, lacerated wound of size 1 x 1 x 5 cm right arm, rom right shoulder right arm restricted, wrist drop, finger drop, multiple abrasions and contusions throughout the body and pain all over the body.

12. Ext A11 is the disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon. Ext A12 series are the medical bills produced by the petitioner.

13. Ext A13 is the copy of PAN card and Ext A14 is the copy of Aadhar card of the petitioner and in which the date of birth of the petitioner has been shown as 8.11.1990. Hence she was 32 years of age on the date of accident. Ext.A15 is the the copy of bank pass book of the petitioner.

14. The petitioner claims that she was Manager, PRD Finance and she used to earn Rs.40,000/- per month as income. Ext A8 is the copy of course completion certificate and Ext A9 is the copy of provisional certificate of BA(Economics) issued from

Madurai Kamaraj University. Ext A10 is the copy of mark list issued from Madurai Kamaraj Univerity. 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 yard-stick, 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 Manager, PRD finance and petitioner was 32 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 ₹22,000/- per month. Hence it is fixed as ₹22,000/- .

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 ₹66,000/- (22,000 x 3 months) under the head 'loss of earning' for the said period of 3 months.

17. Considering her 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. Considering the injury sustained by the petitioner, I feel it just and proper to award an amount of ₹3,500/- as Extra

Nourishment expense.

20. Since the petitioner sustained grievous injury she was admitted in the hospital for 4 days and therefore she could not have performed her day to day activities without the help of others. Therefore, I am inclined to grant ₹2,000/- (500 x 4) as ‘Bystander Expense for 5 days.

21. Ext.A12 series are medical bills produced by the petitioner and she claims that ₹1,07,381/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹1,07,381/-.

22. Taking into account of the injuries sustained by the petitioner and 4 days hospitalization, I am inclined to award an amount of ₹85,000/- 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 ₹55,000/- is also awarded as compensation for 'loss of amenities of life'.

24. Ext A11 is the permanent disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon. The doctor has

assessed the disability of the petitioner due to the alleged road accident as 19%. 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.A11 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 10% 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 ₹22,000/- per month. Thus, the annual income of the petitioner comes to the tune of ₹2,64,000/-(22,000 x 12). The loss of earning

due to said functional permanent disability would be 10% of ₹2,64,000/- which is ₹2,6400/- per annum. Both parties admitted that petitioner was 32 years of age, the multiplier applicable is 16. Therefore, the loss of future earnings on account of said permanent disability would be ₹**4,22,400/-** (16,200 x 7).

26. The petitioner is thus entitled to get a total compensation of **₹7,49,300/-(Rupees Seven Lakhs Forty-nine Thousand and Three Hundred Only)**, as shown in the table below:-

Sl. No.	*Head of claim*	*Amount claimed (in Rupees)*	*Amount awarded (in Rupees)*	(in Paise)	*Basis-Vital Details in a nut shell*
			Part-I		
1	Loss of earning	4,00,000	66,000	-	22000 x 3
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	15,000	6,000	-	Travel to and from the hospital
4	Extra Nourishment	5,000	3,500	-	Considering the injury sustained by the petitioner
5	Damage to Clothing	3,000	2,000	-	-
6	Medical expenses	2,00,000	1,07,381	-	Ext A12 medical bills. Admitted amount
7	By stander expenses	5,000	2,000		500 x 4

8	Pain and suffering	1,00,000	85,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	4,00,000	4,22,400	-	22,000 x 12 x 16 x 10%
10	Compensation for functional disability	3,00,000	Nil		
11	Compensation for Loss of amenities of life, mental agony etc	1,00,000	55,000	-	Considering the injury sustained by the petitioner
12	Compensation for future treatment and disfiguration	1,00,000	Nil		
13	Compensation for mental and physical shock	1,00,000	Nil		
Claim is limited to ₹12,00,000/-		₹17,28,000/- ======			
Total award amount			**₹7,49,281/- =======**		
Rounded off			**₹7,49,300/- =======**		
(Rupees Seven Lakhs Forty-nine Thousand and Three Hundred Only)					

Accordingly Issue No.(2) is answered.

27. **Issue No.(3)**:- I have already found that the accident took place due to the negligent driving of car bearing Reg. No KL-29-P-7367 by 1st respondent. 2nd respondent is the owner of the motorcycle and hence she is vicariously liable to pay compensation to the petitioner. It is admitted by the 3rd respondent that the car

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 **₹7,49,300/-(Rupees Seven Lakhs Forty-nine Thousand and Three Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [04.05.2022] 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 8253022000020948 of Pala Urban Co-operative Bank Ltd., Pala Branch with IFSC: UTIB0SPUC50 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.11,373/- and Rs.12,000/- 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 20th day of May, 2026.

Sd/-

K.P. PRADEEP

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER:-

A1	08.02.2022	:	The copy of FIR in Cr. No. 104/2022 of Palikeezhu Police Station.
A2	08.02.2022	:	FIS given by Gireesh G @ Kannan.
A3	31.03.2022	:	Final Report.
A4	09.02.2022	:	Scene Mahazar.
A5 (series)	12.02.2022 18.03.2022	:	AMVI reports of Scooter bearing Reg.No. KL-2J-J-5944 and Car bearing Reg. No.

			KL-29-P-7367.
A6	03.03.2022	:	Treatment Certificate issued from Care Craft Hospital, Haripad.
A7	07.02.2022	:	Discharge summary of the period from 04.02.2022 to 07.02.2022 issued from Care Craft Hospital, Haripad.
A8	19.08.2011	:	True copy of the course completion certificate of B.A. Economics issued from Madurai Kamaraj University.
A9	28.03.2012	:	True copy of the Provisional certificate of Madurai Kamaraj University.
A10	28.03.2012	:	True copy of the Marklist of B.A. Economics, Madurai Kamaraj University.
A11	15.03.2025	:	Disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon, Kerala Health services.
A12 (series)	-----	:	Medical Bills for ₹1,07,381/- (16 pages)
A13	Nil	:	True copy of the Pan card of Sethulekshmi K V.
A14	Nil	:	Aadhar card of Sethulekshmi K V.
A15	30.06.2025	:	B/P of Sethulekshi K V issued from Pala Urban Co-operative Bank Ltd, Pala.

EXHIBITS MARKED FOR THE RESPONDENTS:NIL

COURT EXHIBITS: NIL

THIRD PARTY EXHIBITS :- NIL

WITNESS EXAMINED FOR THE BOTH SIDES: NIL

Id/-
MACT

OP(MV) NO. 444/2022
STATEMENT OF COSTS

Court Fee paid	:	6866.00
Vakkalath	:	6.00
Stamp for Exhbits	:	80.00
Stamp for petitions	:	60.00
Services of process	:	90.00
Advocate fee	:	39865.00
Others		300.00
L.B.F	:	7493.00
Total	:	54760.00

Proportionate Costs = $\frac{54760 \times 749300}{12,00,000}$ = **₹34193-** (Allowed)
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// True Copy//

Typed by : Ambili
Compared by : Jobi

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".