

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

Monday, the 16th day of March, 2026
25th day of Phalguna, 1947

OP (M.V) No. 700/2022

Petitioner:-

Sreelakshmi K.R (Minor), D/o. Reji Thankan,
Kanjirathummoottil House, Karimkallummoozhy,
Erumely P.O, Kottayam District, Pin 686 509. Represented
by guardian and next friend Reji Thankan,
Kanjirathummoottil House, Karimkallummoozhy,
Erumely P.O, Kottayam District, Pin 686 509.

By Adv. Joseph Paul & Adv. Justin Joseph.

Respondents :-

1. Muhammed Nazeef, S/o. Nazarudeen, Kizhakkekkara House, Kuruvammoozhy P.O, Koovapally Village, Erumely Via, Kottayam Dist, Pin: 686 509.
2. Yadav Sureesh, S/o. Sureesh, Nanpurackal house, Elivalikkara, Muttappally, Mukoottuthara, Kottayam Dist, Pin: 686 510.
3. The National Insurance Co. Ltd, Divisional Office, Kottayam, Pin: 686 001.

R1 - Ex-parte.

R2 - By Adv. Joshy Jacob

R3 - By Adv. George Pulicken.

This O.P. having been finally heard on 11.03.2026 and the Tribunal on 16.03.2026 passed the following :-

AWARD

Petition filed under sections 140 and 166 of the Motor Vehicles Act 1988. The petitioner (Sreelakshmi K.R, D/o Reji Thankan), being a minor, was represented in this claim petition by her father as next friend.

2. The averments in the petition are that on 18.03.2022 at 10.40 A.M, while the minor petitioner was a pillion rider on a scooter bearing Reg.No. KL-34-G-6145 through Erumely Mundakayam public road. At that time a crane bearing Reg.No. KL-34-G-7400 came in a rash and negligent manner and hit on the scooter. As a result of which, the petitioner fell down on the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of crane bearing Reg.No. KL-34-G-7400 by the 2nd respondent.
3. Immediately after the accident, the petitioner was taken to Medical Trust Hospital, Mundakkayam and treated there as inpatient for fourteen days. The respondents 1 to 3 are the owner, driver and insurer respectively of the crane bearing Reg.No. KL-34-G-7400. Therefore, all the respondents are jointly and severally liable to pay compensation to the petitioner. At the time of accident, the petitioner was a student.
4. The 1st respondent did not file written statement hence he was called absent and set ex-parte.
5. 2nd respondent did not file written statement.
6. The 3rd respondent filed written statement by contending that the crane bearing Reg.No. KL-34-G-7400 had been insured with 3rd respondent Company. Petitioner has not sustained any injury or disability as mentioned in the petition. The amount claimed by the petitioner is highly exorbitant . The petition was filed in collusion between and petitioner and respondents 1 and 2. The accident occurred due to the negligent riding of the scooter by its rider. Therefore Company is not liable to pay compensation.

7. 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 crane bearing Reg.No.KL-34-G-7400, by the 2nd 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 ?

8. From the side of the petitioner, No oral evidence was adduced by the petitioner. In order to prove the alleged accident and negligence on part of the 2nd respondent, the petitioner has produced Exts.A1 to A13 and the same were marked. No oral and documentary evidence were adduced from the side of 3rd respondent.

9. Heard.

10. **Issue No.(1):-** The case of the petitioner is that on 18.03.2022 at 10.40 A.M, while the minor petitioner was a pillion rider on a scooter bearing Reg.No. KL-34-G-6145 through Erumely Mundakayam public road. At that time a crane bearing Reg.No. KL-34-G-7400 came in a rash and negligent manner and hit on the scooter. As a result of which, the petitioner fell down on the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of crane bearing Reg.No. KL-34-G-7400 by the 2nd respondent.

11. To prove the alleged incident and negligence on the part of the 2nd respondent, petitioner has produced Exts.A1 to A5. Ext.A1 is the FIR in Crime No.442/2022 of Mundakkyam Police Station. Ext.A2 is the copy of the First Information Statement.

Ext A3 is the copy of the scene mahazar. Ext. A4 series are the copies of AMVI reports. Ext.A5 is the copy of final report. The offences alleged against the driver crane bearing Reg.No. KL-34-G-7400, the 2nd respondent, (accused in the final report) are punishable u/s 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: *"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 driving of crane bearing Reg.No. KL-34-G-7400, by the 2nd respondent. Accordingly Issue No.(1) is answered.

12. **Issue No. (2) :-** Ext.A6 is the copy of wound certificate issued from M.M.T Hospital, Mundakkayam. Ext.A9 is the discharge summary issued from M.M.T Hospital, Mundakkayam. Ext. A13 is the X-ray of the petitioner. The above said medical records reveal that the petitioner had sustained fracture tibia proximal 1/3 rd with displacement, pain and swelling Rt leg, fracture head of humerus, swelling below Rt knee, abrasion Rt leg and abrasion toe Rt.

13. Ext. A10 is the disability certificate issued from Dr. Mathew. P. Thomas, Orthopedic Surgeon and in which the disability has been assessed as 12%. Considering the facts and circumstances of the case and impact of the injury I am of the view that the disability can be considered as 11% since there is no contra evidence adduced by the either party. Ext.A11 series are the medical bills produced by the petitioner.
14. Ext.A12 is the copy of the bank passbook of the next friend of the petitioner.
15. Ext A8 is the birth certificate and in which date of birth of the petitioner has been shown as 18.02.2008. Hence she was 14 years of age at the time of accident. Ext.A7 series are the Aadhaar cards of the petitioner and next friend of the petitioner.
16. Since the petitioner sustained grievous injury and admitted in the hospital for 14 days, she could not have performed her day to day activities without the help of others for 14 days. Therefore, I am inclined to grant ₹7,000/- (500 x 14) as 'Bystander Expense for 14 days.
17. Ext. A11 series are medical bills produced by the petitioner and she claims that ₹74,376/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹74,376/-.
18. The **Hon'ble Apex Court in 'Master Mallikarjunan Vs. National Insurance Co. Ltd. reported in 2014 (14) SCC 396'** has held as follows: "*Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and*

the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. For permanent disability upto 10%, it should be Rs.1 lakh." As the petitioner, who was just 14 years of age at the time of accident, has sustained 11% permanent disability, I am inclined to grant an amount of **Rs.3,00,000/-** as compensation in the light of above said decision of the Hon'ble Apex Court, on all heads other than actual expenditure for treatment and attendant charges.

19. In the light of said decision, the petitioner is thus entitled to get a total compensation of **₹3,81,400/- (Rupees Three Lakh Eighty One Thousand Four Hundred Only)** as shown in the table below:-

Sl. No	Head of Claim	Amount Claimed (in Rupees)	Amount Award (in Rupees)	(In Pai se)	Basis-Vital Details in a nut shell
<u>Part-1</u>					
1.	Compensation for Loss of studies	50,000		-	-
2.	Loss of earning and partial earnings	Nil	Nil	-	-
3.	Transportation charge including Ambulance charges	10,000	---		
4.	Extra Nourishment	3,000	---		
5.	Damage to clothing	1,000	---		
6.	Medical Expenses	3,00,000	74,376		
7.	By-stander Expenses	3,000	7,000	-	500 x 14
<u>Part-11</u>					
8.	Pain and suffering	70,000			

9.	Compensation for permanent or continuing disability	5,00,000	3,00,000	-	As per Master Mallikarjun's case
10	Compensation for loss of future earning power and amenities of life	2,00,000			
11	Future treatment	Nil			
		₹11,37,000/-			
Total award amount			₹3,81,376/- =====		
Rounded off			₹3,81,400/- =====		
(Rupees Three Lakh Eighty One Thousand Four Hundred Only)					

Issue No.(2) is answered accordingly.

20. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of crane bearing Reg.No. KL-34-G-7400 by the 2nd respondent. 1st respondent is the owner of the vehicle and therefore he is vicariously liable to compensate the petitioner. It is admitted by the 3rd respondent that the above said crane had been insured with 3rd respondent company. Therefore the respondents 1 to 3 are jointly and severally liable to pay compensation to the petitioner. Since the crane had valid insurance policy the company has to indemnify 1st respondent therefore the company is liable to pay compensation to the petitioner. Accordingly Issue No.(3) is answered.

21.**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 an amount of **₹3,81,400/-**

(Rupees Three Lakh Eighty One Thousand Four Hundred Only) to the petitioner as compensation together with interest at the rate of 9% per annum from the date of petition (17.06.2022) till realization or payment, with proportionate costs.

2. The award amount due to the minor petitioner above shall be deposited by the 3rd respondent before MACT, Pala and the office shall deposit the same in the savings Bank Account of the Minor petitioner. The minor petitioner can withdraw the amount on attaining majority.
3. The 3rd respondent shall produce cheques for Rs.10,743/- and Rs.11,370/- 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 16th day of March, 2026.

Sd/-

K.P.PRADEEP

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	03.04.2022	:	Photo copy of the FIR in Cr. No. 442/2022 of Mundakayam Police Station.
A2	03.04.2022	:	Photo copy of FIS given by Aswin Reji.
A3	03.04.2022	:	Photo copy of Scene Mahazar.
A4	06.04.2022	:	Photo copy of AMVI reports of Scooter bearing Reg. No. KL-34-G-6145 & Crane bearing Reg. No. KL-34-G-7400.
A5	NIL	:	Photo copy of Final Report.
A6	18.03.2022	:	Photo copy of wound certificate issued from MMT Hospital Mundakayam.
A7 (series)	17.03.2018	:	True copy of Aadhar card of Sreelakshmi K.R & Reji Thankan.
A8	04.03.2008	:	True copy of the birth certificate of Sreelakshmi K.R issued from Parathodu Grama Panchayathu.
A9	18.03.2022	:	Discharge summary issued from MMT Hospital, Mundakayam.
A10	26.02.2024	:	Disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon, Govt. Hospital, Peruvanthanam.
A11 (series)		:	Medical Bills for Rs. 75,925/- (45 pages)
A12	29.02.2024	:	True copy of the Bank Pass book of Reji Thankan issued from Pala Urban Co-operative Bank Ltd, Pala.
A13	18.03.2022	:	X-ray Filim.

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.700/2022

Court Fee paid	:	3187.00
LBF	:	3814.00
Stamp for petitions	:	25.00
Stamp for Vakkalath	:	6.00
Service of Process	:	120.00
Advocate fee	:	21470.00
Others	:	300.00
Total	:	₹ 28922.00

$$\text{Proportionate Costs} = \frac{28,922 \times 3,81,400}{11,37,000} = \text{₹}9702/- \text{ (Allowed)}$$

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// True Copy//

Typed by : Jobi.
Compared by : Sreeja

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 MV 700/2022
dated: 16.03.2026**