

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

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

Friday, the 08th day of May, 2026

18th day of Vaisakha , 1948

OP (M.V) 721/2021

Petitioner:-

Soumi P Sainudheen, aged 39 years, W/o C.H Nejeeb,
Chayiparampil House, Nadaykkal P.O, Erattupetta S.O,
Nadackal , Kottayam, Pin: 686 121

By Adv. Jemmy George & Adv. Jayasekhar C

Respondents :-

1. Muhammed Ismail, aged 24 years, S/o Abdul Jabbar,
Ponthanal House, Erattupetta P.O, Vattakkayam
Bhagom, Vadakkekara Kara, Erattupetta Village,
Kottayam District, Pin: 686 121
2. Saratha, W/o Thankappan, Amolickal House,
Memury, Ooramana, Ernakulam, Pin: 686 633
3. The Manager, New India Assurance Co. Ltd,
Municipal Shopping Complex, Pala P.O, Kottayam
District, Pin: 686 575

R1 &R2 - Ex-parte

R3 - By Adv. Reji Thomas

This O.P. having been finally heard on 28.04.2026 and the
Tribunal on 08 .05.2026 passed the following :-

AWARD

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

2. The averments in the petition are that, on 30.03.2022 at
8.00 p.m, the petitioner (Soumi P Sainudheen, W/o CH Najeeb) was
walking by the side of the Erattupetta Market - Erattupetta

Puthenpally public road. When the petitioner reached the place of occurrence, a motorcycle bearing Reg. No KL-17-T-9085 ridden by 1st respondent in a rash and negligent manner came and hit the petitioner. As a result of which, petitioner sustained severe injuries. The accident occurred due to the rash and negligent riding of the motorcycle bearing Reg. No KL-17-T-9085 by 1st respondent.

3. Immediately after the accident, the petitioner was taken to P.M.C Hospital, Erattupetta. The respondents 1 to 3 are the rider, owner and insurer respectively of the motorcycle bearing Reg. No KL-17-T-9085. At the time of accident petitioner was tailor and she used to earn ₹20,000/- per month as income.

4. The respondents 1 and 2 did not file written statement hence they were called absent and set exparte.

5. The 3rd respondent filed written statement by contending that the Motorcycle bearing Reg. No. KL-17-T-9085 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 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 riding of motorcycle bearing No KL-17-T-9085 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 A13 were marked. No oral and documentary evidence adduced on the side of the respondents. Ext X1 was also marked.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that, on 30.03.2022 at 8.00 p.m, the petitioner (Soumi P Sainudheen, W/o CH Najeeb) was walking by the side of the Erattupetta market - Erattupetta Puthenpally public road. When the petitioner reached the place of occurrence, a motorcycle bearing Reg. No KL-17-T-9085 ridden by 1st respondent in a rash and negligent matter came and hit the petitioner. As a result of which, petitioner sustained severe

injuries. The accident occurred due to the rash and negligent riding of the motorcycle bearing Reg. No KL-17-T-9085 by 1st respondent.

10. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 to A4. Ext.A1 is the copy of the FIR in crime No.461/2022 of Erattupetta police station. ExtsA2 is the copy of FIS. Ext A3 is the copy of final report. Ext A4 is the copy of AMVI report of the vehicle 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: *"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 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 riding of motorcycle bearing Reg. No KL-17-T-

9085 by 1st respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)** :- Ext A5 is the copy of wound certificate issued from PMC Hospital, Erattupetta. Exts A6 and A7 are the treatment certificate issued from the Chazhikattu Hospital, Thodupuzha. Ext A8 treatment certificate issued by Dr. Jeo Tom Charles, Dental Surgeon. Ext A9 is the medical certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon. The above medical records reveals that the petitioner had sustained swelling tenderness on left wrist, left lateral incisor on upper jaw absent, sagging upper jaw incisors and pain and tenderness all over the body.

12. Ext A10 series are the medical bills produced by the petitioner. Ext X1 is the disability certificate issued from Medical Board, Medical College Hospital, Kottayam.

13. Ext A11 is the copy of driving license and Ext A13 is the copy of PAN card of the petitioner and in which the date of birth of the petitioner has been shown as 23.10.1982. Hence she was 40 years of age on the date of accident. Ext.A12 is the the copy of bank pass book of the petitioner.

14. The petitioner claims that she was tailor and she used to earn Rs.20,000/- per month as income. 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 be 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 justify adoption of lowest tier of minimum wage while computing the income. Here in this case the petitioner claims that she was Tailor and petitioner was 40 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

₹19,000/- per month. Hence it is fixed as ₹19,000/- .

16. The above said injuries sustained by the petitioner prevented her from doing work atleast for 3 months. Therefore, I am inclined to award an amount of ₹57,000/- (19,000 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. Since the petitioner has not produced any document to show any inpatient treatment hence I am not inclined to grant any amount as bystander's expenses and extra nourishment.

20. Ext.A10 series are medical bills produced by the petitioner and she claims that ₹12,629/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹12,629/-.

21. 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'.

22. Considering the discomfort, unhappiness and inconvenience, the petitioner faced on account of the said injuries sustained in the accident, an amount of ₹50,000/- is also awarded as

compensation for 'loss of amenities of life'.

23. Ext X1 is the permanent disability certificate issued from the Medical Board of Government Medical College Hospital, Kottayam. The medical board has assessed the disability due to the injuries sustained in the accident as 2%. No evidence was adduced from either side. Here in this case considering the injuries sustained and other facts and circumstances of this case and the impact of the injuries sustained by the petitioner on the earning capacity of the petitioner, I am of the view that disability can be fixed as 2% as in the Medical Board Report, it is granted as such since there is no contra evidence to reduce the same. In ***Suresh Jatav vs. Sukhendra Singh & Others***; 2024 AIAR(Civil) 732, it was held that, *“as far as disability is concerned, the doctor has assessed it at 35% and the Tribunal reduced it to 25% on mere conjectures—There should be valid reasoning to go behind the opinion of an expert, especially in the matter of assessment of disability”*.

24. I have already fixed the notional income of the petitioner as ₹19,000/- per month. Thus, the annual income of the petitioner comes to the tune of ₹228,000/- (19,000 x 12). The loss of earning due to said functional permanent disability would be 2% of ₹2,28,000/- which is ₹4,560/- per annum. Both parties admitted that petitioner was 40 years of age, the multiplier applicable is 15. Therefore, the loss of future earnings on account of said permanent

disability would be **₹68,400/-** (4560 x 15).

25. The petitioner is thus entitled to get a total compensation of **₹2,56,050/-(Rupees Two Lakhs Fifty-six Thousand 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 Paisa)</i>	<i>Basis-Vital Details in a nut shell</i>
<u>Part-I</u>					
1	Loss of earning	40,000	57,000	-	19,000 x 3
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	20,000	6,000	-	Travel to and from the hospital
4	Extra Nourishment	10,000	Nil	-	Considering the injury sustained by the petitioner
5	Damage to Clothing	2,000	2,000	-	-
6	Medical expenses	50,000	12,629	-	Ext A10 medical bills. Admitted amount
7	By stander expenses	25,000	Nil		
8	Pain and suffering	50,000	60,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	3,00,000	68,400	-	19,000 x 12 x 15 x 2%
10	Compensation for loss of earning power and amenities in life	50,000	50,000		Considering the injury sustained by the petitioner
11	Compensation for future treatment	50,000	Nil	-	
Claim is limited to ₹5,00,000/-		₹5,47,000/- =====			

Total award amount	₹2,56,029/- =====
Rounded off	₹2,56,050/- =====
(Rupees Two Lakhs Fifty-six Thousand and Fifty Only)	

Accordingly Issue No.(2) is answered.

26. **Issue No.(3):-** I have already found that the accident took place due to the negligent riding of the motorcycle bearing Reg. No KL-17-T-9085. 2nd respondent is the owner of the motorcycle and therefore she 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.

27. **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 **₹2,56,050/-(Rupees Two Lakhs Fifty-six Thousand and Fifty Only)** together with interest at the rate of 9% per annum from the date of petition [21.06.2022] 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 345901000002779 of Indian Overseas Bank, Erattupetta branch with IFSC:IOBA0003459, 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.4,373/- and Rs.5,000/- 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 8th day of May, 2026.

Sd/-

K.P.PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX :

EXHIBITS MARKED FOR THE PETITIONER

A1	08.04.2022	:	Photocopy of FIR in Cr. No. 461/2022 of Erattupetta Police station
A2	08.04.2022	:	Photocopy of the FIS given by Najeeb C.H
A3	27.04.2022	:	Photocopy of the final report
A4	13.04.2022	:	Photocopy of the AMVI report of

			motorcycle bearing Reg. No. KL-17-T-9085
A5	15.04.2022	:	Photocopy of the wound certificate issued from PMC Hospital, Erattupetta
A6	24.06.2022	:	Treatment certificate issued from Chazhikakattu Hospital, Thodupuzha
A7	25.11.2024	:	Treatment certificate issued from Chazhikakattu Hospital, Thodupuzha
A8	17.02.2026	:	Treatment certificate issued by Dr. Jeo Tom Charls, Dental Surgeon, Smile Architects, Multispeciality Dental Clinic, Erattupetta
A9	09.05.2022	:	Medical Certificate issued by Dr. Mathew P Thomas, Orthopaedic Surgeon, Govt. Hospital , Mundakkayam
A10 (series)	--	:	Medical Bills for Rs. 22629/- (10 pages)
A11	02.05.2016	:	Photocopy of the driving license of Soumi P Sainudheen
A12	07.07.2020	:	True copy of the bank pass book of Soumi P Sainudheen issued from Indian Overseas Bank, Erattupetta branch
A13	09.12.2021	:	Photocopy of the pan card of Soumi P Sainudheen

EXHIBITS MARKED FOR THE RESPONDENTS:- Nil

COURT EXHIBITS :-Nil

THIRD PARTY EXHIBITS:-

X1	30.10.2024	:	Disability certificate issued by Standing Disability Assessment Board, MCH, Kottayam
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WITNESS EXAMINED FOR BOTH PARTIES:- Nil

Id/-
MACT

STATEMENT OF COST
OP(MV) No.721/2022

Court Fee	:	1933.00
Stamp for Vakkalath	:	6.00
Stamp for Exhibits	:	80.00
Stamp for Petition		75.00
Process	:	90.00
LBF	:	2560.00
Advocate fee	:	15202.00
Others	:	300.00
Total	:	₹ 20,246.00

Proportionate Costs = $\frac{20,246 \times 2,56,050}{5,00,000} = \text{₹}10,368/-$ (Allowed)
=====

//True Copy//

Typed by : Sreeja
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".

**COPY OF AWARD IN
OP (M.V) No.721/2021
DATED: 08.05.2026**