

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.837/2022

Petitioner:-

Nivan V Nilkerthil, (minor) aged 3 years,
Kunnmpurathu House, Chethimattom Bhagom,
Kizhathadiyoor P O, Pin: 686 575, Pala, Lalam Village,
Meenachil Taluk, represented by his Mother Sherin
James, Now residing at Kunnumpurathu House,
Chethimattom Bhagom, Kizhathadiyoor P O,
Pin: 686 575, Pala, Lalam Village, Meenachil
Taluk as next friend and guardian.

By Adv. N T Babuv & Adv. Anoop P P

Respondents :-

1. Mony M S, aged 54 years, S/o Sankaran Nair,
Madathiparambil House, Pazhoor Devippady
Bhagom, Piravam P O, Piravam Village,
Pin:686 664.
2. Manojkumar N P, S/o Purushothama Kurup,
Njaliyathu House, Piravom P O, Piravom Village,
Pin: 686 664.
3. The Manager, National Insurance Co. Ltd,
Pala P O, Pala, Pin: 686 575.

R1 & R2- By Adv. P K Lal

R3- By Adv. Abraham J Mattom

This O.P. having been finally heard on 07.03.2026 and the
Tribunal on 16.03.2026 passed the following :-

AWARD

Petition filed under sections 140 & 166 of the Motor Vehicles Act
1988. The petitioner (Nivan V Nikerthil, S/o Sherin James), being a
minor, was represented in this claim petition by his mother as next
friend.

2. The averments in the petition are that on 01.01.2022 at 09.30 A.M, while the minor petitioner tried to cross the road near Paika in the Muvattupuzha - Punalur state highway road, a Car bearing No. KL-17-P-2004 driven by the 1st respondent came in a rash and negligent manner and hit on the petitioner. As a result of which, the petitioner sustained severe injuries. The accident occurred due to the rash and negligent driving of Car bearing No. KL-17-P-2004 by the 1st respondent.

3. Immediately after the accident petitioner was taken to CHC Paika and thereafter admitted to Mar Sleeva Medicity Hospital, Cherpunkal, Pala and treated there as inpatient from 01.01.2022 to 03.01.2022. Respondents 1 to 3 are the driver, owner and insurer respectively of the Car bearing No. KL-17-P-2004. At the time of accident, petitioner was a 'student'.

4. Respondent 1 and 2 jointly filed written statement by contending that Car bearing No. KL-17-P-2004 was insured with 3rd respondent Company. The amount claimed by the petitioner is highly exorbitant. The age and treatment expenses shown in the petition are wrong. Hence the 1st and 2nd respondents are not liable to pay compensation to the petitioner.

5. 3rd respondent filed written statement by contending that Car bearing No. KL-17-P-2004 is insured with 3rd respondent Company. The amount claimed by the petitioner is highly exorbitant. 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 driving of Car bearing No. KL-17-P-2004 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 A12 and same were marked. No oral or documentary evidence were adduced on the side of the respondents.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that on 01.01.2022 at 09.30 A.M, while the minor petitioner tried to cross the road near Paika in the Muvattupuzha - Punalur state highway road, a Car bearing No. KL-17-P-2004 driven by the 1st respondent came in a rash and negligent manner and hit on the petitioner. As a result of which, the petitioner sustained severe injuries. The

accident occurred due to the rash and negligent driving of Car bearing No. KL-17-P-2004 by the 1st respondent.

10. To prove the alleged accident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 to A3, A5 and A6. A1 is the copy of FIR in Crime No.12/2022 of Ponkunnam Police Station. Ext.A2 is the copy of the FIS. Ext A3 is the copy of Final report. Ext.A5 is the scene mahazer. Ext.A6 is the AMVI Report. In the Final report, the offences alleged against the driver of the Mini Bus, 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 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 Car bearing No. KL-17-P-2004 by the 1st respondent. Accordingly Issue No.(1) is

answered.

11. **Issue No.(2)** :- Ext.A4 is the copy of the wound certificate issued from Mar Sleevea Medicity, Pala. Ext.A8 is the discharge summary issued from Mar Sleevea Medicity, Pala. It reveals that the petitioner has sustained fracture Rt. Tibia and Fibula (both bones), fracture Rt. Frontal bone, fracture Rt. Parietal bone, extra calvarial soft tissue haematoma.

12. Ext.A7 is the medical bills produced by the petitioner.

13. Ext.A9 is the copy of Aadhaar card of the Petitioner's next friend. Ext.A10 is the copy of Aadhar card of the minor petitioner. Ext.A11 is the copy of Bank Pass of the Petitioner's next friend, Ext.A12 is the copy of PAN Card of the Petitioner's next friend.

14. The petitioner was a student at the time of accident. So there is no need to calculate loss of earning. Hence I am not not inclined to grant any amount under the head 'loss of earning'.

15. Considering his frequent visits to hospitals in connection with treatment, an amount of ₹5,000/- is awarded as 'Transportation expense'.

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

17. Since the petitioner sustained grievous injury he was admitted for 3 days 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.

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

19. Ext.A7 medical bills produced by the petitioner and he claims that ₹17,801/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹17,801/-.

20. Taking into account of the injuries sustained by the petitioner, I am inclined to award an amount of ₹70,000/- under the head 'Pain and suffering'.

21. Considering the discomfort, unhappiness and inconvenience, the petitioner faced on account of the said injuries sustained in the accident, an amount of ₹40,000/- is also awarded as compensation for 'loss of amenities of life'.

22. The petitioner is thus entitled to get a total compensation of **₹1,38,300/- (Rupees One Lakh Thirty Eight Thousand and Three Hundred 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	Nil	-	-	-
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	5,000	5,000	-	Travel to and from the hospital

4	Extra Nourishment	8,000	2,000	-	Considering the injury sustained by the petitioner
5	Damage to Clothing	4,000	2,000	-	-
6	Medical expenses	1,00,000	17,801	-	Ext.A7 series Admitted medical bills
7	By stander expenses	10,000	1,500		500x3
<u>Part-II</u>					
8	Pain and suffering	1,00,000	70,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	2,00,000	Nil	-	-
10	Compensation for disfigurement, Loss of amenities of life and loss of earning power, mental and physical shock and future treatment etc	2,00,000	40,000	-	Considering the injury sustained by the petitioner
Claim limited ₹6,00,000/- =====		₹6,27,000/- =====			
Total award amount			₹1,38,301/-		
Rounded off			1,38,300/-		
			=====		
(Rupees One Lakh Thirty Eight Thousand and Three Hundred Only)					

Accordingly Issue No.(2) is answered.

22. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the Car bearing No. KL-17-P-2004 by the 1st respondent. 2nd respondent is the owner of the car therefore 2nd respondent 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.

23. **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 **₹1,38,300/- (Rupees One Lakh Thirty Eight Thousand and Three Hundred Only)**, to the petitioner together with interest at the rate of 9% per annum from the date of petition [18.07.2022] till realization, with proportionate costs.
- (2) The award amount due to the minor petitioners as apportioned 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 petitioners. The minor petitioners can withdraw the amount on attaining majority.
- (3) The 3rd respondent shall produce cheques for ₹5,373/- and ₹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 the 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	05.01.2022	Certified copy of the FIR in Cr. No. 12/2022 of Ponkunnam Police Station
A2	05.01.2022	Certified copy of the FIS given by Blessen James
A3	05.01.2022	Certified copy of the Final report
A4	19.01.2022	Certified copy of the wound certificate issued from Mar Sleeva Medicity Pala.
A5	05.01.2022	Certified copy of the Scene Mahazar
A6	05.01.2022	Certified copy of the AMVI report of the car bearing Reg. No.KL-17-P-2002.
A7	03.01.2022	Copy of the Medical Bill for ₹ 17,801/-
A8	03.01.2022	Photocopy of the discharge summary issued from Mar Sleeva Medicity Pala.
A9	27.01.2012	True copy of the Aadhaar card of Sherin James
A10	Nil	True copy of the Aadhaar card of Nivan V
A11	09.09.2015	True copy of the Bank passbook of Sherin James issued from SBI, Thodupuzha Branch.
A12	Nil	True copy of the Pan card of Sherin James.

Exhibits marked for the Respondents : Nil

Court Exhibits : Nil

Third party Exhibits : Nil

Witness examined for the both parties: Nil

Id/-
MACT

MEMO OF COSTS NOT FILED

//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.837/2022
DATED: 16.03.2026**