

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

Thursday, the 19th day of March, 2026
28th day of Phalguna, 1947

OP (M.V) No. 912/2021

Petitioner:-

Don J Varghese (Major) S/o. Varghese, Vattathara House,
Mankombu P.O, Pin: 688 503.

Petitioner declared as major as per order in IA 1/26 dated
04.03.2026

By Adv. Bijumon K & Adv. Joshy Abraham

Respondents :-

1. Moneesh Kumar E.M, S/o. Mohanan, Erupathil House,
Kavalam P.O, Alappuzha, Pin: 688 506.
2. Dishin C.D, S/o. Devadas, Cheeroth House,
Mullussery P.O, Thrissur, Pin: 695 001.
3. The Manager, The New India Insurance Co. ltd, Pala
Branch. Pin:686575

R1& R2 - By Adv. Prince Joseph & Adv. Jose Y James.
R3 - By Adv. Reji Thomas.

This O.P. having been finally heard on 27.02.2026 and the
Tribunal on 19.03.2026 passed the following :-

AWARD

Petition filed under section 166 of the Motor Vehicles Act 1988.
The petitioner (Don J Varghes, S/o Varghese), being a minor, was
represented in this claim petition by her father as next friend. As
per the order in I.A.1/2026 majority of the minor petitioner is
declared.

2. The averments in the petition are that on 30.06.2021 at 03.30

P.M, while the minor petitioner was travelling in a car bearing Reg.No.KL-66-A-3243 through Changanacherry - Alappuzha public road. When the car reached the place of occurrence a motorcycle bearing Reg.No. KL-08-AX-7197 which had been parked on the side of the road, without looking oncoming vehicles entered into the main road and dashed against the car in which the petitioner was travelling. As a result of which, the petitioner was thrown away and taken down on the road and sustained severe injuries. The accident occurred due to the negligent parking of motorcycle bearing Reg.No. KL-08-AX-7197 by the 1st respondent.

3. Immediately after the accident, the petitioner was taken to St. Thomas Hospital, Chethipuzha and treated there as inpatient from 30.06.2021 to 01.07.2021. The respondents 1 to 3 are the driver, owner and insurer respectively of the motorcycle bearing Reg.No. KL-08-AX-7197. 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 and 2nd respondents jointly filed written statement by contending that the motorcycle bearing Reg.No. KL-08-AX-7197 had been insured with 3rd respondent Company. The amount claimed by the petitioner is exorbitant. The accident occurred not due to the negligence of the 1st respondent. Hence the respondents 1 and 2 are not liable to pay compensation to the petitioner.
5. The 3rd respondent filed written statement by contending that the motorcycle bearing Reg.No. KL-08-AX-7197 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. Therefore Company is not liable to pay compensation.

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 Reg.No. KL-08-AX-7197, 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 by the petitioner. In order to prove the alleged accident and negligence on part of the 1st respondent, the petitioner has produced Exts.A1 to A9 and the same were marked. No oral and documentary evidence were adduced from the side of respondents.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that on 30.06.2021 at 03.30 P.M, while the minor petitioner was travelling in a car bearing Reg.No.KL-66-A-3243 through Changanacherry - Alappuzha public road. When the car reached the place of occurrence a motorcycle bearing Reg.No. KL-08-AX-7197 which had been parked on the side

of the road without looking oncoming vehicles entered into the main road and dashed against the car in which the petitioners was travelling. As a result of which, the petitioner was thrown away and taken down on the road and sustained severe injuries. The accident occurred due to the negligent parking of motorcycle bearing Reg.No. KL-08-AX-7197 by the 1st respondent.

10. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 and A3. Ext.A1 is the FIR in Crime No.302/2021 of Pulinkunnu Police Station. Ext.A3 is the copy of the Final Report. The offences alleged against the rider of motorcycle bearing Reg.No. KL-08-AX-7197, the 1st respondent, (accused in the final report) is 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 negligent parking of motorcycle bearing Reg.No. KL-08-AX-7197, by

the 1st respondent. Accordingly Issue No.(1) is answered.

11. **Issue No. (2) :-** Ext.A2 is the copy of wound certificate issued from St. Thomas Hospital, Chethipuzha. Ext.A5 is the medical certificate issued from Dr.Abeys Specialty and Diagnostics. The above said medical records reveal that the petitioner had sustained fracture both bones on (R) forearm and pain and abrasion all over the body.
12. Ext. A6 is the disability certificate issued from Dr. Mathew. P. Thomas, Orthopedic Surgeon and in which the disability has been assessed as 9%. 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 9% since there is no contra evidence adduced by the either party. Ext.A4 series are the medical bills produced by the petitioner.
13. Ext.A8 is the copy of the bank passbook of the petitioner.
14. Ext.A7 is the copy of SSLC Book of the petitioner and Ext A9 is the PAN Card and in which date of birth of the petitioner has been shown as 23.09.2006. Hence he was 15 years of age at the time of accident.
15. Ext. A4 series are medical bills produced by the petitioner and he claims that ₹2,680/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹2,680/-.
16. 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 15 years of age at the time of accident, has sustained 9% permanent disability, I am inclined to grant an amount of **Rs.1,00,000/-** 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.

17. In the light of said decision, the petitioner is thus entitled to get a total compensation of **₹1,02,700/- (Rupees One Lakh Two Thousand and Seven Hundred Only)** as shown in the table below:-

Sl. No	Head of Claim	Amount Claimed (in Rupees)	Amount Award (in Rupees)	(In Paise)	Basis-Vital Details in a nut shell
Part-1					
1.	Compensation for Loss of earnings	40,000		-	-
2.	Loss of earning and partial earnings	Nil	Nil	-	-
3.	Transportation charge including Ambulance charges	6,000			
4.	Extra Nourishment	5,000			

5.	Damage to clothing	5,000			
6.	Medical Expenses	50,000	2,680		Ext.A4 series medical bills admitted
7.	By-stander Expenses	4,000			
<u>Part-11</u>					
8.	Pain and suffering	75,000	1,00,000	-	As per Master Mallikarjun's case
9.	Compensation for permanent or continuing disability	1,50,000			
10	Compensation for loss of future earning power and amenities of life	50,000			
11	Future treatment	25,000			
		₹4,10,000/-			
Total award amount			₹1,02,680/- =====		
Rounded off			₹1,02,700/- =====		
(Rupees One Lakh Two Thousand and Seven Hundred Only)					

Issue No.(2) is answered accordingly.

18. **Issue No.(3):-** I have already found that the accident took place due to the negligent parking of motorcycle bearing Reg.No. KL-08-AX-7197 by the 1st respondent. 2nd 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 vehicle 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 above said vehicle had valid insurance policy the company has to indemnify 2nd respondent therefore the company is liable to pay

compensation to the petitioner. Accordingly Issue No.(3) is answered.

19.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 **₹1,02,700/- (Rupees One Lakh Two Thousand and Seven Hundred Only)** to the petitioner as compensation together with interest at the rate of 9% per annum from the date of petition (11.10.2021) till realization or payment, 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 8253022000021520 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.3,473/- and Rs.4,100/- 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

EXHIBITS MARKED FOR THE PETITIONER

A1	04.07.2021	:	Photo copy of the FIR in Cr. No. 302/2021 of Pulinkunnu Police Station.
A2	30.06.2021	:	Photo copy of wound certificate issued from St. Thomas Hospital, Chethipuzha.
A3	26.07.2021	:	Photo copy of Final Report.
A4 (series)		:	Medical Bills for ₹ 2,680/- (5 pages)
A5	30.06.2021	:	Medical certificate issued by Dr. Abey's speciality Diagonostics Nedumudi, Alappuzha.
A6	15.09.2025	:	Disability certificate issued by Dr. Mathew P Thomas, Orthopaedic surgeon, Govt.Hospital, Peruvanthanam.
A7	15.06.2022	:	True copy of the SSLC book of Don J Varghese.
A8	18.09.2025	:	True copy of Bank Pass book of Don T Varghese issued from Pala Urban Co-operative Bank Ltd, Pala.
A9	Nil	:	True copy of Pan card of Don J Varghese.

EXHIBITS MARKED FOR THE RESPONDENTS:-NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-NIL

WITNESS EXAMINED FOR BOTH PARTIES:- NIL

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.912/2021

Court Fee	:	400.00
LBF	:	1027.00
Stamp for Vakkalath	:	6.00
Service of Process	:	90.00
Advocate fee	:	7535.00
Others	:	300.00
Total	:	₹ 9358.00

Proportionate Costs = $\frac{9,358 \times 1,02,700}{4,10,000} = \text{₹ } 2,344/-$ (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 (M.V) No.912/2021
DATED: 19.03.2026**