

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

Saturday, the 25th day of April, 2026
5th day of Vaisakha, 1948.

OP (M.V) No.1066/2021

Petitioner:-

Mary @ Moly,, W/o. Joseph, Kammattithara House,
Chemmanathukara P.O, Vaikom, Chemmanathukara,
Kottayam, Vaikom, pin: 686 606.

By Adv. Jainymol M.G & Adv. K.M Sebastian

Respondents :-

1. Ranjith, aged 48 years, S/o. Joseph, Kaduvakkuzhy House,
Poozhikol P.O, Kaduthuruthy Village.
2. The Administrator, Mercy Hospital, Pothy,
Thalayolaparambu, Vaikom, Kottayam.
3. The Manager, New India Assurance Co. Ltd, Muncipal
Shopping Complex, Pala P.O, Kottayam District,
Pin: 686 575.

R1 & R2 - Ex-parte

R3 - By Adv. Benoy Jose Mathew.

This O.P coming up for final consideration on 16.03.2026 and
the Tribunal on 25.04.2026 passed the following :-

AWARD

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

2. The averments in the petition are that, on 27.09.2021 at 8.45. A.M,
the petitioner (Mary @ Moly, W/o Joseph) was travelling in a an
ambulance bearing Reg.No.KL-36-F-7450 driven by 1st respondent
from Vaipin paddy - Vaikom and due to his rash and negligent driving
of the ambulance when it reached the place of occurrence it hit on a
wall. As a result of which, petitioner was thrown out and fallen down

on the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of ambulance bearing Reg.No.KL-36-F-7450 by 1st respondent.

3. Immediately after the accident, the petitioner was taken to Taluk Head Quarters Hospital, Vaikom and thereafter she was shifted to Mercy Hospital, Pothy and treated there as inpatient from 27.09.2021 to 1.10.2021. The respondents 1 to 3 are the driver, owner and insurer respectively of the ambulance bearing Reg.No.KL-36-F-7450. At the time of accident petitioner was doing kitchen work (Hostel staff) and she used to earn ₹20,000/- per month as income.

4. The 1st and 2nd respondents did not file written statement, hence they were called absent and set ex-parte.

5. The 3rd respondent filed written statement by contending that the ambulance bearing Reg.No.KL-36-F-7450 had been insured with 3rd respondent in the name of 2nd respondent. The ambulance was used for the purpose of transportation of passengers and it was not permissible and since it is violation of policy condition the company is not liable to pay compensation. The age and income of the petitioner mentioned in the original petition are not correct. The amount claimed by the petitioner is highly exorbitant. The petition was filed in collusion between the petitioner and other respondents. The

petitioner has not sustained any disability due to accident. 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 ambulance bearing Reg.No.KL-36-F-7450 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. In order to prove the alleged accident and negligence on the part of the 1st respondent, the petitioner has produced Exts A1 to A7 and the same were marked. Medical board report is also marked as Ext X1. No oral and documentary evidence adduced on the side of the 3rd respondent.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that on 27.09.2021 at 8.45. A.M, the petitioner (Mary @ Moly, W/o Joseph) was travelling in a an ambulance bearing Reg.No.KL-36-F-7450 driven by 1st respondent from Vaipin paddy - Vaikom and due to his rash and negligent driving of the ambulance when it reached the place of occurrence it hit on a wall. As a result of

which, petitioner was thrown out and fallen down on the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of ambulance bearing Reg.No.KL-36-F-7450 by 1st respondent.

10. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 and A2. Ext.A1 is the copy of the FIR in crime No.2201/2021 of Vaikom police station. Ext A2 is the copy of Final report. The offences alleged against the 1st respondent (accused in the final report) are punishable U/ss. 279, 337, 338 and 304(A) 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 driving of ambulance bearing Reg.No.KL-36-F-7450 by the 1st respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)** :- Ext A3 is the copy of wound certificate issued from Taluk Head Quarters Hospital, Vaikom. Ext A4 is the copy of discharge summary issued from Mercy Hospital, Pothi. The above medical records reveals that the petitioner had sustained fracture clavicle (Left) - Lateral 1/3rd, bilateral basal bone fracture, pain left shoulder and face, lacerated wound over (L) side frontal area 2 cm, lacerated wound over (L) side forearm, lacerated wound over dorsum of nose 1.5 cm and pain and tenderness all over the body.

12. Ext X1 is the disability certificate issued from Government Medical College Hospital, Kottayam. Ext A5 series is the medical bills produced by the petitioner.

13. Ext A7 is the copy of PAN card and in which the date of birth of the petitioner has been shown as 26.04.1973. Hence she was 48 years of age on the date of accident.

14. The petitioner claims that she was doing kitchen works (hostel staff). 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 she is doing 'kitchen works (hostel staff)' and 48 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 him from doing work atleast for 4 months. Therefore, I am inclined to award an amount of ₹76,000/- (19,000 x 4 months) under the head 'loss of earning' for the said period of 4 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 ₹4,000/- as Extra Nourishment expense.

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

21. Ext.A5 series are medical bills produced by the petitioner and she claims that ₹12,181/- was spent for the treatment of petitioner. It was admitted that amount can be granted and hence medical expense is granted as ₹12,181/-.

22. Taking into account of the injuries sustained by the petitioner and 5 days hospitalization, I am inclined to award an amount of ₹60,000/- 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 ₹45,000/- is also awarded as compensation for 'loss of amenities of life'.

24. 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 5%. 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 his earning capacity, I am of the view that disability can be fixed as 5%. There is no much dispute with regard to the same from both sides.

25. 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 ₹2,28,000/- (19,000 x 12). The loss of earning due to said functional permanent disability would be 5% of ₹2,28,000/- which is ₹11400/- per annum. Both parties

admitted that petitioner was 48 years of age, the multiplier applicable is 13. Therefore, the loss of future earnings on account of said permanent disability would be ₹1,48,200/- (11,400x 13).

26. The petitioner is thus entitled to get a total compensation of **₹3,55,900/-(Rupees Three Lakhs Fifty-five Thousand and Nine 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	40,000	76,000	-	19,000 x 4
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	20,000	4,000	-	Considering the injury sustained by the petitioner
5	Damage to Clothing	2,000	2,000	-	-
6	Medical expenses	50,000	12,181	-	Ext A5 series medical bills. Admitted amount
7	By stander expenses	20,000	2,500		500 x 5
<u>Part II</u>					
8	Pain and suffering	50,000	60,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	5,00,000	1,48,200	-	19000 x 12 x 13 x 5%

10	Compensation for Loss of earning amenities of life, mental agony	50,000	45,000	-	Considering the injury sustained by the petitioner
11	Loss of future treatment	50,000	Nil		
Claim limited to ₹5,00,000/-		₹7,62,000/- =====			
Total award amount			₹3,55,881/- =====		
Rounded off			₹3,55,900/- =====		
(Rupees Three Lakhs Fifty-five Thousand and Nine Hundred Only)					

Accordingly Issue No.(2) is answered.

28. **Issue No.(3)**:- I have already found that the accident took place due to the negligent driving ambulance bearing Reg.No.KL-36-F-7450 by 1st respondent. 2nd respondent is the owner of the ambulance and therefore he is vicariously liable to pay compensation to the petitioner. It is admitted by the 3rd respondent that the ambulance had been insured with the 3rd respondent at the time of accident. Therefore, the respondents 1 to 3 are liable to pay compensation. The offending vehicle was ambulance and therefore in which passengers are not permitted to travel. According to 3rd respondent it is violation of policy condition. The owner of the vehicle has to prove that under what circumstances the petitioner travelled in the ambulance. No evidence was adduced by the petitioner and the 2nd respondent to show that why the petitioner travelled in the vehicle. Since it is an ambulance and therefore I am of the view that since there is valid insurance policy, the company has to

indemnify the 2nd respondent and thereafter, the company can recover the amount paid from 2nd respondent. Accordingly Issue No.(3) is answered.

29. **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 **₹3,55,900/- (Rupees Three Lakhs Fifty-five Thousand and Nine Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [30.11.2021] till realization, with proportionate costs and 3rd respondent shall be entitled to recover the amount paid from 2nd respondent.
- (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 0802053000002630 of South Indian Bank Ltd, Thalayolaparambu Branch with IFSC: SIBL0000802 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 25th day of April, 2026.

Sd/-
K.P.PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	27.09.2021	:	Photo copy of the FIR in Cr. No.2201/2021 of Vaikom Police Station.
A2	05.11.2021	:	Photo copy of the Final Report.
A3	27.09.2021	:	Photo copy of the Accident Register cum-wound certificate issued from Taluk Head Quarters Hospital Vaikom.
A4	01.10.2021	:	Photo copy of the Discharge summary for the period from 27.09.2021 to 01.10.2021 issued from Mercy Hospital Pothi.
A5 (series)		:	Medical Bills for Rs. 12,181/- (5 Pages)
A6	20.07.2020	:	True copy of the Bank Pass book of South Indian Bank, Thalayolaparambu Branch.
A7	18.01.2018	:	True copy of the Pan card of Mary.

EXHIBITS MARKED FOR THE RESPONDENTS:- NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-

X1	24.04.2024	:	Disability Certificate issued by standing Disability Assessment Board, MCH, Kottayam.
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WITNESS EXAMINED FOR THE BOTH PARTIES:- NIL

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.1066/2021

Court Fee	:	2932.00
Stamp for Vakkalath	:	6.00
Stamp for Exhibits	:	28.00
Stamp for Petitions	:	15.00
Service of Process	:	90.00
LBF	:	3559.00
Advocate fee	:	20195.00
Others	:	300.00
Total	:	₹27125/-

$$\text{Proportionate Costs} = \frac{27,125 \times 3,55,900}{5,00,000} = \text{₹19,308/- (Allowed)}$$

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// True Copy//

Typed by : Jobi
Compared by : Nazeera

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.1066/2021
DATED: 25.04.2026**