

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

Tuesday, the 31st day of March, 2026
10th day of Chaithra, 1948

OP (M.V) No. 1107/2021

Petitioner:-

Thomas Kurian, aged 58 years, S/o. Kurian M.V,
Maramkuzhiyil House, Moozhoor P.O, Manjamattam,
Kottayam District, Pin: 686 503.

By Adv. Mani Cyriac & Adv. Biju Zacharias Kolady.

Respondents :-

1. Aneesh T.R, S/o. Ramesan, Kanjiramanthazhath House,
Thalayazham P.O, Vaikom, Kottayam, Pin: 686 607.
2. Syam Babu, S/o. Sivanandan, Soumya Sadanam,
Kumarakom P.O, Kottayam District, Pin: 686 563.
3. United India Insurance Co. Ltd, Represented by Manager,
Hillson Heights Opp. CTO Pulimoodu Junction, M.C Road,
Kottayam, Pin: 686 001.

R1 & R2 -Ex-parte

R3 - By Adv. Benoy Jose Mathew

This O.P. having been finally heard on 16.03.2026 and the
Tribunal on 31.03.2026 passed the following :-

AWARD

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

2. The averments in the petition are that, on 19.04.2021 at 10.00
p.m, the petitioner (Thomas Kurian, S/o Kurian M.V) was travelling on
his motorbike bearing Reg.No KL-05-Y-825. When he reached the
place of occurrence, a car bearing Reg. No KL-04-AL-3614 driven by
1st respondent in a rash and negligent manner came from opposite
direction and hit on the motorcycle of the petitioner. As a result of

which, petitioner fell down on the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of car bearing Reg. No KL-04-AL-3614 by 1st respondent.

3. Immediately after the accident, the petitioner was taken to Taluk Head Quarters Hospital, Thripunithura and thereafter he was treated at Mar Sleeva Medicity, Pala and treated there as inpatient 23 days. The respondents 1 to 3 are the driver, owner and insurer respectively of the car bearing Reg. No KL-04-AL-3614. At the time of accident petitioner was an 'Boiler operator (Al Badar Sea Foods Pvt Ltd)(SEZ) Kakkanad' and he used to earn ₹25,000/- per month as income.

4. Respondents 1 and 2 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 car bearing Reg. No KL-04-AL-3614 had been insured with 3rd respondent in the name of 2nd respondent. 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 petition was filed in collusion between the petitioner and other respondents. The accident occurred due to negligence of the petitioner, the rider of the two wheeler. Hence 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 Reg. No KL-04-AL-3614 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 A22 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 respondent No 3.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that, on 19.04.2021 at 10.00 p.m, the petitioner (Thomas Kurian, S/o Kurian M.V) was travelling on his motorbike bearing Reg.No KL-05-Y-825. When he reached the place of occurrence, a car bearing Reg. No KL-04-AL-3614 driven by 1st respondent in a rash and negligent manner came from opposite direction and hit on the motorcycle of the petitioner. As a result of which,

petitioner fell down on the road and sustained severe injuries. The accident occurred due to the rash and negligent driving of car bearing Reg. No KL-04-AL-3614 by 1st respondent.

10. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1, A2 and A4 to A8. Ext.A1 is the copy of the FIR in crime No.363/2021 of Hill Palace police station. Ext A2 is the copy of FIS. Ext A4 is the copy of scene mahazar. Exts A5 and A6 are the copies of AMVI reports of the vehicles involved in the accident. Ext A7 is the copy of seizure mahazar. Ext A8 is the Final report. The offences alleged against the 1st respondent (accused in the final report) are punishable U/ss. 279, and 338 of IPC and 134 (A)(B) of MV Act. 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 car bearing Reg. No KL-04-AL-3614 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, Thripunithura. Exts A12 to A14 are the copies of discharge summaries issued from Mar Sleeva Medicity, Pala. The above medical records reveals that the petitioner had sustained lacerated wound (Rt) hand, fracture right leg below knee both bones, open comminuted displaced fracture right proximal fibula, closed displaced and comminuted fracture right ulna and abrasion right foot.

12. Ext X1 is the disability certificate issued from General Hospital, Kottayam. Ext.A16 series are the medical bills and Ext A17 series are the ambulance bills produced by the petitioner. Ext A15 series are the photographs of the petitioner showing injuries.

13. Ext A18 is the one time tax payment receipt of vehicle bearing No KL-05-Y-825. Ext A19 is the certificate issued from Mar Sleeva Medicity, Pala.

14. Ext A11 is the copy of driving license of the petitioner. Ext.A20 is the the copy PAN card and Ext A21 is the copy of

Aadhar card of the petitioner and in which the date of birth of the petitioner has been shown as 20.07.1962. Hence he was 58 years of age on the date of accident. Ext.A22 is the copy of the pass book of the petitioner.

15. The petitioner claims that he was a 'Boiler Operator' and he used to earn Rs.25,000/- per month as income. Ext A9 is the first class boiler attendance certificate competency. Ext.A10 is the salary slip issued from Al-Badar Seafood Pvt Ltd,. So, for the purpose of determining the compensation payable under the head 'permanent disability' 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.

16. Here in this case at the time of accident he was 58 years of age and he has 2 years service till his retirement at the age of 60. After the retirement the split multiplier can be applied and therefore the multiplier applicable is 7 (9-2) after deducted 2 from the multiplier 9. Here in this case, petitioner was a permanent employee and therefore till his retirement at the age of 60 he will not lose any future earnings. At the time of accident

petitioner was 58 years of age and the multiplier applicable is 7. After the retirement he could have earned some income by engaging in some other avocation which may be adversely affected by the disability. To give compensation for disability sustained due to the accident after retirement, notional income is to be considered. Considering the facts and circumstances of this case, I am of the view that notional income can be fixed as Rs.20,000/-.

17. Ext X1 is the permanent disability certificate issued from the General Hospital, Kottayam. The medical board has assessed the disability due to the injuries sustained in the accident as 64%. 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 45%. There is no much dispute with regard to the same from both sides.

18. I have already fixed the notional income of the petitioner as ₹20,000/- per month. Thus, the annual income of the petitioner comes to the tune of ₹2,40,000/-(20,000 x 12). The loss of earning due to said functional permanent disability would be 45% of ₹2,40,000/- which is ₹1,08,000/- per annum. Both parties admitted that petitioner was 58 years of age, the multiplier

applicable is 7. Therefore, the loss of future earnings on account of said permanent disability would be ₹7,56,000/- (1,08,000 x 7).

19. The above said injuries sustained by the petitioner prevented him from doing work atleast for 10 months. Therefore, I am inclined to award an amount of ₹2,00,000/- (20,000 x 10 months) under the head 'loss of earning' for the said period of 10 months.

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

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

22. Considering the injury sustained by the petitioner, I feel it just and proper to award an amount of ₹7,500/- as Extra Nourishment expense.

23. Since the petitioner sustained grievous injury he was admitted in the hospital for 23 days and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹11,500/- (500 x 23) as 'Bystander Expense for 23 days.

24. Ext.A16 series are medical bills produced by the petitioner and he claims that ₹3,15,863/- was spent for the treatment of petitioner. It was admitted and hence medical

expense is granted as ₹3,15,863/-.

25. Taking into account of the injuries sustained by the petitioner and 23 days hospitalization, I am inclined to award an amount of ₹1,75,000/- under the head 'Pain and suffering'.

26. Considering the discomfort, unhappiness and inconvenience, the petitioner faced on account of the said injuries sustained in the accident, an amount of ₹1,50,000/- is also awarded as compensation for 'loss of amenities of life'.

27. Since there was internal fixation due to the injuries sustained in the accident the same has to be removed and for which Rs.25,000/- is granted as compensation for future treatment.

28. The petitioner is thus entitled to get a total compensation of **₹16,57,900/- (Rupees Sixteen Lakhs Fifty-seven 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 Pa is e)</i>	<i>Basis-Vital Details in a nut shell</i>
<u>Part-I</u>					
1	Loss of earning	1,70,000	2,00,000	-	20000 x 10
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	50,000	15,000	-	Travel to and from the hospital

4	Extra Nourishment	30,000	7,500	-	Considering the injury sustained by the petitioner
5	Damage to Clothing	40,000	2,000	-	-
6	Total loss of motorcycle	50,000	Nil		
7	Medical expenses	5,25,000	3,15,863	-	Ext.A16 series medical bills admitted amount
8	By stander expenses	50,000	11,500		500 x 23
Part II					
9	Pain and suffering	2,00,000	1,75,000	-	Considering the injury sustained by the petitioner
10	Compensation for continuing or permanent disability	25,00,000	7,56,000	-	20,000 x 12 x 7 x 45%
11	Compensation for Loss of earning amenities of life, mental agony	3,00,000	1,50,000	-	Considering the injury sustained by the petitioner
12	Compensation for future treatment	2,00,000	25,000		
Claim limited to :40,00,000/-		₹41,20,000/-			
		=====			
Total award amount					
Rounded off					
			₹16,57,863/-		
			=====		
			₹16,57,900/-		
			=====		
(Rupees Sixteen Lakhs Fifty-seven Thousand and Nine Hundred Only)					

Accordingly Issue No.(2) is answered.

29. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the car bearing Reg. No KL-04-AL-3614 by 1st respondent. 2nd respondent is the owner of the car and therefore he is vicariously liable to pay compensation to the petitioner. It is admitted by the 3rd

respondent that the vehicle 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.

30. **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 **₹16,57,900/- (Rupees Sixteen Lakhs Fifty-seven Thousand and Nine Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [13.12.2021] 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 20194983918 of State Bank of India, Ayarkunnam Branch with IFSC: SBIN0012882 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.39,373/- and Rs.40,000/- 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.
- 8) It is made clear that the interest for the future treatment expenses will carrying interest only from the date of award.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 31st day of March, 2026.

Sd/-

K.P.PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	22.04.2021	:	Photo copy of the FIR in Cr. No. 363/2021 of Hill Palace Police Station.
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A2	22.04.2022	:	Photo copy of FIS given by Lijo Vincent.
A3	19.04.2021	:	Photo copy of Accident Register cum wound certificate issued from Taluk Head Quarters Hospital, Thripunithura.
A4	22.04.2021	:	Photo copy of Scene Mahazar.
A5	16.05.2021	:	Photo copy of AMVI report of car bearing Reg. No. KL-04-AL-3614.
A6	16.05.2021	:	Photo copy of AMVI report of Motor cycle bearing Reg. No. KL-05-Y-825.
A7		:	Photo copy of Seizure mahazar of motor cycle bearing Reg. No. KL-05-Y-825.
A8	20.05.2021	:	Photo copy Final Report.
A9	14.05.1998	:	First class Boilers Attendant's certificate of competency.
A10	15.11.2021	:	Salary certificate issued from AI Badar sea foods Pvt. Ltd, Kakkanad.
A11	20.01.2020	:	Driving Licence of Thomas Kurian.
A12	07.05.2021	:	The copy of discharge summary issued from Mar Sleeva Medicity, Pala.
A13	03.08.2021	:	The copy of discharge summary issued from Mar Sleeva Medicity, Pala.
A14	22.04.2023	:	The copy of discharge summary issued from Mar Sleeva Medicity, Pala.
A15 (series)		:	Photographs (4 Nos)
A16 (series)		:	Medical Bills for Rs. 3,15,863/- (84 pages)
A17 (series)		:	Ambulance Bills for Rs.8215/- (4 pages)
A18	24.03.2025	:	The copy of Tax payment receipt of Motor bike bearing Reg. Nol.KL-05Y-0825.
A19		:	Medical certificate issued from Mar Sleeva Medicity, Pala.
A20		:	True copy of Pan card of Thomas Kurian.
A21		:	True copy of Aadhar card of Thomas Kurain.

A22		:	True copy of Bank Pass book of Thomas Kurian issued from SBI, Ayarkunnam Branch.
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EXHIBITS MARKED FOR THE RESPONDENTS:- NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-

X1	13.09.2024	:	Disability certificate issued from General Hospital , Kottayam.
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WITNESS EXAMINED FOR THE BOTH PARTIES:- NIL

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.1107/2021

Court Fee paid	:	15952.00
LBF	:	16579.00
Stamp for Vakkalath	:	6.00
Stamp for documents	:	34.00
Stamp for petitions	:	45.00
Service of Process	:	90.00
Advocate fee	:	85295.00
Others	:	300.00
Total	:	₹ 118301.00

Proportionate Costs = $\frac{1,18,301 \times 16,57,900}{40,00,000} = \text{₹}49,033/-$ (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.1107/2021
DATED: 31.03.2026**