

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

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

Monday, the 11th day of May, 2026

21st day of Vaisakha, 1948

OP (M.V) No.1180/2021

Petitioner:-

Muhammed Asharuf H, S/o Haneefa Rawther,
Bushra Manzil, Alapra P O, Manimala,
Kottayam District, Pin: 686 544.

By Adv. Do Jose

Respondents :-

1. Mallikarjuna Rao, S/o Kanthayya, 7/183,
Vissanapeta, Krishna District, Andhra Pradesh,
Pin: 625 518.
2. Odugu Aruna SRI, 1-47, Ganeshpuram
Near Ramalaym Bangla, Duggirala,
Guntur, Andhra Pradesh, Pin: 625 518.
3. United India Insurance Co. ltd, Represented
by its Manager, Pala P O, Kottayam District,
Pin: 686 575.

Addl. National Insurance Co. Ltd, Represented by its
R4 Manager, St. George Arcade SH 32,
Pala, Kottayam District, Pin: 686 575.

Addl. 4th respondent is impleaded as per order in IA
4/25 dated 10.09.2025.

R1 & R2- Ex-parte

R3 & Addl. R4- By Adv. Reji Thomas

This O.P. having been finally heard on 08.05.2026 and the
Tribunal on 11.05.2026 passed the following :-

AWARD

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

2. The averments in the petition are that, on 21.12.2019 at 11.45
a.m, the petitioner (Muhammed Ashuraf H, S/o Haneefa Rawther) was

riding on a scooter bearing Reg. No KL-34-C-5062 through Mundakkayam - Erumely public road. When he reached the place of occurrence, a car bearing Reg. No AP-27-AR-1050 driven by 1st respondent in a rash and negligent manner, came and hit on the petitioner's scooter. As a result of which, petitioner sustained severe injuries. The accident occurred due to the rash and negligent driving of car bearing Reg. No AP-27-AR-1050 by 1st respondent.

3. Immediately after the accident, the petitioner was taken to Medical College Hospital, Kottayam and thereafter he was taken to Government Hospital, Mundakkayam. The respondents 1 to 3 are the driver, owner and insurer respectively of the car bearing Reg. No AP-27-AR-1050. 4th respondent company, the correct insurer was impleaded as per the order in IA 4/2025. At the time of accident petitioner was doing real estate business and he used to earn ₹30,000/- 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 car bearing Reg. No AP-27-AR-1050 had not been insured with 3rd respondent Company at the time of accident. The car had been insured with National Insurance Company. Hence this respondent is not liable to pay compensation to the petitioner.

6. The 4th respondent filed written statement by contending

that the car bearing Reg. No AP-27-AR-1050 had been insured with 4th respondent Company in the name of 2nd respondent at the time of accident. 1st respondent had no valid and effective driving license to drive a car at the time of accident. 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 occurred due to negligence of the petitioner hence this respondent is not liable to pay compensation to the petitioner.

7. 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 AP-27-AR-1050 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 ?

8. From the side of the petitioner, no oral evidence was adduced and Exts A1 to A11 were marked. No oral and documentary evidence adduced on the side of the respondents.

9. Heard.

10. **Issue No.(1):-** The case of the petitioner is that, on 21.12.2019 at 11.45 a.m, the petitioner (Muhammed Ashuraf H, S/o Haneefa Rawther) was riding on a scooter bearing Reg. No KL-34-C-5062 through Mundakkayam - Erumely public road. When he reached the place of occurrence, a car bearing Reg. No AP-27-AR-1050 driven by 1st respondent in a rash and negligent manner, came and hit on the petitioner's scooter. As a result of which, petitioner sustained severe injuries. The accident occurred due to the rash and negligent driving of car bearing Reg. No AP-27-AR-1050 by 1st respondent.

11. To prove the alleged incident and negligence on the part of the 1st respondent, petitioner has produced Exts.A1 to A5. Ext.A1 is the copy of the FIR in Crime No 1402/2019 of Mundakkayam police station. Ext A2 is the copy of FIS. Exts A3 is the copy of charge sheet. Ext A4 is the copy of scene mahazar. Ext A5 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 driving of car bearing Reg. No AP-27-AR-1050 by 1st respondent. Accordingly Issue No.(1) is answered.

12. **Issue No.(2)** :- Ext A6 is the copy of medical certificate issued from Medical College Hospital, Kottayam. Ext A7 is the OP ticket issued from MCH, Kottayam. The above medical records reveals that the petitioner had sustained open fracture P2 of left big toe, lacerated wound left big toe dorsal aspect, multiple abrasions throughout the body and pain all over the body.

13. Ext A8 is the disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon.

14. Ext A9 is the copy of Aadhar card PAN card and Ext A10 is the copy of PAN card of the petitioner and in which the date of birth of the petitioner has been shown as 15.10. 1968. Hence he was 51 years of age on the date of accident. Ext.A11 is the the copy of bank pass book of the petitioner.

15. The petitioner claims that he was doing real estate business and he used to earn Rs.30,000/- 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.

16. 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 he was doing real estate business and petitioner was 51 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/- .

17. The above said injuries sustained by the petitioner prevented him from doing work atleast for 2 months. Therefore, I am inclined to award an amount of ₹38,000/- (19,000 x 2 months) under the head 'loss of earning' for the said period of 2 months.

18. Considering his frequent visits to hospitals in connection with treatment, an amount of ₹6,000/- is awarded as 'Transportation expense'.

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

20. Petitioner has not produced any document to show inpatient treatment in any hospital hence I am not inclined to grant any amount under the heads bystander's expenses and Extra Nourishment expense.

21. There is no medical bills produced hence no amount is granted under the head medical expenses.

22. Taking into account of the injuries sustained by the petitioner, I am inclined to award an amount of ₹65,000/- 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 ₹50,000/- is also awarded as compensation for 'loss of amenities of life'.

24. Ext A8 is the permanent disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon. The doctor has assessed the disability of the petitioner due to the alleged road accident as 6%. It was objected by the 4th respondent. The disability certificate issued by the doctor cannot be as such accepted, because it was issued by a single doctor. If the petitioner had sustained any severe injuries in the accident and due to that he had sustained disability definitely he should have taken steps to get the disability certificate from the medical board constituted by the Medical College Hospital. The board is a group doctors which will be constituted to assess the disability of the patient. The group of doctors will examine the patient and the injuries sustained and thereafter they will together assess the disability which has been caused in the accident and since it is a collective decision from the medical board, it cannot be discarded. Here in this case Ext.A8 was not issued by the medical board and therefore, considering the injuries sustained, other facts and circumstances of this case, I am of the view that disability can be fixed as 4% and there was no much dispute with regard to the

same from the side of the petitioner as well as the 4th respondent

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 4% of ₹2,28,000/- which is ₹9,120/- per annum. Both parties admitted that petitioner was 51 years of age, the multiplier applicable is 11. Therefore, the loss of future earnings on account of said permanent disability would be ₹1,00,320/- (9,120 x 11).

26. The petitioner is thus entitled to get a total compensation of **₹2,61,350/-(Rupees Two Lakhs Sixty-one Thousand Three Hundred 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>
Part-I					
1	Loss of earning	60,000	38,000	-	19000 x 2
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	10,000	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	3,000	2,000	-	-
6	Medical expenses	1,00,000	Nil	-	No medical bills produced
7	By stander expenses	20,000	Nil		

8	Pain and suffering	1,00,000	65,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	2,00,000	1,00,320	-	19000 x 12 x 11 x 4%
10	Compensation for functional disability	2,00,000	Nil		
11	Compensation for Loss of earning amenities of life, mental agony etc	1,00,000	50,000	-	Considering the injury sustained by the petitioner
12	Compensation for future treatment and disfiguration	50,000	Nil		
13	Compensation for mental and physical shock	50,000	Nil		
Claim is limited to ₹3,00,000/-		₹9,03,000/-	=====		
Total award amount			₹2,61,320/-		
Rounded off			₹2,61,350/-		
			=====		
(Rupees Two Lakhs Sixty-one Thousand Three Hundred and Fifty Only)					

Accordingly Issue No.(2) is answered.

27. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of car bearing Reg. No AP-27-AR-1050 by 1st respondent. 2nd respondent is the owner of the car and hence he is vicariously liable to pay compensation to the petitioner. It is admitted by the 4th respondent that the car had been insured with the 4th respondent at the time of accident. Therefore, the respondents 1, 2 and 4 are liable to pay compensation. The 4th respondent company had filed I.A 1/2026 to give direction to the 1st respondent to produce the driving license but it was not produced by him even after the receipt of notice. The Hon'ble High Court of Kerala in '**National Insurance Co. Ltd., Vs. Ammini Amma and**

Others reported in 2014 ACJ 927' . It was held that, driving of insured vehicle without valid driving license amounts to a violation of policy condition and hence I hold that the 4th respondent is not bound to indemnify the 2nd respondent, the owner. But the 4th respondent, insurer has to pay the amount to the petitioner, who happens to be a third party, at the first instance and then can recover the amount paid, from the 1st and 2nd respondents, driver and owner of the car bearing Reg. No AP-27-AR-1050. Accordingly Issue No.(3) in are answered.

28. **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 4th respondent shall pay **₹2,61,350/-(Rupees Two Lakhs Sixty-one Thousand Three Hundred and Fifty Only)** together with interest at the rate of 9% per annum from the date of petition [21.12.2021] till realization, with proportionate costs. Since the 4th respondent has to pay the amount to the petitioner and then can recover the amount paid from the 1st and 2nd respondents.
2. The 4th 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 8253022000021263 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 4th respondent shall produce cheques for Rs.2,373/- and Rs.3,000/- respectively as court fee and additional court fee towards

legal benefit fund in the name of MACT, Pala, payable in the case.

4. The 4th 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 4th 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 11th day of May, 2026.

Sd/-

K.P. PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX:

Exhibits marked for the Petitioner:-

A1	21.12.2019	:	Certified copy of the FIR in Cr.No.1402/2019 of Mundakayam Polce Station.
A2	22.12.2019	:	Certified copy of the FIS given by Muhammad Ashraf.
A3	15.03.2020	:	Certified copy of the Final report.
A4	22.12.2019	:	Certified copy of the Scene Mahazar

A5	22.12.2019	:	Certified copy of the AMVI report of car bearing Reg. No.AP-27-AR-1050.
A6	11.03.2020	:	Certified copy of the Medical certificate issued from MCH, Kottayam.
A7	21.12.2019	:	True copy of the Casualty Referral Records issued from MCH, Kottayam.
A8	04.04.2025	:	Disability certificate issued by Dr. Mathew P Thomas, Orthopedic Surgeon, Govt. Hospital, Peruvanthanam.
A9	Nil	:	True copy of the Aadhaar card of Muhammed Ashraf.
A10	Nil	:	True copy of the Pan card of Muhammed Ashraf.
A11	29.07.2025	:	True copy of the bank passbook of Muhammed Ashraf issued from Pala Urban Co-operative Bank, Ltd. Pala.

Exhibits marked for the Respondents : Nil

Court Exhibits : Nil

Third party Exhibits :

Witness examined for the both parties: Nil

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.1180/2021

Court Fee Paid	:	1986.00
Stamp for Vakkalath	:	6.00
Stamp for Exihibits	:	100.00
Stamp for petitions	:	75.00
Service of Process	:	90.00
LBF	:	2613.00
Advocate fee	:	15467.00
Others	:	300.00
Total	:	₹ 20,637.00

Proportionate Costs = $\frac{20,637 \times 2,61,350}{3,00,000} = \text{₹}17,978/-$ (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.1180/2021
DATED: 11.05.2026**