

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

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

Wednesday, the 29th day of April, 2026

09th day of Vaisakha , 1948

OP (M.V) 1560/2020

Petitioner:-

Mathews Augustine, Karukayil House, Kalathoor P.O,
Kanakkary, Pin: 686 633

By Adv.Vinai Paul & Adv. Alexander Mathew

Respondents :-

- 1 T.K Sabu, Thuruthelchirayil, Arpookkara East P.O,
Kottayam 686 001
- 2 Vishnu Biju, Kuthukallumkal, Chathunnipara
bhagom, Arpookkara
3. United India Insurance Co Ltd, Puthettu Arcade,
Pala P.O

R1& R2-By Adv. S Ahees

R3 - By Adv. T.M Babu

This O.P. having been finally heard on 19.02.2026 and the
Tribunal on 29.04.2026 passed the following :-

AWARD

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

2. The averments in the petition are that on 17.10.2020 at
5.00 p.m, the petitioner (Mathews Augustine, S/o. Augustine)
was riding the motorbike bearing registration No.KL-67-A-3029
through Caritas-Mannamala road and when he reached the

place of occurrence, another motorbike bearing Reg. No KL-05-AH-1727 ridden by 2nd respondent came from opposite direction in a rash and negligent manner and hit on the motorbike 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 riding of the motorbike bearing Reg. No KL-05-AH-1727 by the 2nd respondent.

3. Immediately after the accident the petitioner was taken to Caritas Hospital, Thellakom and admitted there as inpatient for 3 days. Respondents 1 to 3 are the owner, rider and insurer of the motorbike bearing Reg. No KL-05-AH-1727. At the time of accident petitioner was 'stock co-ordinator' at Doha and he used to earn Rs.50,000/- per month as income.

4. The 1st and 2nd respondents filed written statement by contending that age, occupation and income of the petitioner mentioned in the petition are not correct. The accident occurred due to the negligence on the part of the petitioner. The amount claimed is highly exorbitant. The vehicle bearing No KL-05-AH-1727 had been insured with 3rd respondent, Company.

5. The 3rd respondent filed written statement contending that the motorbike bearing Reg. No KL-05-AH-1727 had been

insured with 3rd respondent company. The age, occupation and income of the petitioner mentioned in the petition are not correct. The accident occurred due to the negligence on the part of the petitioner. The amount claimed is highly exorbitant. Immediately after the accident the insured should have intimated about the accident to the company but it was not done and since it was violation of policy condition the company is not liable to indemnify the owner of the vehicle. There is collusion between the petitioners and other respondents and therefore the 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 was occurred due to the rash and negligent riding of motorbike bearing Reg. No KL-05-AH-1727 by the 2nd respondent and riding of motorbike bearing No KL-67-A-3029 by the petitioner?
- (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 2nd respondent, the petitioner has produced

Exts.A1 to A12 and same were marked and Ext. B1 and B2 were marked from the side of the respondents 1 and 2.

8. Heard both sides.

9. **Issue No.(1):-** The case of the petitioner is that, on 17.10.2020 at 5.00 p.m, the petitioner (Mathews Augustine, S/o. Augustine) was riding the motorbike bearing registration No.KL-67-A-3029 through Caritas-Mannamala road and when he reached the place of occurrence, another motorbike bearing Reg. No KL-05-AH-1727 ridden by 2nd respondent came from opposite direction in a rash and negligent manner and hit on the motorbike 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 riding of the motorbike bearing Reg. No KL-05-AH-1727 by the 2nd respondent.

10. To prove the negligence on the part of the 2nd respondent, the petitioner has produced Exts.A1, A3, A4 and A5. Ext A1 is the copy of the FIR in Crime No.1216/2020 of Ettumanoor Police Station. Ext A3 is the copy of scene mahazar. Exts A4 is the copy of the AMVI report. Ext A5 is the copy of the final report (A charge). In the final report offences alleged against the accused, 2nd respondent are

offence punishable U/s. 279, 337 and 338 IPC. Here in this case in Ext. A5 there is mention about B charge against the petitioner but no B charge was produced before the court. The petitioner has filed affidavit stating that since there is negligence on the part of the petitioner 50% of compensation amount can be deducted from the compensation amount. Exts.A5 final reports was filed by the police after conducted investigation in Crime No.1216/2020 of Ettumannoor police station against the 2nd respondent and there is mention about B charge against the petitioner. He has filed affidavit stating that 50% contributory negligence can be attributed to him. Therefore I am of the view that the contribution of the 2nd respondent as well as the petitioner in the accident can be considered as 50:50 ratio on the basis of Exts.A5 and affidavit filed by the petitioner. Accordingly Issue No.(1) is answered.

11. **Issue No.(2):** Ext A2 is the treatment/discharge certificate issued from Caritas Hospital, Thellakom. Ext. A7 is the discharge summary issued from Caritas Hospital, Thellakom. The above said medical records reveal that the petitioner had sustained fracture Rt. Anterior and posterior wall of Rt. Maxillary sinus, fracture Rt. Intraorbital margins, fracture Lt. posterior wall of maxila sinus, comminuted fracture

of bilateral pterigoid, fracture of Lt. Side of nasal bone septum, grade-1 mobility of Lt. upper tooth and fracture of Rt. Zygomatic arch.

12. Ext A8 series are the medical bills produced by the petitioner. Ext A9 is the ambulance bills.

13. Ext A12 is the copy of PAN Card of the petitioner and in which the date of birth of the petitioner has been shown as 11.11.1991. Hence the petitioner was 29 years of age at the time of accident. Ext A11 is the copy of the bank passbook of the petitioner.

14. The petitioner claims that he was 'Stock Co-ordinator in Doha. Ext A10 is the entry permit to Quator. But there is nothing on record to show that how much he was earning at the time of accident. For the purpose of determining compensation for the loss of earning notional income is to be fixed. 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 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 is a "Stock co-ordinator at Doha, and he was 29 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 Rs.19,000/- per month. Hence it is fixed as Rs.19,000/-

16. The above said injuries sustained by the petitioner prevented him from doing work atleast for 3 months. Therefore, I am inclined to award an amount of ₹57,000/- (19000 x 3

months) under the head 'loss of earning' for the said period of 3 months.

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

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

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

20. Ext.A8 series are medical bills produced by the petitioner and he claims that ₹22,442/- was spent for the treatment of petitioner. It was admitted by 3rd respondent and hence medical expense is granted as ₹22,442/-

21. Due to the injuries sustained in the accident the petitioner was admitted in the hospital for treatment as inpatient for 3 days and hence he could not have performed his day to day activities without the help of others and therefore bystander's expense is granted as Rs.1,350/- (450x3).

22. Taking into account of the injuries sustained by the petitioner and 3 days hospitalization for treatment as inpatient, I am inclined to award an amount of Rs.80,000/- 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 Rs.50,000/- is also awarded as compensation for 'loss of amenities of life'.

24. Nothing was brought on record to prove the disability and hence no compensation is granted under the head.

25. The petitioner is thus entitled to get a total compensation of **Rs.2,19,800/- (Rupees Two Lakhs Nineteen Thousand and Eight 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	150,000	57,000	-	19000 x 3
2	Loss of earnings(partial)	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	6,000	5,000	-	Travel to and from the hospital
4	Extra Nourishment	15,000	2,000	-	Considering the injury sustained by the petitioner

5	Damage to Clothing	2,000	2,000	-	Moderate rate
6	Medical expenses	1,00,000	22,442	-	Ext A8 series medical bills produced
7	Bye stander expense	6,000	1,350	-	450 x 3
Part-II					
8	Pain and suffering	1,00,000	80,000	-	Considering the injury sustained by the petitioner
9	Compensation for permanent or continuing disability	3,00,000	Nil	-	
10	Compensation for loss of amenities of life, loss of earning power, future treatment etc	50,000	50,000	-	Considering the injury sustained by the petitioner
Claim is limited to Rs.5,00,000/-		Rs.7,14,000/- =====	Rs.2,19,792/- ===== Rs.2,19,800/- =====		
Total award amount					
Rounded off					
(Rupees Two Lakhs Nineteen Thousand and Eight Hundred Only)					

Accordingly issue No. 2 is answered.

26. **Issue No.(3)** :- I have already found that the accident took place due to rash and negligent riding of motorcycle bearing Reg. No KL-05-AH-1727 by the 2nd respondent and riding of of the motorcycle bearing Reg. No. KL-67-A-3029 by the petitioner. The 1st respondent is the owner

of the motorcycle bearing Reg. No KL-05-AH-1727 is therefore vicariously liable to pay compensation. The vehicle had been insured with the 3rd respondent company. Since there is valid policy, the 3rd respondent liable to indemnify the 1st respondent. Exts.A5 final reports was filed by the police after conducted investigation in Crime No.1216/2020 of Ettumannoor police station against the 2nd respondent and there is mention about B charge against the petitioner. He has filed affidavit stating that 50% contributory negligence can be attributed to him. Therefore I am of the view that the contribution of the 2nd respondent as well as the petitioner in the accident can be considered as 50:50 ratio on the basis of Exts.A5 and affidavit filed by the petitioner. Therefore the petitioner is entitled to get 50% of compensation awarded and he has to suffer 50% for his own contribution to the accident as contributory negligence. Accordingly Issue No.(3) is answered.

27. **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 50% of Rs.2,19,800/- ie, **Rs.1,09,900/- (Rupees One Lakh Nine Thousand Nine Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [21.12.2020] 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 8253062000002013 of Pala Urban Co-operative Bank Ltd., Kuravilangadu 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.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 29th day of April, 2026.
Sd/-

K.P.PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX :
EXHIBITS MARKED FOR THE PETITIONER

A1	24.10.2020	:	Photocopy of FIR in Cr. No. 1216/2020 of Ettumannoor Police station
A2	30.10.2020	:	Photocopy of the wound certificate issued from Caritas Hospital, Thellakom
A3	24.10.2020	:	Photocopy of scene mahazar
A4	30.10.2020	:	Photocopy of the AMVI report of the motorcycle bearing Reg. No. K-05-AH-1727
A5	16.11.2020	:	Photocopy of final report
A6	24.06.2011	:	Photocopy of Driving license of Mathew Augustine
A7	19.10.2020	:	Discharge summary for the period from 17.10.2020 to 19.10.2020 issued from Caritas Hospital, Thellakom
A8 (series)	Nil	:	Medical Bills for Rs. 22,442/- (13 Nos)
A9 (series)	-	:	Taxi Bills for Rs. 3,800/- (4 Nos)
A10	14.10.2020	:	Photocopy of the exceptional entry permit (Hotel Quarantine) issued from State of Qatar
A11	12.09.2019	:	Photocopy of the bank pass book of Mathew Augustine issued from Pala Urban Co-operative Bank Ltd, Kuravilangadu branch
A12	Nil	:	Photocopy of the pan card of Mathews Augustine

EXHIBITS MARKED FOR THE RESPONDENTS:-

B1	02.02.2016	:	True copy of the driving license of Biju T.S
B2	10.06.2020	:	True copy of insurance policy certificate of motorcycle bearing Reg .No. KL-05-AH-1727 issued from United India Insurance Co Ltd.

COURT EXHIBITS :-NilTHIRD PARTY EXHIBITS:- NilWITNESS EXAMINED FOR BOTH PARTIES:- Nil

Id/-

MACT**STATEMENT OF COSTS**

OP(MV) No.1560/2020

Court Fee	:	472.00
Stamp for Vakalath	:	6.00
Stamp for Exhibits	:	26.00
Stamp for petitions	:	50.00
Process	:	120.00
LBF	:	1099.00
Advocate fee	:	7,895.00
Others	:	300.00
Total	:	Rs.9,968.00/-

Proportionate Costs = $\frac{9968 \times 219800}{5,00,000} = \text{₹}4,382/-$ (Allowed)

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Typed by : Greeshma.
 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.1560/2020
DATED: 29.04.2026**