

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

Tuesday, the 17th day of March, 2026
26th day of Phalguna, 1947

OP (M.V) No. 1620/2019

Petitioner:-

Agnes Jense (minor) Represented by next friend Josmy T Jose, Puthiyamadathil House, Mattathippara P.O, Kottayam District, Pin: 686 651.

By Adv. Aji Joseph Mundamattom & Adv. Simi Thomas

Respondents :-

1. Agasthi Thomas, S/o. Thomas, Puthiyamadathil House, Mattathippara P.O, Kottayam District, Pin:686 651.
 2. Liberty General Insurance Limited, Represented by its Manager, Door No. 39/4166-A, 2nd Floor, Shema Building, MG Road, Ravipuram, Ernakulam, Pin: 682 016.
- Addl. R3 Rosamma, W/o. Agasthi, Puthiyamadathil House, Mattathippara P.O, Kottayam District, Pin: 686 651.
Addl. R3 impleaded as per order in IA 2/25 dated 05.05.2025.

R1 & Addl. R3 - Ex-parte

R2 - By Adv. Benoy Jose Mathew.

This O.P. having been finally heard on 20.02.2026 and the Tribunal on 17.03.2026 passed the following :-

AWARD

Petition filed under section 163(A) of the Motor Vehicles Act 1988. The petitioner (Agnes Jense, D/o Jense Augustine), being a minor, was represented in this claim petition by Josmy T Jose as

next friend. As per the order in I.A.2/2025 Additional 3rd respondent was impleaded.

2. The averments in the petition are that on 11.05.2019 at 05.45 P.M, the minor petitioner was a passenger in autorikshaw bearing No.KL-35-J-6263 through the Mattathippara - Melambara road driven by her father. When autorikshaw reached the place of occurrence, it hit behind the lorry parked on the road and as a result of which, the petitioner sustained severe injuries.

3. Immediately after the accident, the petitioner was taken to General Hospital, Pala and she was taken to MCH, Kottayam and treated there as inpatient from 12.05.2019 to 16.05.2019. 1st respondent is the father of the deceased driver of the autorikshaw. 2nd respondent is the insurer. 3rd respondent is the mother of deceased, driver of autorikshaw bearing No.KL-35-J-6263. At the time of accident, petitioner was a 3 year old child.

4. The 1st respondent and additional 3rd respondent did not file written statement hence they called absent and set ex-parte.

5. The 2nd respondent filed written statement by contending that the autorikshaw bearing No.KL-35-J-6263 had been insured with 2nd respondent Company. Petitioner has not sustained any injury or disability due to the accident. The amount claimed by the petitioner is highly exorbitant. The petition was filed in collusion

between petitioner and other respondents. Hence the 2nd respondent is not liable to pay the compensation to the petitioner.

6. In view of the above said pleadings, the following issues have been raised for consideration:-

- (1) Whether the claim petition is maintainable or not ?
- (2) If the claim petition is maintainable, whether the petitioner is entitled to get any compensation? If so, what should be 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, the petitioner has produced Exts.A1 to A7 and same were marked. No oral or documentary evidence was adduced from the side of 2nd respondent.

8. Heard.

9. **Issue No.(1):-** The averments in the petition are that on 11.05.2019 at 05.45 P.M, the minor petitioner was a passenger in autorikshaw bearing No.KL-35-J-6263 through the Mattathippara – Melambara road driven by her father. When autorikshaw reached the place of occurrence, it hit behind the lorry parked on the road and as a result of which, the petitioner sustained severe injuries.

10. To prove the alleged incident, petitioner has produced Exts.A1 and A2. Ext.A1 is the copy of the FIR in crime No.442/2019 of Melukavu Police Station. Ext A2 is the copy of final report. In the accident the petitioner sustained severe injuries and she was taken to the hospital for treatment.

11. This petition is filed for getting compensation for the injury sustained by the petitioner. To get compensation u/s 163(A) of the M.V. Act the petitioner need not plead and prove the negligence of the driver of the vehicle involved in the accident. Here in this case the 1st respondent is represented as the deceased owner-cum-driver of the auto bearing No.KL-35-J-6263 and 2nd respondent is the insurer of the auto. Since the accident occurred on 11.05.2019 and the autorikshaw bearing No.KL-35-J-6263 was involved in the accident, the petitioner is entitled to get compensation u/s 163(A) as claimed by her and the petition is maintainable. Issue No.(1) is answered accordingly.

12. **Issue No.(2):-** Ext A3 is the copy of wound certificate of the petitioner issued from General Hospital, Pala. The above said medical record reveals that the petitioner has sustained; fracture of femur left.

13. Ext.A4 is the disability certificate issued by Dr. Mathew P Thomas, Orthopaedic Surgeon and he had assessed the disability as 6%. It was objected by the counsel for the 2nd

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.A4 was not issued by the medical board and therefore, considering the injuries sustained and 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 2nd respondent.

14. Ext.A5 is the birth certificate of the minor petitioner and in which date of birth of the petitioner has been shown as 05.08.2016 and she was 3 years of age on the date of accident. Ext.A6 is the copy of the bank passbook of the mother of the minor petitioner. Ext.A7 is the copy of PAN card of the mother of the minor petitioner.

15. The petitioner is entitled to get compensation as mentioned in 163(A) of the M.V Act. Earlier the compensation would have been granted as per the 2nd schedule of the M.V. Act, 1988 with effect from 14.11.1994. Thereafter the provision was amended and the amendment came into force from 22.05.2018. Since the petitioner has sustained injuries in the accident and has sustained 4% disability, she is entitled to get 4% of Rs.5,00,000/- as compensation ie.20,000/-(5,00,000x4%). At the same time the proviso says that minimum compensation in case of permanent disability of any kind shall not be less than Rs.50,000/-. Therefore minimum compensation should be granted for permanent disability as Rs.50,000/-. From 01.01.2019 onwards the petitioner is entitled to get 5% increase of the compensation granted ie. Rs.2,500/-(50,000x5%) per year and this has to be multiplied with 6 (2,500x6=15,000). The petitioner is entitled to get Rs.65,000/-(50,000+15,000). Thus the petitioner is entitled to get Rs.65,000/-(50,000+15,000) Accordingly the petitioner is entitled to get **Rs.65,000 /-(Sixty Five Thousand Only)**. Accordingly issue No. (2) is answered.

16. **Issue No.(3):-** I have already found that the accident took place on 11.05.2019 and the 1st respondent is the father of the deceased owner-cum-driver of the autorikshaw bearing No.KL-35-J-6263. It is admitted by the 2nd respondent that the said

autorikshaw had been insured with the 2nd respondent at the time of accident. Therefore respondents 1 and 2 are liable to pay compensation. Since there is valid insurance policy for the autorikshaw bearing No.KL-35-J-6263 with 2nd respondent, the Company has to indemnify owner of the autorikshaw therefore the company is liable to pay the compensation. Accordingly Issue No. (3) is answered.

17. **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 2nd respondent shall pay **Rs.65,000 /-(Sixty Five Thousand Only)** together with interest at the rate of 9% per annum from the date of petition [20.12.2019] till realization, with proportionate costs.
- (2) The award amount due to the minor petitioners as apportioned above shall be deposited by the 2nd respondent before MACT, Pala and the office shall deposit the same in the savings Bank Account of the Minor petitioners. The minor petitioners can withdraw the amount on attaining majority.
- (3) The 2nd respondent shall produce cheques for Rs.1,373/- and Rs.2,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.

- (4) The 2nd 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 2nd 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 17th day of March, 2026.

Sd/-

K.P.PRADEEP
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	11.05.2019	:	Photo copy of the FIR in Cr. No. 442/2019 of Melukavu Police Station.
A2	26.06.2019	:	Photo copy of Final Report.
A3	11.05.2019	:	Certified copy of the wound certificate issued from General Hospital, Pala.
A4	11.11.2024	:	Disability certificate issued by Dr. Mathew P Thomas, Orthopaedic surgeon, Govt. Hospital, Peruvanthanam.
A5	20.12.2016	:	Birth certificate of Agnes Jense issued from Ettumanoor, Municipality.

A6	17.07.2024	:	True copy of the Bank Pass book of Josmy Jose issued from Pala Urban Co-operative Bank Ltd, Pala.
A7		:	True copy of Pan card of Josmy T Jose.

EXHIBITS MARKED FOR THE RESPONDENTS:-NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-NIL

WITNESS EXAMINED FOR THE BOTH PARTIES:- NIL

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.1620/2019

Court Fee paid	:	448.00
LBF	:	650.00
Stamp for documents	:	60.00
Stamp for petitions	:	15.00
Stamp for Vakkalath	:	6.00
Service of Process	:	90.00
Advocate fee	:	5650.00
Others	:	300.00
Total	:	₹ 7219.00

$$\text{Proportionate Costs} = \frac{7,219 \times 65,000}{2,00,000} = \mathbf{₹2,346/-} \text{ (Allowed)}$$

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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.1620/2019
DATED: 17.03.2026**