

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

Monday, the 30th day of March, 2026
9th day of Chaithra, 1948

OP (M.V) No. 1645/2022

Petitioner:-

Rizwan Ahammed, S/o. Rafeequ Saquafi, Baithul Rahath,
Thrikkodithanam P.O, Changanacherry, Kottayam District,
Pin: 686 105

By Adv. Aji Joseph Mundamattom & Adv. Simi Thomas

Respondents :-

1. Sarath, S/o. Maheswaran, Kannanathu Thekkethil House,
Pallikkachira P.O, Paippad Village, Kottayam District,
Pin: 686 537.
2. Shanthi K M, W/o. Abhilash Vijai, Thundiyl House,
Pulincunoo P.O, Pulikunnu, Alappuzha, Pin: 688 504.
3. The Oriental Insurance Co. Ltd, Represented by its branch
Manager, Pottankulam Tourist Complex, Buildings,
Mundakkayam-686513.

R1 & R2 - By Adv. K.B. Sunny

R3 - By Adv. Reji Thomas

This O.P. having been finally heard on 16.03.2026 and the
Tribunal on 30.03.2026 passed the following :-

AWARD

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

2. The averments in the petition are that on 07.08.2022 at 19.30
Hrs., the petitioner (Rizwan Ahammed, S/o Rafeequ Saquafi) was
riding a motorcycle bearing Reg. No KL-02-BP-7152 and when he
reached the place of occurrence, a car bearing Reg.No. KL-05-T-
5228, driven by the 1st respondent, came in a rash and negligent

manner hit the motorcycle of the petitioner. As a result of which, petitioner sustained severe injuries. The accident occurred due to the rash and negligent driving of the car bearing Reg.No. KL-05-T-5228, driven by the 1st respondent.

3. Immediately after the accident, the petitioner was taken to Believer's Church Medical College Hospital, Thiruvalla and treated as inpatient. The respondents 1 to 3 are the driver, owner and insurer of the car bearing Reg.No.KL-05-T-5228. At the time of accident petitioner was a 'catering worker' and he used to earn Rs.20,000/- per month as income.

4. 1st and 2nd respondents jointly filed written statement by contending that the accident occurred due to negligence of the petitioner. The vehicle bearing No. KL-05-T-5228 had been insured with 3rd respondent Company. The 1st respondent had valid driving license at the time of accident. The accident occurred due to negligence of the petitioner.

5. The 3rd respondent filed written statement by contending that the car bearing Reg. No. KL-05-T-5228 had been insured with 3rd respondent Company 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 exorbitant. The petition was filed in collusion between the petitioner and other respondents. The petitioner

has not sustained any injuries and disabilities as alleged in the petition. Hence, 3rd respondent, Company 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 the car bearing Reg.No.KL-05-T-5228 by the 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 A12 and the same were marked. No oral or documentary evidence adduced from the side of respondents. Medical Board Report is marked as Ext X1.

8. Heard.

9. **Issue No.(1):-** The case of the petitioner is that, on 07.08.2022 at 19.30 Hrs., the petitioner (Rizwan Ahammed, S/o Rafeequ Saquafi) was riding a motorcycle bearing Reg. No KL-02-BP-7152 and when he reached the place of occurrence, a car

bearing Reg.No. KL-05-T-5228, driven by the 1st respondent, came in a rash and negligent manner hit the motorcycle of the petitioner. As a result of which, petitioner sustained severe injuries. The accident occurred due to the rash and negligent driving of the car bearing Reg.No. KL-05-T-5228, driven by the 1st respondent.

10. 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 FIR in crime No.1465/2022 of Thrikkodithanam Police Station. Ext A2 is the copy of FIS. Ext A3 is the copy of scene mahazar. Ext.A4 is the copy of AMVI report. Ext A5 is the copy of final report. 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 contra evidence, 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-05-T-5228 by 1st respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)** :- Ext.A6 is the copy of wound certificate issued from Believers Church Medical College Hospital, Thiruvalla. Ext.A7 is the discharge summary issued from Believers Medical College Hospital, Thiruvalla. Ext A8 is the discharge summary issued from Medical Mission Hospital, Thiruvalla. Ext A9 is the medical certificate issued from Medical Mission Hospital, Thiruvalla. The above medical records shows that the petitioner has sustained comminuted fracture left distal femur with lacerated wound anteriorly left distal thigh, lacerated wound left big toe and lacerated wound 10 x 3 cm above patella anterior aspect of left leg.

12. Ext X1 is the disability certificate issued by Medical Board of Medical College Hospital, Kottayam. Ext.A10 series are the medical Bills produced by the petitioner.

13. Ext.A11 is the copy of bank pass book of the petitioner. 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 21.12.2000.

Hence he was 21 years of age on the date of accident.

14. The petitioner claims that he was a 'catering worker' and he used to earn Rs.20,000/- 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.

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 justifies adoption of lowest tier of minimum wage while computing the income. Here in this case the petitioner claims that he was a 'catering worker' and petitioner was 21 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 at least 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 his frequent visits to hospitals in connection with treatment, an amount of ₹6,000/- is awarded as 'Transportation expense'.

18. Considering the injury sustained by the petitioner, I feel it just and proper to award an amount of ₹8,000/- as Extra Nourishment expense.

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

20. Ext.A10 series are medical bills produced by the petitioner and he claims that ₹2,28,524/- was spent for the treatment. It

was objected the 3rd respondent but not stated any reason to reject it. Hence an amount for ₹2,28,524/- can be granted and hence medical expense is granted as ₹2,28,524/-

21. Since the petitioner sustained grievous injury he was admitted in the hospital and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹11,000/- (500 x 22) as 'Bystander Expense for 22 days.

22. Taking into account of the injuries sustained by the petitioner, I am inclined to award an amount of ₹1,00,000/- 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 ₹60,000/- 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 10%. 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 the earning capacity of the petitioner, I am of the view that disability can be fixed as 7%

though it was assessed as 10% by the Medical Board. It was admitted by 3rd 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 7% of ₹2,28,000/- which is ₹15,960/- per annum. Both parties admitted that petitioner was 21 years of age, the multiplier applicable is 18. Therefore, the loss of future earnings on account of said permanent disability would be ₹**2,87,280/-** (19,000x12x18x7%).

26. The petitioner is thus entitled to get a total compensation of **₹7,78,850/- (Rupees Seven Lakhs Seventy-eight Thousand Eight 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 Paise)</i>	<i>Basis-Vital Details in a nut shell</i>
<u>Part-I</u>					
1	Loss of earning	2,00,000	76,000	-	19,000 x4
2	Loss of earnings(partial)	Nil	NIL	-	-
3	Transportation charges including Ambulance charges	30,000	6,000	-	Travel to and from the hospital
4	Extra Nourishment	10,000	8000	-	Considering the injury sustained by the petitioner
5	Damage to Clothing	5,000	2000	-	Moderate rate
6	Medical expenses	4,00,000	2,28,524	-	Ext.A10 series medical bills
7	By stander expenses	50,000	11,000		500x22
8	Other incidental expenses	10,000	NIL		

9	Future treatment expenses	2,00,000	Nil		
<u>PART II</u>					
10	Pain and suffering	4,00,000	1,00,000	-	Considering the injury sustained by the petitioner
11	Compensation for continuing or permanent disability	12,00,000	2,87,280	-	19,000x12x18 x7%
12	Compensation for Loss of earning power and amenities of life, mental agony etc	4,00,000	60,000	-	Considering the injury sustained by the petitioner
Claim is limited to ₹20,00,000/-		₹29,05,000/- =====			
Total award amount			₹7,78,804/- =====		
Rounded off			₹7,78,850/- =====		
(Rupees Seven Lakhs Seventy-eight Thousand Eight Hundred and Fifty Only)					

Accordingly Issue No.(2) is answered.

27. I have already found that the accident took place due to the negligent driving of the car bearing Reg.No. KL-05-T-5228 by 1st respondent. 2nd respondent is the owner of the vehicle and hence 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.

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 3rd respondent shall pay **₹7,78,850/- (Rupees Seven Lakhs Seventy-eight Thousand Eight Hundred and Fifty Only)** together with interest at the rate of 9% per annum from the date of petition [16.12.2022] 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 8253022000022030 of Pala Urban Co-operative Bank, 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 3rd respondent shall produce cheques for Rs.19,373/- and Rs.20,000/- 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 30th day of March, 2026.

Sd/-

K.P.PRADEEP

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	14.08.2022	:	Photo copy of the FIR in Cr. No. 1465/2022 of Thrikodithanam Police Station.
A2	14.08.2022	:	Photo copy of FIS given by RIZWAN
A3	14.08.2022	:	Photo copy of Scene Mahazar.
A4	01.09.2022	:	Photo copy of AMVI reports of Motorcycle bearing Reg. No. KL-02-BP-7152 and car bearing Reg. No.KL-05-T-5228.
A5	03.10.2022	:	Photo copy of Final Report.
A6	28.10.2022	:	Photo copy of Audent Register cum wound certificate issued from Believer's Church Medical College, Hospital Thiruvalla.
A7	13.08.2022	:	The copy of discharge summary issued from Believer's Church Medical College, Hospital Thiruvalla.
A8	15.07.2023	:	The copy of the discharge summary issued from Thiruvalla Medical Mission, Thiruvalla.
A9	22.11.2024	:	Medical certificate issued from Thiruvalla Medical Mission, Thiruvalla.
A10 (series)		:	Medical Bills for Rs.2,28,524
A11	10.12.2025	:	The copy of the Bank Pass book of Rizwan Ahammed issued from Pala Urban Co-operative Ltd, Pala.
A12		:	True copy of the Pan card of Rizwan Ahammed.

EXHIBITS MARKED FOR THE RESPONDENTS:- NIL

COURT EXHIBITS :-NIL**THIRD PARTY EXHIBITS:-**

X1	27.01.2024	:	Disability certificate issued by standing disability Assessment Board , MCH, Kottayam.
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WITNESS EXAMINED FOR THE BOTH PARTIES:- NILId/-
MACT**STATEMENT OF COSTS**
OP(MV) No.1645/2022

Court Fee paid	:	7161.00
LBF	:	7788.00
Stamp for documents	:	70.00
Stamp for petitions	:	20.00
Stamp for Vakkalath	:	6.00
Service of Process	:	90.00
Advocate fee	:	41342.00
Others	:	300.00
Total	:	₹ 56777.00

$$\text{Proportionate Costs} = \frac{56,777 \times 7,78,850}{20,00,000}$$

$$= \text{₹}22,110/- \text{ (Allowed)}$$

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// True Copy//

Typed by : Jobi.
Compared by : Greeshma

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.1645/2022
DATED: 30.03.2026**