

**IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, IR-
INJALAKUDA**

Present:- Sri.Vinod Kumar N., Motor Accidents Claims Tribunal
Thursday, 30th April 2026 / 10th Vaisakha, 1948

OP(MV) 204/2013

PETITIONER:

Sunil Kumar.K.S., aged 44 years, S/o. Subramanian,
Karuvath House, Madavana, Athani, Kodungallur,
Thrissur District.

By Adv. K.P.Paulose Murimattam

RESPONDENTS:

1. Latha, W/o. Nithyanandan, H.No.11/153,
Vadaykkapurath House, Kodungallur Municipality,
Thrissur – 680 664.
(RC Owner of the Mini Lorry No.KL-9-R-3076)
2. Nithyanandan, H.No.11/153, Vadaykkapurath House,
Kodungallur Municipality, Thrissur – 680 664.
(Driver of the Mini Lorry)
3. United India Insurance Co.Ltd., Sreekumar Bldg,
South Junction, Chalakudy, Thrissur – 680 307.

R3: Adv. C.G.Janardhanan

This petition having come up before me for final hearing on 27/04/2026 and having stood over to this day for consideration this Tribunal passed the following:

AWARD

The above application is filed U/s 166(1) (a) of The Motor Vehicles Act, 1988 claiming compensation by the petitioner for the injuries sustained by him in a motor vehicle accident.

2. According to the petitioner, on 09/04/2012 at 7.00 pm, while he was riding the autorickshaw No.KL-8G-4771, a mini lorry No.KL-9R-3076 driven by the respondent No.2 came in a rash and negligent manner and and hit the autorickshaw and as a result of which the petitioner

sustained injuries. According to the petitioner, the accident occurred due to the rash and negligent driving of the respondent No.2.

3. The respondent Nos.1 and 2 remained absent. The respondent No.3 filed written statement admitting that the Mini lorry No.KL-9R-3076 was insured at the time of accident, but denied the allegation of negligence on the part of the respondent No.2. It is contended that the compensation claimed is highly excessive. The respondent No.3 disputed the age, occupation, income etc of the petitioner as stated in the petition.

4. On the side of the petitioner, PW1 and PW2 were examined and Ext.A1 to A14 were marked. On the side of respondents, Exts.B1 was marked. After trial, this Tribunal fixed the inter-se negligence between the petitioner and the respondent No.2 as 70:30 and hence the petitioner is entitled to get 30% of the total amount of ₹8,06,200/- awarded as compensation and thus the petitioner is entitled to get ₹2,41,860/- with 9% interest and proportionate cost from the date of petition to be realized from respondent No.3.

5. Against the said award, the petitioner filed MACA 392/2017 and the respondent No.3 filed MACA 730/2017 and both the appeals were disposed of vide judgment dated 25/09/2025. As per the judgment, the Hon'ble High Court of Kerala set aside the issue regarding the finding of contributory negligence at the ratio of 70:30 on the part of the driver of the autorickshaw and the driver of the mini lorry by the Tribunal and the matter is remitted back to this Tribunal only for consideration of the issue regarding the contributory negligence. The claimant is awarded an additional compensation of ₹15,20,000/- over and above the compensation awarded by the Tribunal with interest at the rate of 8% per annum from the date of petition till realisation and proportionate costs. After deciding the issue regarding the negligence aspect, the Tribunal shall fix the liability regarding the payment of the amount due to the claimant. The parties will be at liberty to adduce fresh evidence either oral

or documentary before the Tribunal. Both parties are directed to appear before the Tribunal on 01/11/2025. The Tribunal shall consider and dispose of the matter as expeditiously as possible. It is made clear that the Tribunal need not revisit the quantum of compensation awarded to the claimant.

6. After remitting back the matter to this Tribunal, the claimant and respondent No.3 entered appearance. After remand, on the side of the petitioner, two witnesses were examined as PW3 and PW4.

7. On the basis of the pleadings, the following issues were framed for consideration.

1. Whether the accident took place due to the negligence of the respondent No.2 alone ?

2. Relief and cost ?

8. Heard both sides.

9. Issue No.1 : - According to the petitioner, the accident took place due to the rash and negligent driving of respondent No.2. According to the petitioner, on 09/04/2012 at 7.00 pm, he was driving the autorickshaw from south to north through the panchayat road near Parambikulam temple, Kodungallur. When negotiating a curve slowly and carefully, a mini lorry No.KL-09R-3076 driven by respondent No.2 came in a terrific speed and without sounding horn, applied sudden brake, braced the right front side of autorickshaw due to which, it was jammed in between the electric post and lorry. In Ext.A2 complaint, the petitioner stated that the lorry was coming from 'L' shaped curved road with terrific speed and without sounding horn, went off, braced with the autorickshaw. The injured kept his autorickshaw to its left and hit on the wall.

10. The respondent No.3 denied the allegation that while the petitioner negotiating a curve slowly and carefully, a mini lorry No. KL-09R-3076 driven by respondent No.2 came in a terrific speed without sounding horn and braced the right side of the autorickshaw. According

to respondent No.3, the accident caused solely due to the negligent act of the petitioner who was driving the autorickshaw in a rash and negligent manner without observing the traffic rules hit on the compound wall and sustained injuries. The respondent No.3 relied on Ext.A14 final report as per which the case is referred as false case.

11. In *New India Assurance Company Limited Vs Pazhaniaammal and Other (2011(3) KHC 595)*, the Hon'ble High Court of Kerala held that, *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.*

12. In this case, the case of the petitioner is that the accident took place due to the sole negligence of the respondent No.2. To prove the negligence, four witnesses were examined as PW1 to PW4. According to PW1, on 09/04/2012 at 07.00 p.m, when he was driving the autorickshaw No.KL-8G-4771 from southern side to the northern side through Parambikulangara road, a tempo lorry No.KL 9-R-3076 came in a high speed without honking and braced the autorickshaw and due to which he sustained serious injuries on his left leg. There was a passenger in the autorickshaw. When he swerved the autorickshaw to the left side by applying the brake, the tempo lorry without applying any brake, proceeded ahead bracing the autorickshaw and due to which the autorickshaw jammed in between the compound wall and lorry. During cross examination, he deposed that the road is having a width of about 2.45 metre. He further deposed that the passenger named Anandan (PW3) was present in the autorickshaw as passenger at the time of

accident. He further deposed that another person named Venu (PW2) also witnessed the accident.

13. PW2 deposed that on 09/04/2012, the tempo lorry No.KL-9R-3076 driven by respondent No.2 hit the autorickshaw driven by the petitioner and due to which the petitioner sustained injuries. The tempo lorry braced the autorickshaw and jammed the autorickshaw towards the compound wall. The cause of accident was due to the rash and negligent driving of the driver of the lorry. According to him, the tempo lorry stopped there after the accident.

14. PW3 deposed that on the day of accident, he was travelling in the autorickshaw driven by the petitioner. When they reached at Parambikulam temple, a mini lorry, came in a high speed. Since the petitioner swerved the autorickshaw to the left side, he (PW3) did not sustain any injury. During cross-examination, he deposed that the lorry hit the right side of the autorickshaw and due to which the autorickshaw hit the compound wall and accordingly, the leg of Sunil (petitioner) was jammed in between the autorickshaw and compound wall.

15. PW4 is the wife of the claimant. According to her, on 09/04/2012, the mini lorry came in a high speed and hit the autorickshaw driven by her husband and due to which her husband sustained injuries. During cross examination she deposed that she did not witness the accident.

16. Now the issue to be considered is whether the accident took place due to the sole negligence of the respondent No.2 or there is any contributory negligence on the part of the petitioner. To claim compensation, what is required is that the accident should arise from the use of the motor vehicle. The evidence of PW1 in this case would show that the respondent No.2 came in a high speed and braced the right side of the autorickshaw and due to which the petitioner who was driving the autorickshaw swerved the autorickshaw to the left side. But the lorry

proceeded ahead further bracing the autorickshaw and due to which the autorickshaw jammed in between the compound wall and the lorry. PW2, an eye witness also deposed that the cause of accident was due to the rash and negligent driving of the respondent No.2. PW3, the passenger in the autorickshaw at the time of accident also deposed that mini lorry came in a high speed and the petitioner swerved the autorickshaw to the left side and the lorry hit the right side of the autorickshaw and due to which the autorickshaw hit the compound wall and due to which the leg of the petitioner was jammed in between the compound wall and the autorickshaw.

17. According to the counsel for the respondent No.3, as per AMVI report, no damage was caused to the lorry and as per the wound certificate, the accident was caused while the petitioner was giving way to another vehicle and then his left leg got trapped in between the compound wall and the autorickshaw. The contention of the respondent No.3 is that the petitioner sustained the injury since the autorickshaw hit the compound wall.

18. Though the respondent No.3 contended that the accident took place due to the hitting of the autorickshaw on the compound wall and hence, the negligence can be attributed to the petitioner alone, the evidence would show that on seeing the lorry coming in a high speed, the petitioner swerved the vehicle to the left side and hit the compound wall. In this regard, it is pertinent to note that if the offending vehicle was driven in such a way that it put another person in sudden danger and he is thereby perplexed or agitated, he cannot be expected to exercise due care. If in that perplexed or agitated state of mind he does something or omits to do something which normally he is expected to do or not to do and consequently he suffers injury, he is entitled to claim and get compensation. While dealing with a case of contributory negligence, the ***Hon'ble Supreme Court in Pramodkumar v. Karmasey Kunvargi Tak, (2003 KHC 225)*** held that "*It has accepted as a valid principle by various*

judicial authorities that where, by his negligence, if one party places another in a situation of danger, which compels that other to act quickly, in order to extricate himself, it does not amount to contributory negligence if that other acts in a way, which with the benefit of hindsight, is shown not to have been the best way out of the difficulty."

19. The **Hon'ble Supreme Court, in N.K.V. Bros. (P) Ltd. v. M. Karumal Ammal and Others, (1980 KHC 334)** has held that *in accident cases, the Tribunal should not succumb to technicalities, niceties and mystic maybes and that innocent victims should not suffer and owners and drivers should not escape liability merely because there is some doubt here or obscurity, there. Benefit of doubt, if any regarding the cause of accident should go to the accident victim.*

20. In this case, the evidence would show that the petitioner swerved the vehicle in a perplexed or agitated state of mind to the left side and the autorickshaw hit the compound wall. But the evidence would further show that the offending lorry came in a high speed and braced the autorickshaw further and due to which the autorickshaw jammed in between the compound wall and the lorry and thus the petitioner sustained serious injuries on his left leg.

21. Considering the entire evidence, I am of the view that the accident took place due to the sole negligence of the respondent No.2 and there was no contributory negligence on the part of the petitioner, the driver of the autorickshaw No.KL-08-G-4771. Since no contributory negligence is found on the part of the petitioner, the respondent Nos.1 and 2 are jointly and severally liable to pay the entire compensation ie, ₹8,06,200/- with 9% interest from 04/03/2013 till realization and the additional compensation of ₹15,20,000/- which is granted by the Hon'ble High Court of Kerala over and above the compensation awarded by this Tribunal with interest at the rate of 8% per annum from the date of petition till realization with proportionate costs. The respondent No.3 being the insurer is liable to indemnify the respondent No.1/owner and pay the

above compensation to the petitioner. The issue No.1 is answered accordingly.

22. **Issue No.2** :- In view of the finding on issue No.1, I hold that the respondent Nos.1 and 2 are jointly and severally liable to pay the entire compensation ie, ₹8,06,200/- with 9% interest from 04/03/2013 till realization and the additional compensation of ₹15,20,000/- which is granted by the Hon'ble High Court of Kerala over and above the compensation awarded by this Tribunal with interest at the rate of 8% per annum from the date of petition till realization with proportionate costs. The respondent No.3 being the insurer is liable to indemnify the respondent No.1/owner and pay the above compensation to the petitioner. Issue No.2 is answered accordingly.

In the result, award is passed accordingly.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this 30th day of April, 2026)

Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

<u>APPENDIX</u>			
<u>PETITIONER'S EXHIBITS:-</u>			
A1	:	--	Annexure Victim Details
A2	:	--	Complaint
A3	:	--	Scene Mahazar
A4	:	--	AMVI Report of KL-8-G-4771
A5	:	--	Copy of Policy
A6	:	--	Wound Certificate
A7	:	--	Diet Pass
A8	:	--	Discharge Card
A9	:	--	OP Ticket

A10	:	--	Discharge Summary
A11	:	--	Discharge Certificate
A12	:	--	Trip Sheet
A13	:	--	Medical Bills
A14	:	--	Final Report
<u>RESPONDENTS EXHIBITS:</u>	:		
B1	:	--	AMVI Report of KL-09-R-3076
<u>COURT'S EXHIBITS :</u>	:	Nil	
<u>PETITIONER'S WITNESS:</u>	:		
PW1	:	19/07/2016	Sunil
PW2	:	19/07/2016	Venu
PW3	:	15/11/2025	Devanandhan C B
PW4	:	15/11/2025	Mini
<u>RESPONDENTS WITNESS:</u>	:	Nil	

**Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.**

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