

**IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
IRINJALAKUDA**

Present:- Sri.Vinod Kumar N., Motor Accidents Claims Tribunal
Monday, 30th March 2026 / 9th Chhaitra, 1948

OP(MV) 413/2024

PETITIONER:

Devassy.G.A., aged 63 years, S/o. Anthony,
Gopuran House, Kathikudam Desom & P.O.,
Kallur Vadakkummuri Village, Chalakudy Taluk,
Thrissur District, Pin 680 308,
totally physically and mentally disabled person,
represented by his next friend and wife, Lissy,
W/o. Devassy, Gopuran House, Kathikudam Desom & P.O.,
Kallur Vadakkummuri Village, Chalakudy Taluk,
Thrissur District, Pin 680 308,

By Advs. Sunny Gopuran & Santy Simon M

RESPONDENTS:

1. Ihsan, S/o. Ismail.N.K., Koottoor House,
Thaleekkara Desom, Kayakkudy Village, Kutyadi P.O.,
Kozhikode District, Pin 673 508.
(Owner:KL-05-Z-8158 Motor Cycle)
2. Suhail, S/o. Ismail.N.K., Koottoor House,
Thaleekkara Desom, Kayakkudy Village, Kutyadi P.O.,
Kozhikode District, Pin 673 508.
(Driver:KL-05-Z-8158 Motor Cycle)
3. The New India Assurance Co.Ltd., 3rd Floor, Silver Plaza,
5/3397 A-27, Mavoor Road, Arayidathupalam, Kozhikode,
Kerala, Pin 673 004.
(Insurer:KL-05-Z-8158 Motor Cycle)

R1 & R2: Exparte.

R3: By Adv. C.G.Jayachandran

This petition having come up before me for final hearing
on 28/03/2026 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 28/10/2023 at about 09.00 am, when he was walking along the side of Chalakudy-Angamaly NH 544, a motorcycle No. KL-05-Z-8158 ridden by respondent No.2 came in a rash and negligent manner and hit the petitioner and as a result of which he sustained injuries. The respondent Nos.1 to 3 being the owner, rider and the insurer respectively of the motorcycle No. KL-05-Z-8158 are jointly and severally liable to pay the compensation of ₹1,00,00,000/- to him.

3. Notice was issued to the respondents. The respondent Nos.1 and 2 remained absent and they were set exparte. Respondent No.3 entered appearance and filed written statement admitting the policy coverage of motorcycle No. KL-05-Z-8158 involved in the accident. 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 basis of the above pleadings, the following issues were framed for consideration:

- (1) Whether the accident was caused due to the rash and negligent riding of the respondent No.2 ?
- (2) Whether the petitioner sustained injuries and is entitled to get the compensation as claimed and if so, what is the quantum?
- (3) Who is liable to pay compensation to the petitioner?
- (4) Relief and cost ?

5. In order to prove the case of the petitioner, Exts.A1 to A21 documents were marked. No oral evidence was adduced by the

petitioner. On the side of respondents, no evidence was adduced.

6. Heard both sides.

7. **Issue No.1:-** To prove the rashness and negligence of the respondent No.2, the petitioner relied on Ext.A3 final report and Ext.A20 correction report issued by SHO, Koratty which would show that the accident took place due to rash and negligent riding of respondent No.2 and he committed the offences punishable u/s.279 and 338 of IPC. No contrary evidence to disprove the negligence on the part of the respondent No.2 was adduced. In *New India Assurance Company Limited Vs Pazhaniammal and Other (2011(3) KHC 595)*, the Hon'ble High Court of Kerala held that, *the final report submitted by the police can be considered as a prima facie case of negligence in a claim for compensation under the Motor Vehicles Act.* Considering the evidence available before the Tribunal, I find that the accident took place due to the rash and negligent riding of the respondent No.2. Issue No.1 is found in favour of petitioner.

8. **Issue No.2:-** Ext.A2 wound certificate, Exts.A6 to A8 discharge summaries and Ext.A12 medical certificate would show that the petitioner sustained diffuse axonal injury, multiple facial bone fractures, displaced and comminuted fracture of left ilium and left ischium, extending into left sacro-iliac joint left acetabulum and left superior pubic ramus, moderate retroperitoneal hematoma and open wound left leg and elbow. In the above circumstances, I hold that the petitioner is entitled to get a just and reasonable compensation. Now, the question to be decided is the quantum of compensation to be awarded to the petitioner.

9. According to the petitioner, he is an agriculturist and was earning ₹25,000/- per month. But, going by the law laid down in *Ramachandrappa vs. Manager, Royal Sundaram Alliance Insurance Company Ltd. (2011) 13 SCC 236*], and in *Soman v. Jinesh James and Others 2020 (4) KHC 623*, the notional monthly income of the petitioner is

fixed at ₹14,000/- considering the fact that the accident occurred in the year 2023.

10. Ext.A6 series discharge summaries and Ext.A8 discharge summary issued by Apollo Adlux Hospital, Angamaly would show that the petitioner was treated as an inpatient from 28/10/2023 to 06/12/2023, from 12/01/2024 to 24/01/2024, from 01/04/2024 to 04/04/2024 and on 18/10/2025. The petitioner also produced Ext.A7 discharge summary issued by Calling Bell Geriatric Medical Center and it would show that the petitioner was an inpatient in Calling Bell Geriatric Medical Center from 06/12/2023 to 15/05/2024. As per Ext.A11, the patient had stayed at Calling Bell Geriatric Medical Center with a monthly package amount of ₹1,05,000/- for the following dates from 06/12/2023 to 12/01/2024, 24/01/2024 to 01/04/2024 and 04/04/2024 to 15/05/2024. Ext.A15 series medical bills would show that the petitioner had incurred ₹26,39,952/- towards medical expenses. Ext.A16 series physiotherapy bills amount of ₹51,560/-. The counsel for respondent No.3 opposed the bills Sl.Nos.13 to 18 in Ext.A15 series for ₹8,92,993/- as they are physiotherapy bills. But considering the injuries, I am inclined to grant a total amount of ₹26,91,512/- including the physiotherapy bills towards medical expenses.

11. The period of treatment undergone by the petitioner would indicate that the petitioner would have been prevented from doing any sort of work for a minimum period of 10 months. Hence, I am inclined to allow ₹1,40,000/- towards loss of earning. Considering the hospitalization and distance from the place of accident to the hospital where he had undergone the treatment and from hospital to his home, I am inclined to allow ₹40,600/- towards extra nourishment, ₹10,000/- towards travelling expenses, ₹34,800/- towards by-stander's expense and ₹1,000/- towards damage to clothing and articles.

12. Now the claims under general compensation have to be considered. The petitioner claimed ₹20,00,000/- under the head pain

and suffering. Considering all aspects, I am inclined to allow ₹15,00,000/- as compensation for pain and suffering.

13. The petitioner claimed ₹10,00,000/- under the head compensation for loss of amenities in life, ₹5,00,000/- towards compensation for disfiguration, ₹10,00,000/- towards compensation for mental dejection and unhappiness in life, ₹10,00,000/- towards compensation for future prospects and ₹30,00,000/- towards compensation for continuing or permanent disability. The petitioner produced Ext.A9 disability certificate issued by Dr. Tharun Krishna B.S, Senior Consultant – Neurosurgery, Apollo Adlux Hospital, Kochi. As per Ext.A9, the petitioner has sustained 70% neurological and musculoskeletal impairment disability. The petitioner produced Ext.A21 disability certificate issued by Dr. K.C.Joseph, Senior Consultant, Eye Micro Surgeon, Chalakudy. As per Ext.A21, the petitioner has sustained 40% permanent visual disability. ***In Raj Kumar Vs. Ajay Kumar reported in 2011(1) SCC 343***, it is held that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%) the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life as otherwise there may be a duplication in the award of compensation. Hence, I am inclined to award only a nominal amount of ₹5,000/- under the head loss of amenities. In ***George Vs. E.T. Thomas and others*** reported in ***ILR 2013 (1) Ker. 559***, the Hon'ble High Court of Kerala held that “*although often Motor Accident Claims Tribunals and litigants refer to three heads for assessing compensation on account of permanent disability as, (1) compensation for physical disability, (2) compensation for loss of enjoyment of amenities of life and (3) compensation for loss of earning power, (1) and (2) essentially comes under the same head and therefore compensation on account of physical disability caused by the accident has to be assessed only under two*

heads, viz.; (1) for physical disability or loss of amenities of life and (2) loss of earning power. This is clear from the contents of Form Comp.A. prescribed under R.371 of the Kerala Motor Vehicles Rules for submission of application for payment of compensation before Motor Accidents Claims Tribunals." Compensation of ₹5,000/- is awarded for loss of amenities and enjoyment in life due to the permanent disability/ injuries caused to the petitioner in the accident. Hence, I am not inclined to award compensation for continuing or permanent disability separately. But considering the disability of the petitioner, I am of the view that the petitioner requires a caregiver. The petitioner claimed ₹10,00,000/- towards anticipated medical expenses and claimed ₹10,00,000/- towards bystander's expenses. The petitioner relied on the decision in Baby Sakshi Greola vs. Manzoor Ahmad Simon (2024 KHC 6694) wherein the Hon'ble Apex Court held that the multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges etc. In **Lalan D. @ Lal and Another v. Oriental Insurance Company Ltd.** AIR 2020 SC 4508 the Hon'ble Apex Court observed that in the case of Kajal vs. Jagdish Chand & Ors. [(2020) 4 SCC 413] for attendant charges, a Bench of two - Judges of this Court has held that the multiplier methodology ought to be applied. On the other hand, in the case of Parminder Singh a lumpsum amount has been awarded. In the facts of the given case, we are of the opinion that award of lumpsum would be the proper course considering the fact that the first appellant was a daily labourer. In traumatic times after his accident, his family was unlikely to maintain detailed records of the expenses incurred. Considering all these aspects, I am of the opinion that petitioner is entitled to get ₹10,00,000/- as lump sum for attendant charges and future medical treatment.

14. According to the petitioner, he is totally disabled due to the injuries sustained in the accident. Now the question is how far the injury has affected the earning power of the petitioner. To prove the disability, the petitioner produced Ext.A9 disability certificate issued by

Dr. Tharun Krishna B.S, Senior Consultant – Neurosurgery, Apollo Adlux Hospital, Kochi. As per Ext.A9, the petitioner has sustained 70% neurological and musculoskeletal impairment disability. The petitioner produced Ext.A21 disability certificate issued by Dr. K.C. Joseph, Senior Consultant, Eye Micro Surgeon, Chalakudy. As per Ext.A21, the petitioner has sustained 40% permanent visual disability. *In Raj Kumar Vs. Ajay Kumar reported in 2011(1) SCC 343, the Hon'ble Supreme Court held that, the doctor who treated an injured - claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.* So, in order to award compensation under the head loss of earning power, the effect of permanent disability on the earning capacity is to be assessed. So, for the remaining life, he will suffer the trauma of not being able to do his normal work. Considering the disability sustained by the petitioner, I am of the view that the functional disability of the petitioner can be taken as 80%. Ext.A17 copy of PAN card would show that the date of birth of the petitioner is 19/01/1961. The accident took place on 28/10/2023. So at the time of accident, the petitioner is aged 62 years. Since the age of the petitioner is above 60 years, no future prospects is added to the monthly income as per the dictum in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157.* Accordingly, the annual income is arrived at as ₹1,68,000/- ie. (14,000x12). Since the age of the injured is 62 years, the multiplier applicable for estimating the loss of earning power is '7'. Accordingly, the petitioner is entitled to get as ₹9,40,800/- (₹1,68,000x7x80/100).

15. The compensation claimed by the petitioner and the compensation payable to the petitioner under different heads are summarized in the table below:

Sl. No.	Head of claim	Amount claimed	Amount awarded	Basis
Part-I				
a	Loss of earning	6,00,000	1,40,000	14,000x10
b	Transport to hospital	50,000	10,000	
c	Extra nourishment	1,00,000	40,600	
d	Damage to clothing and other articles	10,000	1,000	
e	Others: (i) Compensation for the treatment of medical expenses (ii) Compensation for anticipated medical expenses (iii) By-stander's expenses	50,00,000 10,00,000 10,00,000	26,91,512 Nil 34,800	Exts.A15 and A16 series
Part II				
f	Compensation for pain and suffering	20,00,000	15,00,000	Nature of injuries
g	Compensation for continuing or permanent disability if any	30,00,000	Nil	
h	Compensation for loss of earning power	30,00,000	9,40,800	
i	Compensation for loss of amenities	10,00,000	5,000	
j	Compensation for disfiguration	5,00,000	Nil	
k	Compensation for future prospects	10,00,000	Nil	
l	Compensation for mental agony and dejection	10,00,000	Nil	
m	Compensation for attendant charges and future treatment.	Nil	10,00,000	

	Total	₹1,92,60,000/- claim is limited to ₹1,00,00,000/-	₹63,63,712/- is rounded of to ₹63,63,800/-	
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16. Therefore, I find it just and reasonable to award ₹63,63,800/- as compensation and Issue No.2 is answered in favour of the petitioner in respect of the compensation awarded as referred to above.

17. **Issue No.3:-** According to the petitioner, all the respondents are jointly and severally liable to pay the compensation. Ext.A4 copy of AMVI report would show that the respondent No.1 is the owner of the motorcycle No. KL-05-Z-8158. Respondent No.3 entered appearance and filed written statement admitting that the motorcycle No. KL-05-Z-8158 was insured during the period of accident. The respondent No.3 has not pointed out any violation of policy conditions. It is already found that the accident took place due to the rash and negligent riding of respondent No.2. Hence the respondent Nos.1 and 2 are jointly and severally liable to pay compensation to the petitioner. The respondent No.3 being the insurer of the vehicle is liable to indemnify the respondent No.1/owner and to pay the compensation to the petitioner. The issue No.3 is answered accordingly.

18. **Issue No.4 :-** In view of the findings on issue Nos.1 to 3, I hold that petitioner is entitled to get the compensation of ₹63,63,800/- with interest at the rate of 7.5% per annum from the date of filing of the petition i.e. 26/03/2024 till the realization with proportionate cost and that the respondent No.3 being the insurer shall pay the amount within thirty days from the date of this award. Issue No.4 is answered accordingly.

19. In view of the finding on issue Nos. 1 to 4, the petition is allowed in part as follows.

1. Respondent No.3 shall pay an amount of ₹63,63,800/- (Rupees sixty three lakh sixty three thousand and eight hundred only) with

interest @ 7.5% per annum from the date of filing of petition i.e 26/03/2024 till realization with proportionate cost.

2. Respondent No.3 shall produce a cheque for ₹99,368/- (Rupees ninety nine thousand three hundred and sixty eight only) being the court fee payable by the petitioner in favour of Motor Accidents Claims Tribunal, Irinjalakuda and produce cheque for ₹1,00,000/- (Rupees one lakh only) being the LBF payable by the petitioner in favour of Motor Accidents Claims Tribunal, Irinjalakuda.
3. Respondent No.3 is directed to deposit an amount of ₹30 lakh (Rupees thirty lakh only) as fixed deposit for a period of two years in favour of the petitioner and the fixed deposit shall have a lien marked on the face of its receipt stating that the amount shall be repaid only on maturity and by crediting to the petitioner's bank account or else only on the orders of this Tribunal/ Hon'ble High Court and the fixed deposit amount on maturity along with its interest shall be automatically credited to the petitioner's bank account, mentioned below.
4. Respondent No.3 is directed to deposit the balance amount with interest and proportionate cost in the bank account of the petitioner, the details of which is specifically mentioned below through NEFT or RTGS or any other electronic mode and from such deposit the petitioner is permitted to withdraw the said amount.

Sl. No	Name	Bank Account Number	Name of Bank and Branch	IFS Code
1	Devassy G.A	3480101002436	Canara Bank, Koratty	CNRB0003480

5. Upon deposit being made, the respondent No.3 shall submit to this Motor Accidents Claims Tribunal, a copy of the bank payment advice and a memo in the prescribed format. A copy of the payment advice along with the memo shall be served on the contesting parties and their respective counsels in compliance with the Circular No.1/2025 dated 19/09/2025 of the Hon'ble High Court of Kerala.
6. The respondent No.3 shall provide Form -16 A under the Income Tax Act 1961 to the petitioner.

7. The office shall make necessary entries in the registers of the Tribunal evidencing the payment of the amount to the petitioner.

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

Sd/-

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

<u>APPENDIX</u>			
<u>PETITIONER'S EXHIBITS:-</u>			
A1	:	28/10/2023	Copy of FIR No.1183/23, Koratty P.S.
A2	:	09/12/2023	Copy of wound certificate
A3	:	07/11/2023	Copy of Final Report
A4	:	24/11/2023	Copy of AMVI Report
A5	:	28/10/2023	Copy of Scene Mahazar
A6	:	---	Discharge Summaries
A7	:	15/05/2024	Discharge Summary
A8	:	18/10/2025	Discharge Summary
A9	:	28/02/2025	Disability Certificate
A10	:	--	Reference Letters
A11	:	29/10/2025	Physiotherapy Treatment Certificate
A12	:	17/07/2025	Medical Certificate
A13	:	--	Scanning Reports
A14	:	---	Prescription Slips
A15	:	---	Medical Bills
A16	:	--	Physiotherapy Bills
A17	:	--	Copy of Pan Cards
A18	:	--	Copy of Aadhaar Cards
A19	:	--	Copy of Bank Pass Books

A20	:	15/03/2025	Correction Report from Koratty Station House Officer
A21	:	16/02/2026	Disability Certificate
<u>RESPONDENTS EXHIBITS:</u>	:	Nil	
<u>COURT'S EXHIBITS :</u>	:	Nil	
<u>PETITIONER'S WITNESS:</u>	:	Nil	
<u>RESPONDENTS WITNESS:</u>	:	Nil	

COSTS:

Court Fee	:	63,011.00
LBF	:	63,638.00
Vakalath	:	25.00
Stamp for Document	:	50.00
Process Batta	:	50.00
Writing fee for plaint copies	:	50.00
Writing fee for process	:	50.00
Expenses for certified copies	:	50.00
Senior Adv.Fee	:	3,20,590.00
Junior Adv.Fee	:	1,60,295.00
Stamp for petitions	:	50.00
Writing fee for petitions	:	50.00
Paper Publication Charges	:	1,260.00

Total	:	6,09,169.00 (Allowed)
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Id/-
Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

/True copy/

By Order

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