

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

Present:- Sri.Vinod Kumar N., Motor Accidents Claims Tribunal
Wednesday, 25th March 2026 / 04th Chhaitra, 1948

OP(MV) 673/2021

PETITIONER:

Anil @ Anilkumar, aged 21 years, S/o. Suresh,
Poyyakkaran, House, residing at Kanjirapilly Desom,
Pariyaram Village, Kanjirapilly P.O., Chalakudy Taluk,
Thrissur District

By Advs. Ebin Gopuran & Joseph Gopuran

RESPONDENTS:

1. Tobin, S/o. Jacob Thomas, Thumullil House,
Mothirakanni P.O, Pin – 680 724.
(Owner : KL-45-M-4053 Motorcar)
2. Sachin, S/o. Santhapan, Kakkaparambil House,
Karappadam, Kuttichira P.O, Pin – 680 724.
(Driver : KL-45-M-4053 Motorcar)
3. National Insurance Co. Ltd., Irinjalakuda P.O,
Pin – 680 121.
(Insurer : KL-45-M-4053 Motorcar)

R1 - By Adv. Joshymon P.D.

R2 - Exparte

R3 - By Adv. Pauly J. Aricatt

This petition having come up before me for final hearing on 18/03/2026 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 01/01/2021 at about 00.50 hours, he was travelling in a car No. KL-45-M-4053 driven by respondent No.2 and when they reached near Vellikulangara canal palam, the

respondent No.2 lost control of the car due to his rash and negligent driving and the car hit an electric post and as a result of which the petitioner sustained injuries. According to the petitioner, the respondent Nos.1 to 3 being the owner, driver and the insurer respectively of the car No.KL-45-M-4053 are jointly and severally liable to pay the compensation of ₹10,00,000/- to him.

3. Notice was issued to the respondents. Respondent No.1 filed vakalath, but no written statement is filed. Respondent No.2 remained absent and he was set exparte. The respondent No.3 entered appearance and filed written statement denying the policy coverage for the passengers of the car No. KL-45-M-4053 involved in the accident. It is contended that additional premium was not paid for the coverage of the passengers. It is also 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. It is further contended that the respondent No.2 had no valid driving licence at the time of accident.

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 driving of 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 A14 documents were marked. No oral evidence was adduced by the petitioner. Ext.B1 was marked on the side of respondent No.3.

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 which would

show that the accident took place due to rash and negligent driving of respondent No.2 and he committed the offences punishable u/s.279, 337 and 338 of IPC and u/s. 3(1) r/w 181 of M.V Act. 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 driving of the respondent No.2. Issue No.1 is found in favour of petitioner.

8. **Issue No.2:-** Ext.A2 wound certificate issued by the Apollo Adlux Hospital, Karukutty and Ext.A6 discharge cards issued by the New Medical College Hospital, Thrissur would show that the petitioner sustained fracture both bone right leg, abrasion right knee and lower part of right leg and abrasion on the dorsal aspect of left thumb and the petitioner was treated as an inpatient from 01/01/2021 to 06/01/2021 and from 10/11/2023 to 22/11/2023. Ext.A10 series medical bills would show that he had incurred ₹9,676/- towards medical expense. The nature of injuries and 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 6 months. According to the petitioner, he is doing welding work and was earning ₹27,000/- per month. Ext.A11 is the state certificate in Modular Employable Skills issued by State Council for Vocational Training, Government of Kerala. *In Rajani v. Oriental Insurance Company Limited [MANU /SCOR/ 99601/ 2022]*, the Hon'ble Supreme Court has stipulated that, *in the case of a person who is engaged in technical avocation- more robust view has to be taken.* Even though no further evidence was adduced to prove his income, *considering the fact that he is a welder,* the notional income of the petitioner to be reckoned as ₹13,500/- per month, which is ₹500/- more than what has been authorized by the Hon'ble Apex court in *Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance*

Company Limited (2011 KHC 4675) and an amount of ₹81,000/- can be granted to the petitioner under the head loss of earning. Considering the injuries and hospitalization, I am inclined to allow ₹5,000/- towards travelling expense, ₹1,000/- towards damage to clothing and articles, ₹13,300/- towards extra nourishment, ₹11,400/- towards by-stander's expense and ₹9,676/- towards medical expense.

9. Now the claims under general compensation have to be considered. 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. Jose Kuriyan Kattukaran, Orthopaedic Surgeon, Chalakudy. As per Ext.A9, the petitioner has sustained 15% of whole body permanent 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. The counsel for the respondents challenged Ext.A9 on the ground that disability assessed by the doctor is on the higher side. The document is marked subject to proof. According to the petitioner, he is a welder. Due to the injuries, the petitioner would find it difficult to carry on his day-to-day work as he was doing before the accident. Considering the disability sustained by the petitioner, I am of the view that the functional disability of the petitioner can be taken as 12%. Ext.A14 copy of PAN card would show that the date of birth of the petitioner is 04/07/2000. The accident took place on 01/01/2021. So at the time of accident, the petitioner is aged 20 years. Hence the multiplier applicable for estimating the loss of earning power is 18. The monthly notional income of the petitioner is

already arrived at as ₹13,500/-. Accordingly, the petitioner is entitled to get ₹3,49,920/- (13,500 x12 x12/100x18) towards loss of earning power, ₹1,20,000/- under the head pain and suffering and ₹80,000/- under the head loss of enjoyment and amenities in life. Since compensation under the head loss of enjoyment and amenities in life is granted, petitioner is not entitled to get compensation under the head continuing or permanent disability separately in view of the decision in *George Vs. E.T. Thomas and others* (ILR 2013 (1) Ker 559) and *National Insurance Co Lt Kozhikkode Vs Anoop kumar T.K.& another* (2014/KHC/13).

10. 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	3,24,000	81,000	13,500x6
b	Transport to hospital	10,000	5,000	
c	Extra nourishment	10,000	13,300	
d	Damage to clothing and articles	5,000	1,000	Reasonable amount
e	Others: (i) Compensation for the treatment and medical expenses (ii) Future expenses (iii) By-stander's expenses	30,000 50,000 25,000	9,676 Nil 11,400	Ext.A10 series
Part II				

f	Compensation for pain and suffering	2,00,000	1,20,000	Nature of injuries
g	Compensation for continuing or permanent disability	5,00,000	Nil	
h	Compensation for loss of earning power and loss of future prospects	3,00,000	3,49,920	
i	Compensation for loss of amenities	1,00,000	80,000	Considering the disability and deformity
j	Compensation for disfiguration	1,00,000	Nil	
k	Compensation for mental dejection and unhappiness in life	50,000	Nil	
	Total	₹17,04,000/- claim is limited to ₹10,00,000/-	₹6,71,296/- is rounded off to ₹6,71,300/-	

11. Therefore, I find it just and reasonable to award ₹6,71,300/- as compensation and Issue No.2 is answered in favour of the petitioner in respect of the compensation awarded as referred to above.

12. **Issue No.3:-** According to the petitioner, all the respondents are jointly and severally liable to pay the compensation. Ext.A4 copy of registration certificate would show that respondent No.1 is the owner of car No.KL-45-M-4053. The respondent No.3 entered appearance and filed written statement denying the policy coverage for the passengers of the car No.KL-45-M-4053 involved in the accident contending that no additional premium was paid for the coverage of the passengers. But the respondent No.3 produced Ext.B1 policy. But the respondent No.3 has no case that Ext.B1 is not a package policy and that it is a limited liability policy or an Act Only Policy. Hence the respondent No.3 is liable to indemnify the insured. But respondent No.3 contended that respondent No.2 was not having valid driving licence at the relevant time of accident. The burden is on the insurer to prove the violation of the

policy conditions. Respondent No.3 filed an application as IA 01/2023 to direct the respondent Nos.1 and 2 to produce the driving licence of respondent No.2 and this Tribunal directed the respondent Nos.1 and 2 to produce driving licence of respondent No.2, but they did not comply with the direction to produce the driving licence of respondent No.2. So, the contention of the respondent No.3 that the respondent No.2 was not having valid driving licence at the time of accident stands un-controverted. So, there is merit in the contention raised by respondent No.3 regarding the violation of policy conditions. It is already found that the accident took place due to the rash and negligent driving of respondent No.2. Hence respondent Nos.1 and 2 are jointly and severally liable to pay compensation to the petitioner and the respondent No.3 being the insurer is liable to indemnify the respondent No.1/owner and pay the compensation to the petitioner and the respondent No.3/insurer can recover the amount awarded from the respondent No.1/owner after discharging liability to the claim petitioner. The issue No.3 is answered accordingly.

13. **Issue No.4** :- In view of the finding on issue Nos. 1 to 3, I hold that petitioner is entitled to get the compensation of ₹6,71,300/- with interest at the rate of 7.5% per annum from the date of filing of the petition 28/06/2021 till the realization with proportionate cost and that the respondent No.1 being the owner of the vehicle shall pay the amount within thirty days from the date of this award. Issue No.4 is answered accordingly.

14. 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 ₹6,71,300/- (Rupees six lakh seventy one thousand and three hundred only) with interest @ 7.5% per annum from the date of filing of petition i.e 28/06/2021 till realization with proportionate cost.
2. Respondent No.3 shall produce a cheque for ₹9,368/- (Rupees

nine thousand three hundred and sixty eight only) being the court fee payable by the petitioner in favour of Motor Accidents Claims Tribunal, Irinjalakuda.

3. 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.

Sl. No	Name	Bank Account Number	Name of Bank and Branch	IFS Code
1	Anil @ Anilkumar	42729585252	State Bank of India, Chalakudy	SBIN0070168

4. After depositing the amount as aforesaid, the respondent No.3/insurer can recover the amount awarded from the respondent No.1/owner.
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 25th day of March, 2026.)

Sd/-

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

<u>APPENDIX</u>			
<u>PETITIONER'S EXHIBITS:-</u>			
A1	:	05/01/2021	Copy of FIR in Crime No.0014/21, Vellikulangara P.S.
A2	:	21/01/2021	Copy of wound certificate
A3	:	22/02/2021	Copy of Final Report
A4	:	--	Copy of Registration Certificate
A5	:	--	OP sheet
A6	:	06/01/2021, 22/11/2023	Discharge cards DOA: 01/01/2021, 10/11/2023
A7	:	--	Pre Anaesthesia Check – up notes
A8	:	--	OP registration cards
A9	:	01/07/2025	Disability certificate
A10	:	--	Medical bills
A11	:	08/11/2017	Copy of State Certificate in Modular Employable Skills
A12	:	--	Copy of Aadhaar card
A13	:	--	Copy of Bank pass book
A14	:	--	Copy of PAN card
<u>RESPONDENTS EXHIBITS:</u>			
B1	:	--	Copy of Insurance Policy
<u>COURT'S EXHIBITS :</u>	:	Nil	
<u>PETITIONER'S WITNESS:</u>	:	Nil	
<u>RESPONDENTS WITNESS:</u>	:	Nil	

COSTS:

Court Fee	:	6,086.00
Vakalath	:	25.00
Process Batta	:	50.00
Stamp for Document	:	50.00
Writing fee for original petition copies:	:	50.00

Writing fee for process	:	50.00
Certified copies fee	:	50.00
Senior Adv.Fee	:	35,965.00
Junior Adv.Fee	:	17,983.00
Stamp for petitions	:	50.00
Writing fee for petitions	:	50.00

Total	:	60,409.00 (Allowed)
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Id/-
Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

/True copy /

By order

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