

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA

Present:- Smt. Kavitha Gangadharan, Motor Accidents Claims Tribunal

Friday, the 27th day of March, 2026

06th day of Chaithra, 1948

O.P. (M.V.) No. 262 / 2016

Applicant:-

Thankamoni (A) Suresh Babu Thankamaniyan,
Aged 49 years, S/o. Thomson Nadar,
Punalal P.O., Vattakaitha Veedu, Konniyoor,
Konniyoor Muri, Perumkulam, Village.

By Adv: Sri. S. Bhanu Krishnakumar

Respondents:-

1. M.R. Vinod (P.O.04145096),
Thoppil Veedu 36/691, Kollam P.O.,
Kollam District, Kerala, Pin- 691 001.
2. Anvarkhan, S/o. Ismail Pillai,
Kulangarakuzhi Roadarikathu Veedu,
Poovachal P.O., Thiruvananthapuram District.
3. The Divisional Manager,
New India Assurance Company Limited,
Thiruvananthapuram.

By Adv: R1 and R2 - No Vakalath
R3 - Smt. S. Lathakumari

This claim petition having been finally heard on 25-03-2026 and the Tribunal on 27-03-2026 delivered the following.

AWARD

This is an application filed u/s. 166 of the M.V Act by the applicant for getting compensation for the injuries sustained in the road traffic accident.

2. The case of the applicant / claimant is as follows:--

On 13.06.11 at about 03.00 pm, the applicant was walking through Konniyur - Punalal Public Road and when he reached at Punalal junction, a bike bearing Reg. No. KL-02-V-1070, ridden by the 2nd respondent in a rash and negligent manner so as to endanger human life hit on the back of the applicant. As a result, the applicant was thrown on the road and sustained severe injuries. The accident was happened solely due to the rash and negligent riding of the bike bearing Reg. No. KL-02-V-1070 by the 2nd respondent. The 1st respondent is the owner and the 3rd respondent is its insurer and hence all respondents are jointly and severally liable to pay compensation to the applicant.

3. The applicant, aged 53 years, is a coolie. Due to the injuries sustained in the accident the applicant had suffered severe pain and he became physically disabled. The applicant claimed a compensation of ₹4,00,000/- and limited the claim to ₹2,00,000/-.

4. 1st and 2nd respondents were called absent and set exparte. 3rd respondent filed written statement.

5. 3rd respondent alleged that the application is not maintainable either in law or on facts. The averments in the application are to be

proved by the applicant. The insurance policy is admitted. The amount of compensation claimed is not correct and hence denied. Hence, 3rd respondent prayed to accept the written statement.

6. On the basis of the above pleadings the following issues arise for determination by this Tribunal : --

1. Whether the accident alleged in the above case arose out of the use of a motor vehicle and whether it was due to the negligent riding of the offending vehicle bearing Reg. No. KL-02-V-1070 by the 2nd respondent ?
2. Whether due to the negligent riding of the offending vehicle by the 2nd respondent, he hit the vehicle on the applicant who was a pedestrian and caused injuries to the applicant ?
3. Whether the applicant is entitled to get compensation from the respondents and if so, from which respondent ?
4. The quantum of compensation to which the applicant is entitled ?
5. Reliefs and costs ?

7. No oral evidence was adduced by either of the parties. Exts.A1 to A11 were marked from the side of the applicant. No documents were marked from the side of the 3rd respondent. Heard both sides.

8. **Issue Nos.1 & 2** : – These issues can be considered together for the sake of convenience.

9. The case of the applicant is that on 13.06.11 at about 03.00 pm, the applicant was walking through Konniyur - Punalal Public Road and when he reached at Punalal junction, a bike bearing Reg. No. KL-02-V-1070, ridden by the 2nd respondent in a rash and negligent manner so as to endanger human life hit on the back of the applicant. As a result, the applicant was thrown on the road and sustained severe injuries. Exts.A1 to A11 documents were produced by the applicant to prove his case. Ext.A1 is the copy of FIR in crime No. 731/11 of Aryanad police station. Ext.A2 is the Register of Summary Trials. Ext.A3 is the CT scan report. Ext.A4 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A5 is the OP ticket issued from the Govt. Dental College, Thiruvananthapuram. Ext.A6 is the case record issued from the Govt. Dental College, Thiruvananthapuram. Ext.A7 is the discharge card issued from the CHC, Vellanad. The applicant was admitted in the said hospital on 13.06.11 and was discharged on 20.06.11. Ext.A8 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A9 is the copy of insurance policy. Ext.A10 is the copy of certificate of registration. Ext.A11 is the copy of driving licence. The applicant did not produce his PAN card.

10. The accident was disputed by the insurer. Ext.A2, the copy of FIR in crime No. 731/11 of Aryanad police station alleging the offence u/s. 279, 337 and 338 IPC and Ext.A2, the Register of Summary Trial in crime No. 731/11 of Aryanad police station are sufficient to prove the accident narrated in the application and it also proved that the accident was happened due to the negligent riding of offending vehicle by the 2nd respondent. It was held in New India Assurance Co. Ltd. v. Pazhani Ammal reported in 2011 (3) KLT 648 that the production of police charge sheet is prima facie sufficient evidence of negligence for the purpose of a claim u/s. 166. If any one of the parties did 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 case where charge sheet is filed, the Tribunal 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. Eventhough the 3rd respondent disputed the accident, no oral evidence is tendered to prove their case. In all other cases, such charge sheet can be reckoned as sufficient evidence of negligence. On a careful scrutiny of Exts. A1 and A2, it is found that the accident was happened due to the rash and negligent riding of the bike bearing Reg. No. KL-02-V-1070 by the 2nd respondent and thereby he hit the vehicle on the applicant who was a pedestrian and thus the applicant had sustained injuries such as abrasion and contusion on face, abrasion on several part

of body, surgical dressing (v) lip, bleeding from mouth and nose, teeth missing from upper lip, soft tissue injuries, sutured c Srlk, head injury and multiple abrasion on face, suvc and upper lips. These issues are accordingly found in favour of the applicant.

11. **Issue Nos. 3 & 4: --** These issues can be considered together for the sake of convenience.

12. The offending vehicle bearing Reg. No. KL-02-V-1070 was ridden by the 2nd respondent at the time of the accident, as proved from Exts.A1 and A2. The said vehicle was owned by the 1st respondent at the time of accident. Ext.A10 is the copy of registration certificate. Ext.A11 is the copy of driving licence. The said vehicle was validly insured with the 3rd respondent at the time of accident. Ext.A9 is the copy of insurance policy. No breach of policy condition is proved by the 3rd respondent as against the 1st respondent. So, 1st respondent is primarily liable to pay compensation to the applicant for the injuries sustained in the road traffic accident. As there was valid insurance coverage for the offending vehicle with the 3rd respondent, the 3rd respondent is liable to indemnify the 1st respondent for the compensation to be paid to the applicant.

13. The applicant was aged 53 years at the time of accident. He was said to be a coolie and was said to be earning ₹60,000/- per month. In Ramachandrappa v. Manager, Royal Sundaram Allianz Insurance Co. Ltd. (2011) 13 SCC 236, the Hon'ble Supreme Court fixed the notional

income of a coolie as ₹4,500/- per month for the accident happened in 2006. As the accident had happened in the year 2011, I fix his monthly notional income as ₹8,000/-.

14. The principles for assessing loss of earning capacity on account of permanent disability are well settled by ruling of Rajkumar v. Ajayakumar (2011)1 SCC 343. It is held that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury.

15. The injuries sustained were proved by Exts.A4 to A8. Ext.A4 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A5 is the OP ticket issued from the Govt. Dental College, Thiruvananthapuram. Ext.A6 is the case record issued from the Govt. Dental College, Thiruvananthapuram. Ext.A7 is the discharge card issued from the CHC, Vellanad. The applicant was admitted in the said hospital on 13.06.11 and was discharged on

20.06.11. Ext.A8 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. No disability certificate is seen produced. Considering the nature of injuries sustained by the applicant, I find that the disability percentage can be fixed as 4%. The multiplier to be applied is 11. So, the applicant is entitled to future loss of earning on account of permanent disability to the tune of $\text{₹}8,000 \times 12 \times 11 \times 4 / 100 = \text{₹}42,240/-$.

16. Considering the nature of injuries sustained by him, I find that he is entitled to get an amount of $\text{₹}30,000/-$ as compensation for pain and suffering and further an amount of $\text{₹}20,000/-$ towards compensation for loss of amenities and enjoyment in life.

17. Considering the nature of injuries sustained by him, I find that the said applicant is entitled to loss of earning for a period of 2 months during the period of treatment to the tune of $\text{₹}16,000/-$.

18. It is seen that the applicant in connection with the treatment visited the hospital. I find that under head transportation expenses he can be awarded an amount of $\text{₹}5,000/-$.

19. He is entitled to get an amount of $\text{₹}8,000/-$ towards extra nourishment charges.

20. He is also entitled to get an amount of $\text{₹}2,000/-$ towards damage to clothing and articles as his clothing might have been damaged in the accident.

21. He was treated as inpatient and outpatient for a period of 10 day. So, towards bystander's expense he is entitled to get an amount of ₹5,000/- @ ₹500/- per day.

22. No medical bills are produced. Hence no amount sanctioned for medicines.

23. The compensation due to the claimant is shown below in the tabular column.

Sl. No.	Head of Claim	Amount claimed (in ₹)	Amount awarded (in ₹)	Basic vital details in a nut shell
1	Loss of earning	--	16,000	8,000 x 2 months
2	Transportation expenses	10,000	5,000	
3	Extra nourishment	10,000	8,000	
4	Damage to clothing	5,000	2,000	
5	Medical expenses	50,000	--	
6	Bystander's expenses	5,000	5,000	500 x 10 days
7	Pain and sufferings	50,000	30,000	
8	Compensation for loss of future earning power	50,000	42,240	$8,000 \times 12 \times 11 \times 4 / 100$
9	Loss of amenities and enjoyment in life	1,00,000	20,000	
10	Permanent disability	1,00,000	--	
	Total		1,28,240 Rounded to 1,29,000	₹1,29,000/- with 7% interest per annum from 11.03.16 till realization.

24. I hold that the claimant is entitled to recover compensation of ₹1,29,000/- [Rupees One Lakh and Twenty Nine Thousand Only].

25. Issue Nos. 3 & 4 are answered in favour of the applicant to the above extent.

26. **Issue No.5: --** In the result, the O.P is allowed as follows: –

- (1) The claimant is allowed to realize an amount of ₹1,29,000/- [Rupees One Lakh and Twenty Nine Thousand Only], with

interest @ 7% per annum from 11.03.16 till realization.

- (2) The claimant shall be entitled to get proportionate cost.
- (3) R3, being the insurer is ordered to deposit cheque for ₹1,373/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹2,000/- towards LBF.
- (4) R3 is directed to deposit the awarded sum to the credit of the Savings Bank Account of the claimant. The bank name, bank account number and IFSC code of bank branch is not produced by the claimant.
- (5) The claimant shall furnish attested copy of the relevant page of his bank pass book having details of the bank account number and IFSC Code of Bank branch before this Tribunal within 15 days from the date of this award.
- (6) If the claimant fails to produce the copy of pass book as directed above, he shall not be entitled to get interest for the period, for which he causes the delay.
- (7) The office is directed to give copy of the relevant page of the bank pass book to R3 along with this award.

[Dictated to the Confidential Assistant, transcribed by her,
Corrected by me and pronounced in open court,
this the 27th day of March, 2026]

Sd/-

KAVITHA GANGADHARAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX**Exhibits Marked for the Applicant:-**

A1	02-08-2011	Copy of FIR.
A2	-	Register of Summary Trials.
A3	13-06-2011	Scan Report.
A4	13-06-2011	Out Patient Record.
A5	-	OP Ticket.
A6	-	Case Record.
A7	-	Discharge Card.
A8	14-06-2011	Out Patient Record.
A9	-	Copy of Insurance Policy.
A10	-	Copy of Certificate of Registration.
A11	14-12-2015	Copy of Driving License.

Exhibit Marked for the Respondents:- Nil**Witness Examined:- Nil**

Id/-
MOTOR ACCIDENTS CLAIMS TRIBUNAL
//True copy// (By Order)

SHERISTADAR

MEMO OF COSTS IN O P (M V) No. 262 / 2016**For the Petitioner:-**

Court Fee	-	663.00
Vakalath Fee	-	5.00
Process Fee	-	30.00
Stamp for Exhibits	-	10.00
Stamp for Petitions	-	25.00

Total	-	733.00
		=====

(Statement of Cost not filed)

For the Respondents:-

Not Allowed

Id/-
MOTOR ACCIDENTS CLAIMS TRIBUNAL
 //True copy// (By Order)

SHERISTADAR

Copy of Award in
O.P.(M.V.) No. 262 /2016
Dated: 27..03..2026.