

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. 421 / 2018

Applicant:-

Susa Nayagom, S/o. Gragory,
Valiyathoppu Veedu, Kollamcodu,
Pozhiyoor Desom, Kulathoor Village, Pozhiyoor,
Thiruvananthapuram, Kerala, Pin- 695 513.

By Adv: Sri. Renoy Mohan

Respondents:-

1. Aneesh, S/o. Silvapicha,
House No.56, Sunami Colony, Lourd Nagar,
Marthandanthura Desom, Kollamcode Village,
Vilavancode Taluk, Kanyakumari District,
Tamilnadu, Kollamcode P.O.
2. Susai Antony @ Dineash,
House No.50, Sunamy Colony, Marthandamthurai,
Kollamcode Village, Vilavancode Taluk,
Kanyakumari District, Tamilnadu, Kollamcode P.O.

By Adv: R1 and R2 - Sri. S. Christudas

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

A W A R D

This is an application filed u/s. 166(1) 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 23.09.17 at about 09.00 am, the applicant was walking towards Valiyathoppu Junction along Kollamcode – Neerodi Road and when he reached at Valiyathoppu, a motor bike bearing Reg. No. TN-75-Q-6541 came from Kollemcode, ridden by the 2nd respondent in a rash and negligent manner so as to endanger human life hit the applicant. As a result, the applicant was thrown to the road and sustained severe head injuries. The accident was happened solely due to the rash and negligent riding of the motor bike by the 2nd respondent. The 1st respondent is its owner and the hence both respondents are jointly and severally liable to pay compensation to the applicant.

3. The applicant, aged 61 years, is a fisherman. 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 ₹20,05,000/- and limited the claim to ₹15,00,000/-.

4. Respondents were called absent and set exparte.

5. No oral evidence was adduced by the claimant. Exts.A1 to A5 were marked from the side of the claimant. Heard the counsel for the claimant.

6. The following points arise for determination by this Tribunal :--

1. Whether the applicant is entitled to get compensation from the respondents and if so, quantum there of ?

2. Reliefs and costs ?

7. **Point No.1** : – The case of the applicant is that on 23.09.17 at about 09.00 am, the applicant was walking towards Valiyathoppu Junction along Kollamcode – Neerodi Road and when he reached at Valiyathoppu, a motor bike bearing Reg. No. TN-75-Q-6541 came from Kollemcode, ridden by the 2nd respondent in a rash and negligent manner so as to endanger human life hit the applicant. As a result, the applicant was thrown to the road and sustained severe head injuries. The applicant produced Exts.A1 to A5 documents to prove his case. Ext.A1 is the copy of FIR & FIS in crime No. 1003/17 of Pozhiyoor police station. Ext.A2 is the copy of Aadhaar card. Ext.A3 is the copy of final report in Ext.A1 FIR. Ext.A4 is the copy of FIR and FIS. Ext.A5 are the medical bills amounting to ₹57,485/-.

8. Ext.A3, the copy of final report in crime No. 1003/17 of Pozhiyoor police station, proves the accident narrated in the above application and the fact that the accident was due to the negligent riding of the offending vehicle, a motor bike bearing Reg. No. TN-75-Q-6541 by the 2nd respondent.

9. It was held in ruling reported in New India Assurance Co. Ltd. v. Pazhani Ammal [2012 ACJ 1370: 2011 (3) KLT 648] by the Hon'ble High Court that 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. In all other cases, such charge sheet can be reckoned as sufficient evidence of negligence. See also ILR 2020 (3) Kerala 267 Samadh M.B v. Binu. Analyzing the above documentary evidence, I find that the accident narrated in the above case arose out of the use of motor vehicle and it was due to the negligent riding of the offending vehicle by the 2nd respondent and the 2nd respondent due to his negligent riding caused injuries to the applicant such as head injury, damage to head, bleeding, h/o vomiting+ h/o LOC + no h/o seizures, cut, bleed moving all 4 limbs, L/E [R] hand deformity.

10. Ext.A3, the copy of final report in crime No. 1003/17 of Pozhiyoor police station, proves that the 1st respondent is the owner and the 2nd respondent is the rider of the offending vehicle. The said vehicle had no insurance policy. So, the 1st and 2nd respondents are jointly and severally liable to pay compensation to the applicant for the injuries sustained in the road traffic accident.

11. The applicant was aged 61 years at the time of accident. He was said to be a fisherman and was said to be earning ₹10,000/- per month. In Angad Tiwari V. National Insurance Company Ltd., reported in 2024 KHC 8590, it is held that, while fixing the notional income, the

court shall not fix the income below the minimum wage fixed under the Minimum wages Act. As per the G.O.(P)No.56/2017/Fin dated 28.04.2017, The State of Kerala had fixed the minimum wage of a fisherman as ₹17,325/-. As the accident had happened in the year 2017, I fix his monthly notional income as ₹17,325/-.

12. 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.

13. The injuries sustained were proved. 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 15%. The multiplier to be applied is 7. So, the applicant is entitled to future loss of earning on account of permanent disability to the tune of

$\text{₹}17,325 \times 12 \times 7 \times 15 / 100 = \text{₹}2,18,295/-$.

14. Considering the nature of injuries sustained by him, I find that he is entitled to get an amount of ₹50,000/- as compensation for pain and suffering and further an amount of ₹70,000/- towards compensation for loss of amenities and enjoyment in life.

15. Considering the nature of injuries sustained by him, I find that the said applicant is entitled to loss of earning for a period of 1 month during the period of treatment to the tune of ₹17,325/-.

16. 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 ₹6,000/-.

17. He is also entitled to get an amount of ₹8,000/- towards extra nourishment charges.

18. He is entitled to get an amount of ₹2,500/- towards damage to clothing and articles as his clothing might have been damaged in the accident.

19. He was treated as inpatient and outpatient for a period of 11 days. So, towards bystander's expense he is entitled to get an amount of ₹7,150/- @ ₹650/- per day.

20. The medical bills are produced and the amount claimed is ₹57,485/-. Hence, he is entitled to get ₹57,485/- towards medical expenses.

21. 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	1,50,000	17,325	17,325 x 1 month
2	Transportation expenses	20,000	6,000	
3	Extra nourishment	10,000	8,000	
4	Damage to clothing	5,000	2,500	
5	Medical expenses	5,00,000	57,485	Medical bill produced
6	Bystander's expenses	10,000	7,150	650 x 11 days
7	Pain and sufferings	50,000	50,000	
8	Compensation for loss of future earning power	2,00,000	2,18,295	$17,325 \times 12 \times 7 \times 15 / 100$
9	Loss of amenities and enjoyment in life	5,00,000	70,000	
10	Permanent disability	10,000	--	
	Total		4,36,755 Rounded to 4,37,000	₹4,37,000/- with 7% interest per annum from 26.04.18 till realization.

22. I hold that the claimant is entitled to recover compensation of ₹4,37,000/- [Rupees Four Lakhs and Thirty Seven Thousand Only].

23. Point No. 1 is answered in favour of the applicant to the above extent.

24. **Point No.2: --** In the result, the O.P is allowed as follows: –

- (1) The claimant is allowed to realize an amount of ₹4,37,000/- [Rupees Four Lakhs and Thirty Seven Thousand Only], with interest @ 7% per annum from 26.04.18 till realization.
- (2) The claimant shall be entitled to get proportionate cost.
- (3) R1 and R2 are ordered to deposit cheque for ₹14,373/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹15,000/- towards LBF.
- (4) R1 and R2 are 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 R1 and R2 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	23-09-2017	Copy of FIR and FIS.
A2	-	Copy of Aadhaar Card.
A3	-	Copy of Final Report.
A4	23-09-2017	Copy of FIR and FIS.
A5	-	Medical Bills.

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. 421 / 2018**For the Petitioner:-**

Court Fee	-	3,743.00
Vakalath Fee	-	5.00
Process Fee	-	40.00
Stamp for Exhibits	-	30.00
Stamp for Petitions	-	16.00

Total	-	3,834.00
		=====

(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. 421 /2018
Dated: 27..03..2026.