

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA

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

Thursday, the 30th day of April, 2026 / 10th day of Vaisakha, 1948

O.P. (M.V.) Nos. 645 / 2019 and 651 / 2019**O.P. (M.V.) No. 645 / 2019****Applicant:-**

Ravi, S/o. Lakshmanan Nadar,
R.S. Mandiram, Vazhuthanamugal,
Poovachal P.O., Pin- 695 575.

By Advs: Sri. Kattakada P.S. Anil and Smt. Soorya S.S.

Respondents:-

1. Ravi, S/o. Chellayyan,
Rajeev Nivas, Punnancode,
Thadatharikathu Veedu,
Kattakkode P.O., Pin- 695 572.
2. Divisional Manager,
New India Assurance Company Limited,
Chandrasekharan Nair Stadium Complex,
Palayam, Pin- 695 014.

By Adv: R1 - No Vakalath
R2 - Sri. K. Prabhakaran Nair

O.P. (M.V.) No. 651 / 2019**Applicant:-**

Sheeba, D/o. Sulochana,
R.S. Mandiram, Vazhuthanamugal,
Poovachal P.O., Pin- 695 575.

By Advs: Sri. Kattakada P.S. Anil and Smt. Soorya S.S

Respondents:-

1. Ravi, S/o. Chellayyan,
Rajeev Nivas, Punnancode,
Thadatharikathu Veedu,
Kattakkode P.O., Pin- 695 572.
2. Divisional Manager,
New India Assurance Company Limited,
Chandrasekharan Nair Stadium Complex,
Palayam, Pin- 695 014.

By Adv: R1 - No Vakalath
R2 - Sri. K. Prabhakaran Nair

These Claim Petitions having been finally heard on 29-04-2026 and the Tribunal on 30-04-2026 delivered the following.

COMMON AWARD

The above applications are filed u/s. 166 of the M.V Act by the applicants for getting compensation for the injuries sustained in the road traffic accident. As per order in I.A 01/26 dated 13.01.26 joint trial was ordered.

2. The common case of the applicants / claimants is as follows:--

On 13.05.19 at about 09.30 pm, while the applicant in O.P 645/19 was riding the motorcycle bearing Reg. No. KL-21-B-6242 with the applicant in O.P 651/19 as a pillion rider along the Kattakada – Poovachal Road towards Poovachal and when they reached near

Nakramchira, another motorcycle bearing Reg. No. KL-01-AJ-4659 came from the opposite direction ridden by the 1st respondent in a rash and negligent manner so as to endanger human life, hit to the motorcycle in which the applicants were travelling. As a result, the applicants fell down and sustained serious injuries. The accident was happened solely due to the rash and negligent riding of the motorcycle bearing Reg. No. KL-01-AJ-4659 by the 1st respondent, who is its registered owner and the 2nd respondent is its insurer and hence both respondents are jointly and severally liable to pay compensation to the applicants.

3. The applicant in O.P 645/19, aged 52 years, is a manual labourer. 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 ₹8,17,000/- and limited the claim to ₹5,00,000/-.

4. The applicant in O.P 651/19, aged 41 years, is a Machine Operator. Due to the injuries sustained in the accident the applicant had suffered severe pain and she became physically disabled. The applicant claimed a compensation of ₹2,16,500/- and limited the claim to ₹1,00,000/-.

5. 1st respondent was called absent and set exparte in both cases. 2nd respondent filed written statement in both cases.

6. 2nd respondent commonly alleged that the applications are not maintainable either in law or on facts. The averments in the

applications are to be proved by the applicants. The insurance policy is admitted. The amounts of compensation claimed under various heads are imaginary, unreasonable, exorbitant, claimed without any basis and may not be allowed. Hence, 2nd respondent prayed to dismiss the applications with cost.

7. On the basis of the above pleadings the following issues arise for determination in O.P 645/19 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-01-AJ-4659 by the 1st respondent ?
2. Whether due to the negligent riding of the offending vehicle by the 1st respondent, he hit the vehicle on the vehicle ridden by the applicant 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 ?

8. On the basis of the above pleadings the following issues arise for determination in O.P 651/19 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-01-AJ-4659 by the 1st respondent ?
2. Whether due to the negligent driving of the offending vehicle by the 1st respondent, he hit the vehicle on the vehicle in which the applicant was travelling as a pillion rider 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 ?

9. No oral evidence was adduced by either of the parties in both cases. Exts.A1 to A26 were marked from the side of the applicants. Exts.A1 to A16 and A26 relate to O.P 654/19. Exts.A17 to A25 relate to O.P 651/19. Exts.B1 and B2 were marked from the side of the 2nd respondent. Heard both sides.

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

11. The common case of the applicants is that on 13.05.19 at about 09.30 pm, while the applicant in O.P 645/19 was riding the motorcycle bearing Reg. No. KL-21-B-6242 with the applicant in

O.P 651/19 as a pillion rider along the Kattakada – Poovachal Road towards Poovachal and when they reached near Nakramchira, another motorcycle bearing Reg. No. KL-01-AJ-4659 came from the opposite direction ridden by the 1st respondent in a rash and negligent manner so as to endanger human life, hit to the motorcycle in which the applicants were travelling. As a result, the applicants fell down and sustained serious injuries. Exts.A1 to A26 documents were produced by the applicants to prove their case. Ext.A1 is the copy of FIR & FIS in crime No. 683/19 of Kattakada Police Station. Ext.A2 is the copy of scene mahazar. Ext.A3 is the copy of insurance policy. Ext.A4 is the copy of accident register cum wound certificate issued from the Medical College Hospital, Thiruvananthapuram. Ext.A5 is the copy of final report in Ext.A1 FIR. Ext.A6 is the copy of Aadhaar card. Ext.A7 is the copy of driving licence of the applicant. Ext.A8 is the copy of certificate of registration. Ext.A9 is the copy of driving licence. Ext.A10 is the copy of treatment certificate issued from the Medical College Hospital, Thiruvananthapuram. Exts.A11 and A12 are the scan report. Ext.A13 is the discharge summary issued from the Medical College Hospital, Thiruvananthapuram. The applicant was admitted in the said hospital on 14.05.19 and was discharged on 15.05.19. Ext.A14 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A15 is the copy of Bank passbook. Ext.A16 is the copy of PAN card. Ext.A17 is the copy of FIR & FIS. Ext.A18 is the copy of accident register

cum wound certificate issued from the Medical College Hospital, Thiruvananthapuram. Ext.A19 is the copy of Aadhaar card. Ext.A20 is the scan report. Ext.A21 are the copies of outpatient records issued from the Medical College Hospital, Thiruvananthapuram. Ext.A22 is the scan report. Ext.A23 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A24 is the copy of bank passbook. Ext.A25 is the copy of PAN card. Ext.A26 are the medical bills amounting to ₹5,033.96. Ext.B1 is the copy of accident register cum wound certificate issued from the Medical College Hospital, Thiruvananthapuram. Ext.B2 is the copy of insurance policy.

12. The accident was disputed by the insurer. Ext.A1, the copy of FIR in crime No. 683/19 of Kattakada Police station alleging the offence u/s. 279, 337 and 338 IPC and Ext.A5, the copy of final report in crime No. 683/19 of Kattakada 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 1st 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. In all other cases, such charge sheet can be reckoned as sufficient evidence of negligence. Even though the 2nd respondent disputed the accident, no oral evidence is tendered to prove their case. On a careful scrutiny of Exts.A1 and A5, it is found that the accident was happened due to the rash and negligent riding of the motorcycle bearing Reg. No. KL-01-AJ-4659 by the 1st respondent and thereby he hit the vehicle on the vehicle in which the applicants were travelling and thus the applicant in O.P 645/19 had sustained injuries such as fracture 7th rib [L] side, fracture 6th to 8th ribs [L], pain left side chest, multiple abrasions over root of nose, multiple abrasions over root of chin [L] hand, abrasion forearm, multiple abrasions knee [L] and multiple abrasions dorsum of left fingers, dorsum of left hand and the applicant in O.P 651/19 had sustained injuries such as abrasion lateral to left eye, swelling forehead above left eyebrow, abrasion left eyebrow, abrasions right knee, abrasions left thigh, abrasion forearm, multiple abrasions knee [L], multiple abrasions dorsum of left fingers, dorsum of left hand, abrasions left thumb and abrasions over dorsum of right hand. These issues are accordingly found in favour of the applicants.

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

14. The offending vehicle bearing Reg. No. KL-01-AJ-4659 was ridden by the 1st respondent at the time of the accident, as proved from Exts.A1 and A5. The said vehicle was owned by the 1st respondent at the time of accident. Ext.A8 is the copy of registration certificate. Ext.A9 is the copy of driving licence. The said vehicle was validly insured with the 2nd respondent at the time of accident. Ext.B2 is the copy of insurance policy. No breach of policy condition is proved by the 2nd 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 2nd respondent, the 2nd respondent is liable to indemnify the 1st respondent for the compensation to be paid to the applicant.

15. The applicant in O.P 645/19 was aged 52 years at the time of accident. He was said to be a manual labourer and was said to be earning ₹15,000/- 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 manual labourer as ₹17,325/-. As the accident had happened in the year 2019, I fix his monthly notional income as ₹18,000/-.

16. 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.

17. The injuries sustained by the applicant in O.P 645/19 were proved by Exts.A4, A10 and A12 to A14. Ext.A4 is the copy of accident register cum wound certificate issued from the Medical College Hospital, Thiruvananthapuram. Ext.A10 is the copy of treatment certificate issued from the Medical College Hospital, Thiruvananthapuram. Ext.A12 is the outpatient record issued from the General Hospital, Neyyattinkara. Ext.A13 is the discharge summary issued from the Medical College Hospital, Thiruvananthapuram. The applicant was admitted in the said hospital on 14.05.19 and was discharged on 15.05.19. Ext.A14 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 5%. 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 $\text{₹}18,000 \times 12 \times 11 \times 5 / 100 = \text{₹}1,18,800/-$.

18. 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 $\text{₹}40,000/-$ towards compensation for loss of amenities and enjoyment in life.

19. 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 $\text{₹}36,000/-$.

20. 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 $\text{₹}6,000/-$.

21. He is entitled to get an amount of $\text{₹}4,000/-$ towards extra nourishment charges.

22. He is also entitled to get an amount of $\text{₹}2,500/-$ towards damage to clothing and articles as his clothing might have been damaged in the accident.

23. He was treated as inpatient and outpatient for a period of 3 days. So, towards bystander's expense he is entitled to get an amount of ₹1,950/- @ ₹650/- per day.

24. The medical bills are produced and the amount claimed is ₹5,034/-. Hence he is entitled to get ₹5,034/- towards medical expenses.

25. The compensation due to the claimant in O.P 645/19 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	90,000	36,000	18,000 x 2 months
2	Transportation expenses	5,000	6,000	
3	Extra nourishment	15,000	4,000	
4	Damage to clothing	2,000	2,500	
5	Medical expenses	50,000	5,034	Medical bill produced
6	Bystander's expenses	15,000	1,950	650 x 3 days
7	Pain and sufferings	50,000	30,000	
8	Compensation for loss of future earning power	2,00,000	1,18,800	18,000x12x11x5/100
9	Loss of amenities and enjoyment in life	1,00,000	40,000	
10	Permanent disability	3,00,000	--	
	Total		2,44,284	₹2,45,000/- with 8% interest per annum from 27.07.19 till realization.
			Rounded to 2,45,000	

26. I hold that the claimant in O.P 645/19 is entitled to recover compensation of ₹2,45,000/- [Rupees Two Lakhs and Forty Five Thousand Only].

27. The applicant in O.P 651/19 was aged 41 years at the time of accident. She was said to be a Machine Operator and was said to be earning ₹15,000/- 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 Machine Operator as ₹17,325/-. As the accident had happened in the year 2019, I fix her monthly notional income as ₹18,000/-.

28. 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.

29. The injuries sustained by the applicant in O.P 651/19 were proved by Exts.A18, A21 and A23. Ext.A18 is the copy of accident register cum wound certificate issued from the Medical College Hospital,

Thiruvananthapuram. Ext.A21 are the copies of outpatient records issued from the Medical College Hospital, Thiruvananthapuram. Ext.A23 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. No evidence of fracture or disability in medical records. Hence, the applicant is not entitled to future loss of earning on account of permanent disability.

30. Considering the nature of injuries sustained by her, I find that she is entitled to get an amount of ₹20,000/- as compensation for pain and suffering and further an amount of ₹20,000/- towards compensation for loss of amenities and enjoyment in life.

31. Considering the nature of injuries sustained by her, 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 ₹18,000/-.

32. It is seen that the applicant in connection with the treatment visited the hospital. I find that under head transportation expenses she can be awarded an amount of ₹6,000/-.

33. She is entitled to get an amount of ₹3,000/- towards extra nourishment charges.

34. She is also entitled to get an amount of ₹2,500/- towards damage to clothing and articles as her clothing might have been damaged in the accident.

35. She was treated as outpatient for a period of 5 days. So, towards bystander's expense she is entitled to get an amount of ₹3,250/- @ ₹650/- per day.

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

37. The compensation due to the claimant in O.P 651/19 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	45,000	18,000	18,000 x 1 month
2	Transportation expenses	1,500	6,000	
3	Extra nourishment	2,000	3,000	
4	Damage to clothing	2,000	2,500	
5	Medical expenses	15,000	--	
6	Bystander's expenses	1,000	3,250	650 x 5 days
7	Pain and sufferings	250,000	20,000	
8	Compensation for loss of future earning power	50,000	--	
9	Loss of amenities and enjoyment in life	25,000	20,000	
10	Permanent disability	50,000	--	
	Total		72,750 Rounded to 73,000	₹73,000/- with 8% interest per annum from 30.07.19 till realization.

38. I hold that the claimant in O.P 651/19 is entitled to recover compensation of ₹73,000/- [Rupees Seventy Three Thousand Only].

39. Issue Nos. 3 & 4 are answered in favour of the applicants to the above extent.

40. **Issue No.5: --** In the result, the O.P 645/19 is allowed as follows: --

- (1) The claimant is allowed to realize an amount of ₹2,45,000/- [Rupees Two Lakhs and Forty Five Thousand Only], with interest @ 8% per annum from 27.07.19 till realization.
- (2) The claimant shall be entitled to get proportionate cost.
- (3) R2, being the insurer is ordered to deposit cheque for ₹4,373/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹5,000/- towards LBF.
- (4) R2 is directed to deposit the awarded sum to the credit of the Savings Bank Account of the petitioner Ravi, A/c. No. 67075166268 of SBI, Poovachal Branch with IFSC Code SBIN0070302.
- (5) The office is directed to give copy of the relevant page of the bank pass book to R2 along with this award.

41. In the result, the O.P 651/19 is allowed as follows: --

- (1) The claimant is allowed to realize an amount of ₹73,000/- [Rupees Seventy Three Thousand Only], with interest @ 8% per annum from 30.07.19 till realization.
- (2) The claimant shall be entitled to get proportionate cost.
- (3) R2, being the insurer is ordered to deposit cheque for ₹373/- in the name of M.A.C.T., Neyyattinkara towards

court fees payable on the claim petition & ₹1,000/- towards LBF.

- (4) R2 is directed to deposit the awarded sum to the credit of the Savings Bank Account of the petitioner Sheeba, A/c. No. 57059499054 of SBI, Poovachal Branch with IFSC Code SBIN0070302.
- (5) The office is directed to give copy of the relevant page of the bank pass book to R2 along with this award.

[Dictated to the Confidential Assistant, transcribed by her,
Corrected by me and pronounced in open court,
this the 30th day of April, 2026]

Sd/-
KAVITHA GANGADHARAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Exhibits Marked for the Applicants:-

A1	17-05-2019	Copy of FIR and FIS.
A2	18-05-2019	Copy of Mahazar.
A3	-	Copy of Insurance Policy.
A4	13-05-2019	Copy of Accident Register-cum-Wound Certificate.
A5	29-06-2019	Copy of Final Report.
A6	-	Copy of Aadhaar Card.
A7	08-09-2017	Copy of Driving License.
A8	-	Copy of Certificate of Registration.
A9	22-12-2017	Copy of Driving License.
A10	25-06-2019	Copy of Treatment Certificate.
A11	14-05-2019	Scan Report.
A12	14-05-2019	Scan Report.

A13	15-05-2019	Discharge Summary.
A14	03-06-2019	Out Patient Record.
A15	-	Copy of Bank Passbook.
A16	-	Copy of PAN Card.
A17	17-05-2019	Copy of FIR and FIS.
A18	13-05-2019	Copy of Accident Register-cum-Wound Certificate.
A19	-	Copy of Aadhaar Card.
A20	13-05-2019	Scan Report.
A21	-	Copy of Out Patient Records.
A22	-	Scan Reports.
A23	21-12-2019	Out Patient Record.
A24	-	Copy of Bank Passbook.
A25	-	Copy of PAN Card.
A26	-	Medical Bills.

Exhibits Marked for the Respondents:-

B1	13-05-2019	Copy of Accident Register-cum-Wound Certificate.
B2	-	Copy of Insurance Policy.

Witness Examined:- Nil

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

SHERISTADAR

MEMO OF COSTS IN O P (M V) No. 645 / 2019**For the Petitioner:-**

Court Fee	-	1,823.00
Legal Benefit Fund	-	2,450.00
Vakalath Fee	-	5.00
Process Fee	-	60.00
Stamp for Exhibits	-	22.00
Stamp for Petitions	-	64.00
Advocate Fee	-	14,250.00

Total	-	18,674.00 (Allowed)
		=====

For the Respondents:-

Not Allowed

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

SHERISTADAR

MEMO OF COSTS IN O P (M V) No. 651 / 2019**For the Petitioner:-**

Court Fee	-	373.00
Legal Benefit Fund	-	730.00
Vakalath Fee	-	5.00
Process Fee	-	60.00
Stamp for Exhibits	-	26.00
Stamp for Petitions	-	4.00
Advocate Fee	-	5,650.00

Total	-	6,848.00 (Allowed)
		=====

For the Respondents:-

Not Allowed

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

SHERISTADAR

Copy of Common Award in

O.P.(M.V.) Nos.

645/2019 & 651/2019

Dated: 30..04..2026.