

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA

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

Tuesday, the 31st day of March, 2026

10th day of Chaithra, 1948

O.P. (M.V.) No. 593 / 2018

Applicant:-

Sree Kumar, Aged 50 years, S/o. Velayudhan Pillai,
Kumar Sadanam, Kalluvila,
Arumanoor, Thirupuram Village.

By Advs: Sri. K.S. Santhosh Kumar and Sri. P. Asoka Kumar

Respondents:-

1. Surendran, S/o. Parameswaran,
Sukanya Bhavan, TC 12/582,
Vanchiyoor P.O., Thiruvananthapuram, Pin- 695 035.
2. Sasi Kumar, S/o. Divakaran,
Sarath Bhavan,
Near Channamkonam Chamundi Temple,
Koovakudi, Valiyara, Vellanadu P.O. (Deleted)
(R2 is deleted from party array on 14.03.2025)
3. The Branch Manager,
New India Assurance Company Limited,
Swadesabhimani Complex, Neyyattinkara.

By Adv: R1 - No Vakalath
R2 - Deleted
R3 - Sri. S. Sreekantan Nair

This claim petition having been finally heard on 27-03-2026 and the Tribunal on 31-03-2026 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 13.11.17 at about 05.30 pm, the applicant was standing near Sreeragam Auditorium, Pappanamcode, suddenly a car bearing Reg. No. KL-01-BB-8019 came from Karakkamandapam to Pappanamcode, driven by its driver in a rash and negligent manner so as to endanger human life, ran over the left foot of the applicant. As a result, the applicant sustained serious injuries. The accident was happened solely due to the rash and negligent driving of the car by its driver. The 1st respondent is its registered owner and the 3rd respondent is its insurer and hence both respondents are jointly and severally liable to pay compensation to the applicant. The 2nd respondent is the driver of the car. The 2nd respondent is deleted from party array on 14.03.2025.

3. The applicant, aged 50 years, is a KSRTC conductor. 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 ₹3,47,000/- and limited the claim to ₹3,00,000/-.

4. 1st respondent was 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 City Traffic police station failed to forward documents contemplated u/s. 158(6) of the M.V Act and thus violated the policy conditions. The amount of compensation claimed is totally baseless and highly exaggerated. Hence, 3rd respondent prayed to exonerate it from liability.

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 driving of the offending vehicle bearing Reg. No. KL-01-BB-8019 by its driver ?
2. Whether due to the negligent driving of the offending vehicle by its driver, 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 A12 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 13.11.17 at about 05.30 pm, the applicant was standing near Sreeragam Auditorium, Pappanamcode, suddenly a car bearing Reg. No. KL-01-BB-8019 came from Karakkamandapam to Pappanamcode, driven by its driver in a rash and negligent manner so as to endanger human life, ran over the left foot of the applicant. As a result, the applicant sustained serious injuries. Exts.A1 to A12 documents were produced by the applicant to prove his case. Ext.A1 is the copy of FIR & FIS in crime No. 6738/17 of City Traffic police station. Ext.A2 is the copy of scene mahazar. Ext.A3 is the copy of vehicle mahazar. Ext.A4 is the copy of final report in Ext.A1 FIR. Ext.A5 is the copy of accident register cum wound certificate issued from the PRS Hospital, Trivandrum. Ext.A6 is the copy of discharge card / discharge summary issued from the Taluk Head Quarter's Hospital, Parassala. Ext.A7 is the copy of AMVI report. Ext.A8 is the copy of certificate of registration. Ext.A9 is the copy of insurance policy. Ext.A10 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A11 is the discharge card / discharge

summary issued from the Taluk Head Quarter's Hospital, Parassala. Ext.A12 is the copy of Aadhaar card. The applicant did not produce his PAN card.

10. The accident was disputed by the insurer. Ext.A1, the copy of FIR in crime No. 6738/17 of City Traffic police station alleging the offence u/s. 279, 337 and 338 IPC and A4, the copy of final report in crime No. 6738/17 of City Traffic 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 driving of offending vehicle by its driver. 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. Eventhough the 3rd respondent disputed the accident, no oral evidence is tendered to prove their case. On a careful scrutiny of Exts.A1 and A4, it is found that the accident was happened due to the rash and negligent driving of the car bearing Reg.

No. KL-01-BB-8019 by its driver and thereby he hit the vehicle on the applicant who was a pedestrian and thus the applicant had sustained injuries such as fracture on 5th metatarsal bone, fracture on P1 4th toe, lacerated wound over medial aspect of [L] foot and lacerated wound over root of [L] 2nd, 3rd and 4th toe. 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-01-BB-8019 was driven by its driver at the time of the accident, as proved from Exts.A1 and A4. The said vehicle was owned by the 1st respondent at the time of accident. Ext.A8 is the copy of registration certificate. The copy of driving licence of the driver is not produced before the Tribunal. There is no allegation in Exts.A1 and A4 that the driver was having no 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 50 years at the time of accident. He was said to be a KSRTC driver and was said to be earning ₹24,000/- 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 an employee at starting level as ₹17,325/-. As the accident had happened in the year 2017, I fix his monthly notional income as ₹17,325/-.

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.A5, A6, A10 & A11. Ext.A5 is the copy of accident register cum wound certificate issued from the PRS Hospital, Trivandrum. Ext.A6 is the copy of discharge card / discharge summary issued from the Taluk Head Quarter's Hospital, Parassala. Ext.A10 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A11 is the discharge card / discharge summary issued from the Taluk Head Quarter's Hospital, Parassala. 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 6%. The multiplier to be applied is 13. So, the applicant is entitled to future loss of earning on account of permanent disability to the tune of $\text{₹}17,325 \times 12 \times 13 \times 6 / 100 = \text{₹}1,62,162/-$.

16. Considering the nature of injuries sustained by him, I find that he is entitled to get an amount of $\text{₹}40,000/-$ as compensation for pain and suffering and further an amount of $\text{₹}50,000/-$ 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 $\text{₹}34,650/-$.

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 $\text{₹}6,000/-$.

19. He is entitled to get an amount of ₹4,000/- towards extra nourishment charges.

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

21. He was treated as outpatient for a period of 1 day. So, towards bystander's expense he is entitled to get an amount of ₹650/- @ ₹650/- 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	60,000	34,650	17,325 x 2 months
2	Transportation expenses	5,000	6,000	
3	Extra nourishment	--	4,000	
4	Damage to clothing	2,000	2,500	
5	Medical expenses	25,000	--	
6	Bystander's expenses	5,000	650	650 x 1 day
7	Pain and sufferings	50,000	40,000	
8	Compensation for loss of future earning power	60,000	1,62,162	17,325x12x13x6/100
9	Loss of amenities and enjoyment in life	40,000	50,000	
10	Permanent disability	1,00,000	--	
	Total		2,99,962	₹3,00,000/- with 7% interest per annum from 07.06.18 till realization.
			Rounded to 3,00,000	

24. I hold that the claimant is entitled to recover compensation of ₹3,00,000/- [Rupees Three Lakh 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 ₹3,00,000/- [Rupees Three Lakh Only], with interest @ 7% per annum from 07.06.18 till realization.
- (2) The claimant shall be entitled to get proportionate cost.
- (3) R3, being the insurer is ordered to deposit cheque for ₹2,373/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹3,000/- 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 31st day of March, 2026]

Sd/-

KAVITHA GANGADHARAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Exhibits Marked for the Applicant:-

A1	07-12-2017	Copy of FIR and FIS.
A2	07-12-2017	Copy of Scene Mahazar.
A3	08-12-2017	Copy of Vehicle Mahazar.
A4	18-12-2017	Copy of Final Report.
A5	13-11-2017	Copy of Accident Register-cum-Wound Certificate.
A6	-	Copy of Discharge Card/ Discharge Summary.
A7	08-12-2017	Copy of AMVI Report.
A8	-	Copy of Certificate of Registration.
A9	-	Copy of Insurance Policy.
A10	13-11-2017	Out Patient Record.
A11	-	Discharge Card/ Discharge Summary.
A12	-	Copy of Aadhaar Card.

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. 593 / 2018**For the Petitioner:-**

Court Fee	-	2,373.00
Vakalath Fee	-	5.00
Process Fee	-	30.00
Stamp for Exhibits	-	18.00
Stamp for Petitions	-	4.00

Total	-	2,430.00
		=====

(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. 593 /2018
Dated: 31..03..2026.