

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA

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

Monday, the 30th day of March, 2026

09th day of Chaithra, 1948

O.P. (M.V.) No. 1030 / 2018

Applicant:-

Vishnu, Aged 28 years, S/o. Binu Kumar,
Saraswathy Bhavan, Arattukuzhi,
Koothali, Vellarada, Vellarada Village.

By Advs: Sri. K.S. Santhoshkumar and Sri. P. Asokakumar

Respondents:-

1. Sekhar P., S/o. Pachiyappan,
D.No.4/319, Koolikottai,
Rajagollahallii P.O., Nagarkudal,
Dharmapuri District, Tamilnadu- 636 803.
2. Muniyappan, S/o. Poothalan,
1/160, Alangarai, Kuppur P.O.,
Dharmapuri District, Tamilnadu- 636 705.
3. The Branch Manager,
The New India Assurance Company Limited,
Swadesabhimani Complex, Neyyattinkara.

By Adv: R1 and R2 - No Vakalath
R3 - Sri. S.K. Ajith Kumar

This claim petition having been finally heard on 23-03-2026 and the Tribunal on 30-03-2026 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 05.05.18 at about 04.30 pm, the applicant was riding a motorcycle bearing Reg. No. KL-20-L-9647 through Netta to Anappara Road and when he reached near Kathippara Junction, he was knocked down by the offending lorry bearing Reg. No. TN-29-BH-1692 came from the opposite direction, driven by the 2nd respondent in a rash and negligent manner so as to endanger human life. As a result, the applicant sustained the injuries. The accident was happened solely due to the rash and negligent driving of the lorry by the 2nd respondent. The 1st respondent is its registered 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 28 years, is doing business. 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 ₹21,22,000/- and limited the claim to ₹20,00,000/-.

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 application is bad for non-joinder and mis-joinder of necessary parties. The averments in the application are to be proved by the applicant. The insurance policy is admitted. The amount of compensation claimed under various heads are unsustainable, unreasonable, exorbitant, claimed without any basis and may not be allowed. Hence, 3rd respondent prayed to dismiss the application with costs.

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. TN-29-BH-1692 by the 2nd respondent ?
2. Whether due to the negligent driving of the offending vehicle by the 2nd 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 ?

7. No oral evidence was adduced by either of the parties. Exts.A1 to A11 were marked from the side of the applicant. Ext.B1 was 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 05.05.18 at about 04.30 pm, the applicant was riding a motorcycle bearing Reg. No. KL-20-L-9647 through Netta to Anappara Road and when he reached near Kathippara Junction, he was knocked down by the offending lorry bearing Reg. No. TN-29-BH-1692 came from the opposite direction, driven by the 2nd respondent in a rash and negligent manner so as to endanger human life. As a result, the applicant sustained the injuries. Exts.A1 to A11 documents were produced by the applicant to prove his case. Ext.A1 is the copy of FIR & FIS in crime No. 596/18 of Vellarada police station. Ext.A2 is the copy of scene mahazar. Ext.A3 is the copy of vehicle mahazar. Ext.A4 is the copy of AMVI report. Ext.A5 is the copy of wound certificate issued from the Ruckmoni Memorial Devi Hospital, Vellarada. Ext.A6 is the copy of discharge summary issued from the Ananthapuri Hospitals, Thiruvananthapuram. The applicant was admitted in the said hospital on 05.05.18 and was discharged on 09.07.18. Ext.A7 is the copy of treatment certificate issued from the Ananthapuri Hospitals, Thiruvananthapuram. Ext.A8 is the copy of final report in Ext.A1 FIR. Ext.A9 is the copy of insurance policy. Ext.A10 is

the copy of driving licence of the applicant. Ext.A11 are the medical bills amounting to ₹13,65,138/-. Ext.B1 is the copy of insurance policy. 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. 596/18 of Vellarada police station alleging the offence u/s. 279, 337 and 338 IPC and Ext.A8, the copy of final report in crime No. 596/18 of Vellarada 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 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. 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 A8, it is found that the accident was happened due to the rash and negligent driving of the lorry bearing

Reg. No. TN-29-BH-1692 by the 2nd respondent and thereby he hit the vehicle on the vehicle ridden by the applicant and thus the applicant had sustained injuries such as poly trauma B/L parietal SAH + tentorial bleed+ traumatic brain contusion + no verbal response, fracture both bones of [R] hand and fracture on ribs. 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. TN-29-BH-1692 was driven by the 2nd respondent at the time of the accident, as proved from Exts.A1 and A8. The said vehicle was owned by the 1st respondent at the time of accident. The said vehicle was validly insured with the 3rd respondent at the time of accident. Exts.A9 and B1 are the copies of insurance policy. The offending vehicle was driven by the 2nd respondent without holding a valid driving licence. It is a violation of policy condition. Thus, breach of policy condition is proved to be done by the 3rd respondent as against the 1st respondent. The 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. But as there is breach of policy condition proved to be done by the 3rd respondent, the 3rd respondent is

entitled to recover the compensation paid from the 1st respondent.

13. The applicant was aged 28 years at the time of accident. He was said to be doing business and was said to be earning ₹20,000/- 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 businessman as ₹17,325/-. As the accident had happened in the year 2018 and considering his occupation, 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 to A7. Ext.A5 is the copy of wound certificate issued from the Ruckmoni Memorial Devi Hospital, Vellarada. Ext.A6 is the copy of discharge summary issued from the Ananthapuri Hospitals, Thiruvananthapuram. The applicant was admitted in the said hospital on 05.05.18 and was discharged on 09.07.18. Ext.A7 is the copy of treatment certificate issued from the Ananthapuri Hospitals, 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 20%. The multiplier to be applied is 17. So, the applicant is entitled to future loss of earning on account of permanent disability to the tune of $\text{₹}17,325 \times 12 \times 17 \times 20 / 100 = \text{₹}7,06,860/-$.

16. Considering the nature of injuries sustained by him, I find that he is entitled to get an amount of ₹1,00,000/- as compensation for pain and suffering and further an amount of ₹1,50,000/- 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 ₹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 ₹6,000/-.

19. He is entitled to get an amount of ₹25,000/- 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 inpatient and outpatient for a period of 46 days. So, towards bystander's expense he is entitled to get an amount of ₹29,900/- @ ₹650/- per day.

22. The medical bills are produced and the amount claimed is ₹13,65,138/-. Some bills are rejected and hence he is entitled to get ₹11,33,471/- towards medical expenses.

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	--	25,000	
4	Damage to clothing	2,000	2,500	
5	Medical expenses	12,00,000	11,33,471	Medical bill produced
6	Bystander's expenses	5,000	29,900	650 x 46 days
7	Pain and sufferings	2,00,000	1,00,000	
8	Compensation for loss of future earning power	1,50,000	7,06,860	$17,325 \times 12 \times 17 \times 20 / 100$
9	Loss of amenities and enjoyment in life	1,00,000	1,50,000	
10	Permanent disability	4,00,000	--	
	Total		21,88,381	₹21,89,000/- with 8% interest per annum from 22.09.18 till realization.
			Rounded to 21,89,000	

24. It is true that the amount of compensation fixed by this Tribunal is higher than the amount claimed in the original petition. It is the duty of the Tribunal to award just and fair compensation, irrespective of the claim amount. In *Nagappa v. Gurudayal Singh [AIR 2003 (SC) 674]*, the Hon'ble Supreme Court held that there is no restriction to a Tribunal / Court to award compensation amount exceeding the claim amount. The function of the Tribunal / Court is to award just compensation which is reasonable on the basis of evidence produced on record. Therefore, the amount of compensation fixed by this Tribunal has to be awarded to the claimant. Court fee has to be levied on the entire amount of compensation that has to be awarded.

25. I hold that the claimant is entitled to recover compensation of ₹21,89,000/- [Rupees Twenty One Lakhs and Eighty Nine Thousand Only].

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

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

- (1) The claimant is allowed to realize an amount of ₹21,89,000/- [Rupees Twenty One Lakhs and Eighty Nine Thousand Only], with interest @ 8% per annum from 22.09.18 till realization from the 3rd respondent and the 3rd respondent is allowed to recover the compensation amount from the 1st respondent.
- (2) The claimant shall be entitled to get proportionate cost.

- (3) R3, being the insurer is ordered to deposit cheque for ₹21,263/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹21,890/- 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 30th day of March, 2026]

Sd/-

KAVITHA GANGADHARAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

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

A1	06-05-2018	Copy of FIR and FIS.
A2	07-05-2018	Copy of Scene Mahazar.
A3	08-05-2018	Copy of Vehicle Mahazar.
A4	-	Copy of AMVI Reports.
A5	05-05-2018	Copy of Wound Certificate.
A6	09-07-2018	Copy of Discharge Summary.
A7	06-07-2018	Copy of Treatment Certificate.
A8	07-07-2018	Copy of Final Report.
A9	-	Copy of Insurance Policy.
A10	21-11-2013	Copy of Driving License.
A11	-	Medical Bills.

Exhibit Marked for the Respondents:-

B1 - 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. 1030 / 2018**For the Petitioner:-**

Court Fee	-	21,263.00
Vakalath Fee	-	5.00
Process Fee	-	35.00
Stamp for Exhibits	-	100.00
Stamp for Petitions	-	6.00

Total	-	21,409.00
		=====

(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. 1030 /2018
Dated: 30..03..2026.