

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA

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

Saturday, the 25th day of April, 2026

05th day of Vaisakha, 1948

O.P. (M.V.) No. 1115 / 2019

Applicant:-

Binu, Aged 42 years, S/o. Sisupalan
Puthuvalchemmannuvila Puthen Veedu,
Aralumoodu P.O., Neyyattinkara, Thiruvananthapuram.

By Advs: Sri. S.R. Presith and Smt. S. Rekha

Respondents:-

1. Sunitha, D/o. Vasantha,
Ambadi Bhavan, Pulinkode Puthen Veedu,
Oottukuzhi, Vilappilsala, Thiruvananthapuram- 695 573.
2. The Divisional Manager,
The New India Assurance Limited,
Panamukham Building, Govt. Press Road,
Thiruvananthapuram- 695 001.

By Adv: R1 - No Vakalath
R2 - Sri. M.S. Samesh

This claim petition having been finally heard on 24-04-2026 and the Tribunal on 25-04-2026 delivered the following.

A W A R D

This is an application filed u/s. 164 of the M.V Act by the applicant for getting compensation for the injuries sustained in the road traffic accident. Initially it was filed u/s. 163 A of the M.V Act and later it was amended into one u/s. 164 of the M.V Act.

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

On 31.07.16 at about 07.30 pm, while the applicant was riding his bike through Malappanamcode to Vilappilsala Road and when he reached near Puttumikonam NSS Karayogam, his bike was collided with another scooter which came from the opposite direction. As a result, the applicant was thrown to the road and sustained grievous injuries. The accident occurred due to the use of vehicle. The 1st respondent is the registered owner cum rider and the 2nd respondent is the insurer of the scooter bearing Reg. No. KL-20-H-6136 and hence both respondents are jointly and severally liable to pay compensation to the applicant.

3. The applicant, aged 39 years, is a driver. 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 ₹2,50,000/-.

4. 1st respondent was called absent and set exparte. 2nd respondent filed written statement.

5. 2nd 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 under various heads are unreasonable, exorbitant, unfounded and may not be allowed. Hence, 2nd 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 ?
2. Whether the applicant is entitled to get compensation from the respondents and if so, from which respondent ?
3. The quantum of compensation to which the applicant is entitled ?
4. Reliefs and costs ?

7. No oral evidence was adduced by either of the parties. Exts.A1 to A14 were marked from the side of the applicant. Exts.B1 to B3 were marked from the side of the 2nd respondent. Heard both sides.

8. **Issue Nos.1 to 3** : – These issues can be considered together for the sake of convenience.

9. The case of the applicant is that on 31.07.16 at about 07.30 pm, while the applicant was riding his bike through Malappanamcode to Vilappilsala Road and when he reached near Puttumlkonam NSS Karayogam, his bike was collided with another scooter which came from the opposite direction. As a result, the applicant was thrown to the road and sustained grievous injuries. Exts.A1 to A14 documents were produced by the applicant to prove her case. Ext.A1 is the copy of FIR & FIS in crime No. 884/16 of Vilappilsala 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 final report in Ext.A1 FIR. Ext.A6 is the scan report. Exts.A7 to A9 are the copies of scan report. Ext.A10 is the copy of discharge summary

issued from Dr. S.M C.S.I Medical College & Hospital, Karakonam. The applicant was admitted in the said hospital on 01.08.16 and was discharged on 12.08.16. Ext.A11 is the referral O.P issued from the Regional Institute of Ophthalmology, Thiruvananthapuram. Ext.A12 is the outpatient record issued from the Medical College Hospital, Thiruvananthapuram. Ext.A13 are the medical bills. Ext.A14 is the copy of driving licence of the applicant. Ext.B1 is the copy of common award in OP(MV)s 1426/16 & 1437/16. Ext.B2 is the copy of written statement in OP(MV) 1426/16. Ext.B3 is the copy of written statement in OP(MV) 1437/16. The applicant did not produce his PAN card.

10. Ext.A1, the copy of FIR in crime No. 884/16 of Vilappilsala police station and Ext.A5, the copy of final report in crime No. 884/16 of Vilappilsala 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. Exts.A6 to A13 proves that the applicant had suffered grievous hurt due to an accident arising out of the use of motor vehicle. It is proved by the applicant that she sustained grievous hurt vide Exts.A6 to A13 and the injuries were sustained on account of the use of motor vehicle. The medical records shows that the applicant sustained fracture of the lateral pterygoid plate on the left side, multiple facial fractures, comminuted fracture on the lateral and interior walls of left orbit with indentation of lateral rectus muscle by fracture fragment, comminuted displaced

fracture of the anterior, postero-lateral and inferior wall of left maxillary sinus with fracture fragment noted within the sinus, comminuted fracture of left zygomatic arch, lateral deviation of left eye ball and it is proved that the applicant had sustained grievous hurt and thereby it is proved that the applicant had sustained grievous hurt. The medical evidence therefore establishes that the petitioner sustained grievous injury in the accident.

11. This Original petition is filed under Section 164 of the Motor Vehicles Act, which provides for payment of compensation on a no-fault basis. As per the dictum in United India Insurance Co. Ltd. v. Sunil Kumar (2017 (4) KLT 109 (SC)), in a claim under the no-fault provision, the Tribunal is not required to enter a finding on negligence and the insurer cannot avoid liability on the ground of fault of the victim. Since Section 163-A of Motor Vehicles Act, 1988 is now substituted by Section 164 of Motor Vehicles Act, 1988 (Act 32 of 2019 w.e.f 01.04.2022), compensation is liable to be enhanced as per the substituted statutory provision ie. Section 164 of the Motor Vehicles Act, 1988, therefore, claimant herein is entitled to be granted the benefit of beneficial provision under Section 164 which provides for payment of compensation in case of death in the amount of Rs.5 lakhs and in case of grievous hurt of Rs.2.5 lakhs.

12. In United India Insurance Company Limited v. Padamavathy, 1990 A.C.J. 751, it was held that the award for no fault liability in a

vehicular accident which occurred prior to coming into force of 1988 Act should be in tune with the amount fixed by the 1988 Act and not under the earlier Act, i.e. Motor Vehicles Act, 1939. The gist of the aforementioned judgment is that the benefit of amended provisions must be extended to the claimants even if the accident had taken place before the amendment in the Statute. In view of the aforesaid settled provision the applicant herein is also entitled to get compensation u/s 164 MV act.

13. The offending vehicle bearing Reg. No. KL-20-H-6136 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. But copy of certificate of registration of the vehicle is not produced before the Tribunal. The copy of driving license of the 1st respondent is also not produced. There is no allegation in Exts.A1 and A5 that the 1st respondent was having no license. The said vehicle was validly insured with the 2nd respondent at the time of accident. The insurance policy is admitted in the written statement. 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.

14. In view of the above findings and the settled legal position governing no-fault liability, this Tribunal holds that the petitioner has established all statutory requirements under Section 164 of the Motor Vehicles Act and is therefore entitled to the fixed compensation prescribed therein for grievous injury. As per section. 164(1) of the M.V Act, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle a compensation of a sum of ₹5,00,000/- in case of death or ₹2,50,000/- in case of grievous hurt to the legal heirs or the victim as the case may be.

15. On the basis of the evidence adduced, it is found that the petitioner has succeeded in proving that (i) the accident arose out of the use of the motor vehicle, (ii) the petitioner sustained grievous injury within the meaning of law, and (iii) the vehicle was covered by a valid policy of insurance. Thus the applicant is entitled to get compensation u/s. 164(1) of M.V Act for grievous hurt sustained by him due to the use of motor vehicle and therefore he is entitled to get an amount of ₹2,50,000/- towards compensation.

16. I hold that the claimant is entitled to recover compensation of ₹2,50,000/- [Rupees Two Lakhs and Fifty Thousand Only].

17. Issue Nos. 1 to 3 are answered in favour of the applicant to the above extent.

18. **Issue No.4: --** In the result, the O.P is allowed as follows: –

(1) The claimant is allowed to realize an amount of ₹2,50,000/-

[Rupees Two Lakhs and Fifty Thousand Only], with interest @ 7% per annum from 19.11.19 till realization.

- (2) The claimant shall be entitled to get proportionate cost.
- (3) R2, being the insurer is ordered to deposit cheque for ₹1,873/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹2,500/- towards LBF.
- (4) R2 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 R2 along with this award.

[Dictated to the Confidential Assistant, transcribed by her,
Corrected by me and pronounced in open court,
this the 25th day of April, 2026]

Sd/-

KAVITHA GANGADHARAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

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

A1	06-08-2016	Copy of FIR and FIS.
A2	06-08-2016	Copy of Scene Mahazar.
A3	08-08-2016	Copy of Vehicle Mahazar.
A4	-	Copy of AMVI Report.
A5	21-01-2016	Copy of Final Report.
A6	31-07-2016	Scan Report.
A7	02-08-2016	Copy of Scan Report.
A8	02-08-2016	Copy of Scan Report.
A9	02-08-2016	Copy of Scan Report.
A10	12-08-2016	Copy of Discharge Summary.
A11	19-08-2016	Referral OP.
A12	20-08-2016	Out Patient Record.
A13	-	Medical Bills.
A14	-	Copy of Driving License.

Exhibits Marked for the Respondents:-

B1	-	Copy of Common Award in OP(M.V.) Nos.1426/16 and 1437/16.
B2	-	Copy of Written Statement in OP(M.V.)No.1426/16.
B3	-	Copy of Written Statement in OP(M.V.)No.1437/16.

Witness Examined:- Nil

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

SHERISTADAR

MEMO OF COSTS IN O P (M V) No. 1115 / 2019**For the Petitioner:-**

Court Fee	-	1,873.00
Legal Benefit Fund	-	2,500.00
Vakalath Fee	-	5.00
Process Fee	-	70.00
Stamp for Exhibits	-	100.00
Advocate Fee (Senior)	-	14,900.00
Advocate Fee (Junior)	-	4,966.00

Total	-	24,414.00 (Allowed)
		=====

For the Respondents:-

Not Allowed

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

SHERISTADAR

Copy of Award in
O.P.(M.V.) No. 1115 /2019
Dated: 25..04..2026.