

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. 949 / 2017 and 950 / 2017

O.P. (M.V.) No. 949 / 2017

Applicants:-

1. Rafeek Koyakutty, S/o. Koyakutty,
R.K. Manzil, TRA-75 (A), Thachottukavu,
Malayinkeezhu. (Died)
 - Addl.2. Khadeeja Rafeek, W/o. Late Rafeek Koyakutty,
R.K. Manzil, TRA-75 (A), Thachottukavu,
Malayinkeezhu.
 - Addl.3. Rakha Rafeek, S/o. Late Rafeek Koyakutty,
R.K. Manzil, TRA-75 (A), Thachottukavu,
Malayinkeezhu.
 - Addl.4. Rasulath Manuj, D/o. Late Rafeek Koyakutty,
Manuj Manzil, Thejas Nagar 4,
Vadakkevila P.O., Vadakkevila,
Kollam, Kerala, Pin- 691 010.
- (Additional 2nd to 4th Applicants are impeaded as per order in IA.02/2023, dated 30.10.2025)

By Adv: Sri. Kattakada P.S. Anil

Respondents:-

1. Sajan N., S/o. Nelson,
Karimarathinmmel Veedu,
Thekkupara, Amboori- 695 505.

2. The Divisional Manager,
New India Assurance Company Limited,
Chandrasekharan Nair Stadium Complex,
Palayam- 695 034.

By Advs: R1 - Sri. S.K. Asok Kumar
R2 - Sri. S.K. Ajith Kumar

O.P. (M.V.) No. 950 / 2017

Applicant:-

Khadeeja Rafeek, Aged 48 years, W/o. Rafeek Koyakutty,
R.K. Manzil, TRA-75 (A), Thachottukavu,
Malayinkeezhu.

By Adv: Sri. Kattakada P.S. Anil

Respondents:-

1. Sajan N., S/o. Nelson,
Karimarathinmmel Veedu,
Thekkupara, Amboori- 695 505.
2. The Divisional Manager,
New India Assurance Company Limited,
Chandrasekharan Nair Stadium Complex,
Palayam- 695 034.

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

This claim petition having been finally heard on 25-03-2026 and the Tribunal on 27-03-2026 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 04/24 dated 15.06.24 joint trial was ordered. During the pendency of application the original applicant in O.P 949/17 died and his legal representative were impleaded as additional applicants 2 to 4 as per order in I.A 02/23 dated 30.10.25.

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

On 14.01.16 at about 10.45 am, while the original applicant in O.P 949/17 was riding the motorcycle bearing Reg. No. KL-20-H-2676 with the applicant in O.P 950/17 as pillion rider along the Thachottukavu-Peyad Road from Peyad to Thachottukavu and when they reached near the Hyper Market at Peyad, another motorcycle bearing Reg. No. KL-08-W-8753, came behind and ridden by its rider 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 sustained very serious injuries. The accident was happened solely due to the rash and negligent riding of the motorcycle bearing Reg. No. KL-08-W-8753 by its rider. The 1st respondent 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 original applicant in O.P 949/17, aged 54 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 ₹8,37,000/- and limited the claim to ₹4,00,000/-.

4. The applicant in O.P 950/17, aged 48 years, is a house wife. 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 ₹18,87,000/- and limited the claim to ₹10,00,000/-.

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 rider was not holding valid driving licence at the time of accident. The insurance policy is admitted. The amounts of compensation claimed under various heads are unsustainable, 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 949/17 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-08-AW-8753 by its rider ?
2. Whether due to the negligent riding of the offending vehicle by its rider, 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 950/17 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-08-AW-8753 by its rider ?
2. Whether due to the negligent riding of the offending vehicle by its rider, 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 A18 were marked from the side of the applicants. Exts.A1 to A10 relate to O.P 949/17. Exts.A11 to A18 relate to

O.P 950/17. 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 14.01.16 at about 10.45 am, while the original applicant in O.P 949/17 was riding the motorcycle bearing Reg. No. KL-20-H-2676 with the applicant in O.P 950/17 as pillion rider along the Thachottukavu – Peyad Road from Peyad to Thachottukavu and when they reached near the Hyper Market at Peyad, another motorcycle bearing Reg. No. KL-08-W-8753, came behind and ridden by its rider 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 sustained very serious injuries. Exts.A1 to A18 documents were produced by the applicants to prove their case. Ext.A1 is the copy of accident register cum wound certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. Ext.A2 is the copy of driving licence of the deceased in O.P 949/17. Exts.A3 and A4 are the copies of treatment certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. The applicant was admitted in the said hospital on 15.02.16 and was discharged on 22.02.16. Exts.A5 and A6 are the copies of death certificate. Ext.A7 is the copy of ration card. Exts.A8 to A10 are the copies of Aadhaar cards. Ext.A11 is the copy of FIR in crime No. 101/16 of Malayinkil police station. Ext.A12 is the copy

of scene mahazar. Ext.A13 is the copy of draft charge. Ext.A14 is the copy of certificate of registration. Ext.A15 is the copy of accident register cum wound certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. Ext.A16 is the copy of insurance policy. Exts.A17 and A18 are the copies of treatment certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. The applicant was admitted in the said hospital on 14.01.16 and was discharged on 22.02.16. Ext.B1 is the copy of Acknowledgment for Receipt of money. Ext.B2 is the copy of draft charge.

12. The accident was disputed by the insurer. Ext.A11, the copy of FIR in crime No. 101/16 of Malayinkil police station alleging the offence u/s. 279, 337 and 338 IPC and Ext.A13, the copy of final report in crime No. 101/16 of Malayinkil 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 its rider. 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.A11 & A13, it is found that the accident was happened due to the rash and negligent riding of the motorcycle bearing Reg. No. KL-08-AW-8753 by its rider and thereby the original applicant in O.P 949/17 had sustained injuries such as head injury [R] temporal and parietal region, abrasion [R] elbow, abrasion [R] knee, abrasion [R] foot, abrasion [L] ankle, respiratory failure and the applicant in O.P 950/17 had sustained injuries such as head injury [R] temporal and parietal region, [R] FTP SDH with mild line shift, SAH, SHTI, abrasin [R] eyebrow and abrasion [R] scapula. 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-08-AW-8753 was ridden by its rider at the time of the accident, as proved from Exts.A11 and A13. The said vehicle was owned by the 1st respondent at the time of accident. Ext.A14 is the copy of registration certificate. The said vehicle was validly insured with the 2nd respondent at the time of accident. Ext.A16 is the copy of insurance policy. The offending vehicle was ridden by its rider 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 2nd respondent as against the 1st respondent. The 1st respondent is primarily liable to pay compensation to the applicants 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 applicants. But as there is breach of policy condition proved to be done by the 2nd respondent, the 2nd respondent is entitled to recover the compensation paid from the 1st respondent.

15. The original applicant was aged 54 years at the time of accident. He was said to be a driver and was said to be earning ₹25,000/- per month. In *Ramachandrappa v. Manager, Royal Sundaram Allianz Insurance Co. Ltd.* (2011) 13 SCC 236, the Hon'ble Supreme Court fixed the notional income of a coolie as ₹4,500/- per month for the accident happened in 2006. As the accident had happened in the year 2016, I fix his monthly notional income as ₹10,500/-.

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 were proved by Exts.A1, A3 & A4. Ext.A1 is the copy of accident register cum wound certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. Exts.A3 and A4 are the copies of treatment certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. The applicant was admitted in the said hospital on 15.02.16 and was discharged on 22.02.16. 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.

18. Considering the nature of injuries sustained by him, I find that the additional applicants are entitled to get an amount of ₹30,000/- as compensation for pain and suffering and further an amount of ₹30,000/- towards compensation for loss of amenities and enjoyment in life.

19. Considering the nature of injuries sustained by him, I find that the additional applicants are entitled to loss of earning for a period of 2 months during the period of treatment to the tune of ₹21,000/-.

20. It is seen that the applicant in connection with the treatment visited multiple hospitals. I find that under head transportation

expenses the additional applicants can be awarded an amount of ₹5,000/-.

21. The additional applicants are also entitled to get an amount of ₹7,000/- towards extra nourishment charges.

22. The additional applicants are entitled to get an amount of ₹2,000/- towards damage to clothing and articles as the original applicant's clothing might have been damaged in the accident.

23. The original applicant was treated as inpatient outpatient for a period of 8 days. So, towards bystander's expense the additional applicants entitled to get an amount of ₹4,000/- @ ₹500/- per day.

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

25. The compensation due to the additional claimants in O.P 949/17 are 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	21,000	10,500 x 2 months
2	Transportation expenses	15,000	5,000	
3	Extra nourishment	10,000	7,000	
4	Damage to clothing	2,000	2,000	
5	Medical expenses	1,50,000	--	
6	Bystander's expenses	10,000	4,000	500 x 8 days
7	Pain and sufferings	50,000	30,000	
8	Compensation for loss of future earning power	1,00,000	--	
9	Loss of amenities and enjoyment in life	50,000	30,000	
10	Permanent disability	2,00,000	--	
	Total		99,000	₹99,000/- with 7% interest per annum from 03.08.17 till realization.

26. I hold that the additional applicants in O.P 949/17 are entitled to recover compensation of ₹99,000/- [Rupees Ninety Nine Thousand Only]. The additional applicants are entitled to get their share in the equal ratio.

27. The applicant in O.P 950/17 was aged 48 years at the time of accident. She was said to be a house wife and was said to be earning ₹10,000/- per month. In Ramachandrappa v. Manager, Royal Sundaram Allianz Insurance Co. Ltd. (2011) 13 SCC 236, the Hon'ble Supreme Court fixed the notional income of a coolie as ₹4,500/- per month for the accident happened in 2006. As the accident had happened in the year 2016, I fix her monthly notional income as ₹10,500/-.

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 950/17 were proved by Exts.A15, A17 and A18. Ext.A15 is the copy of accident register cum wound certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. Exts.A17 and A18 are the copies of treatment certificate issued from the Ananthapuri Hospital, Thiruvananthapuram. The applicant was admitted in the said hospital on 14.01.16 and was discharged on 22.02.16. 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 13. So, the applicant is entitled to future loss of earning on account of permanent disability to the tune of $\text{₹}10,500 \times 12 \times 13 \times 20 / 100 = \text{₹}3,27,600/-$.

30. Considering the nature of injuries sustained by her, I find that she is entitled to get an amount of $\text{₹}80,000/-$ as compensation for pain and suffering and further an amount of $\text{₹}1,00,000/-$ 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 2 months during the period of treatment to the tune of $\text{₹}21,000/-$.

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 $\text{₹}5,000/-$.

33. She is entitled to get an amount of ₹7,000/- towards extra nourishment charges.

34. She is also entitled to get an amount of ₹2,000/- towards damage to clothing and articles as her clothing might have been damaged in the accident.

35. She was treated as inpatient and outpatient for a period of 9 days. So, towards bystander's expense she is entitled to get an amount of ₹4,500/- @ ₹500/- per day.

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

37. The compensation due to the claimant in O.P 950/17 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	1,20,000	21,000	10,500 x 2 months
2	Transportation expenses	15,000	5,000	
3	Extra nourishment	30,000	7,000	
4	Damage to clothing	2,000	2,000	
5	Medical expenses	7,00,000	--	
6	Bystander's expenses	20,000	4,500	500 x 9 days
7	Pain and sufferings	50,000	80,000	
8	Compensation for loss of future earning power	2,00,000	3,27,600	10,500x12x13x20/100
9	Loss of amenities and enjoyment in life	50,000	1,00,000	
10	Permanent disability	4,00,000	--	
	Total		5,47,100	₹5,48,000/- with 7% interest per annum from 03.08.17 till realization.
			Rounded to 5,48,000	

38. I hold that the claimant in O.P 950/17 is entitled to recover compensation of ₹5,48,000/- [Rupees Five Lakhs and Forty Eight 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 949/17 is allowed as follows: --

- (1) The 2nd to 4th additional claimants are allowed to realize an amount of ₹99,000/- [Rupees Ninety Nine Thousand Only], with interest @ 7% per annum from 03.08.17 till realization from the 2nd respondent and the 2nd respondent is allowed to recover the compensation amount from 1st respondent, the registered owner of the offending vehicle.
- (2) The 2nd to 4th additional claimants shall be entitled to get proportionate cost.
- (3) R2, being the insurer is ordered to deposit cheque for ₹3,373/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹4,000/- towards LBF.
- (4) R2 is directed to deposit the awarded sum to the credit of the Savings Bank Account of the 2nd to 4th additional claimants. The bank name, bank account number and IFSC code of bank branch is not produced by the 2nd to 4th

additional claimants.

- (5) The 2nd to 4th additional claimants shall furnish attested copy of the relevant page of their 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 2nd to 4th additional claimants fail to produce the copy of pass book as directed above, they shall not be entitled to get interest for the period, for which they cause 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.

41. In the result, the O.P 950/17 is allowed as follows: --

- (1) The claimant is allowed to realize an amount of ₹5,48,000/- [Rupees Five Lakhs and Forty Eight Thousand Only], with interest @ 7% per annum from 03.08.17 till realization from the 2nd respondent and the 2nd respondent is allowed to recover the compensation amount from 1st respondent, the registered owner of the offending vehicle.
- (2) The claimant shall be entitled to get proportionate cost.

- (3) R2, being the insurer is ordered to deposit cheque for ₹9,373/- in the name of M.A.C.T., Neyyattinkara towards court fees payable on the claim petition & ₹10,000/- 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 her 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, she shall not be entitled to get interest for the period, for which she 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 27th day of March, 2026]

Sd/-

KAVITHA GANGADHARAN
MOTOR ACCIDENTS CLAIMS TRIBUNAL

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

A1	14-01-2016	Copy of Accident Register-cum-Wound Certificate.
A2	20-09-2012	Copy of Driving License.
A3	01-03-2016	Copy of Treatment Certificate.
A4	22-02-2016	Copy of Treatment Certificate.
A5	-	Copy of Death Certificate.
A6	01-03-2024	Copy of Death Certificate.
A7	-	Copy of Ration Card.
A8	-	Copy of Aadhaar Card.
A9	-	Copy of Aadhaar Card.
A10	-	Copy of Aadhaar Card.
A11	01-02-2016	Copy of FIR.
A12	01-02-2016	Copy of Scene Mahazar.
A13	-	Copy of Draft Charge.
A14	-	Copy of Certificate of Registration.
A15	14-01-2016	Copy of Accident Register-cum-Wound Certificate.
A16	-	Copy of Insurance Policy.
A17	03-03-2016	Copy of Treatment Certificate.
A18	22-02-2016	Copy of Treatment Certificate.

Exhibits Marked for the Respondents:-

B1	-	Copy of Acknowledgment for Receipt of Money.
B2	-	Copy of Draft Charge.

Witness Examined:- Nil

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

SHERISTADAR

MEMO OF COSTS IN O P (M V) No. 949 / 2017**For the Petitioners:-**

Court Fee	-	373.00
Legal Benefit Fund	-	990.00
Vakalath Fee	-	5.00
Process Fee	-	60.00
Stamp for Exhibits	-	20.00
Stamp for Petitions	-	14.00
Advocate Fee	-	7,350.00

Total	-	8,812.00 (Allowed)
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For the Respondents:-

Not Allowed

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

SHERISTADAR

MEMO OF COSTS IN O P (M V) No. 950 / 2017**For the Petitioner:-**

Court Fee	-	4,853.00
Legal Benefit Fund	-	5,480.00
Vakalath Fee	-	5.00
Process Fee	-	30.00
Stamp for Exhibits	-	20.00
Stamp for Petitions	-	4.00
Advocate Fee	-	29,800.00

Total	-	40,192.00 (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.

949/2017 & 950/2017

Dated: 27..03..2026.