

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.) Nos. 659 / 2017 and 1066 / 2017

O.P. (M.V.) No. 659 / 2017

Applicant:-

Sreeju Raj, S/o. Rajendran,
Vadakumkara Veedu, Kukurni,
Kattakkodu, Kattakada, Thiruvananthapuram- 695 572.

By Adv: Sri. Malayinkeezhu A.S. Balachandran Nair

Respondents:-

1. Ravi, S/o. Gopi,
08/300 (76/777), Kadakampally,
Thiruvananthapuram- 695 029.
2. Anil Kumar, S/o. Gangadharan Nair,
Sree Bhavan Veedu, Maranalloor,
Thiruvananthapuram- 695 572.
3. The Manager,
New India Assurance Company Limited,
Claim Hub, Housing Board Road, Statue,
Thiruvananthapuram- 695 001.

By Adv: R1 and R2 - No Vakalath
R3 - Sri. Kollemcode V. Raveendran Nair

O.P. (M.V.) No. 1066 / 2017**Applicant:-**

Sheela Sumi, W/o. Rajendran,
Kukkuruni Veedu, Kariyamkodu, Kukurni,
Poovachal, Kattakada, Thiruvananthapuram- 695 572.

By Adv: Sri. Malayinkeezhu A.S. Balachandran Nair

Respondents:-

1. Ravi, S/o. Gopi,
08/300 (76/777), Kadakampally,
Thiruvananthapuram- 695 029.
2. Anil Kumar, S/o. Gangadharan Nair,
Sree Bhavan Veedu, Maranalloor,
Thiruvananthapuram- 695 572.
3. The Manager,
New India Assurance Company Limited,
Claim Hub, Housing Board Road, Statue,
Thiruvananthapuram- 695 001.

By Adv: R1 and R2 - No Vakalath
R3 - Sri. Kollemcode V. Raveendran Nair

These Claim Petitions having been finally heard on 24-03-2026 and the Tribunal on 30-03-2026 delivered the following.

COMMON AWARD

The above applications are filed u/s. 166(1)(a) 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 02/24 dated 21.06.24 joint

trial was ordered.

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

On 11.03.17 at about 04.00 pm, the applicant in O.P 659/17 was riding the motorcycle bearing Reg. No. KL-21-F-4109 with the applicant in O.P 1066/17 as pillion rider from Kattakada to Ooruttambalam and when they reached near Thoongampara junction, a parking car bearing Reg. No. KL-11-G-3488 driven by the 2nd respondent in a rash and negligent manner so as to endanger human life, suddenly moved towards right without any traffic signal and the front portion of the car hit to the motorcycle. As a result, the applicants fell down and sustained the injuries. The accident was happened solely due to the rash and negligent driving of the car by the 2nd respondent. The 1st respondent is its owner and the 3rd respondent is its insurer and hence all respondents are jointly and severally liable to pay compensation to the applicants.

3. The applicant in O.P 659/17, aged 21 years, is an employee in Advertising Company. 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 ₹4,46,000/- and limited the claim to ₹3,00,000/-.

4. The applicant in O.P 1066/17, aged 42 years, is a sales girl. 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 ₹2,46,000/- and limited the claim to ₹1,00,000/-.

5. 1st and 2nd respondents were called absent and set exparte in both cases. 3rd respondent filed written statement and additional written statement in both cases.

6. 3rd respondent commonly alleged that the applications are not maintainable either in law or on facts. The applications are bad for non-joinder and mis-joinder of necessary parties. The averments in the applications are to be proved by the applicants. The Maranalloor police station failed to forward documents contemplated u/s. 158(6) of the M.V Act and thus violated the policy conditions. 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, 3rd 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 659/17 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 driving of the offending vehicle bearing Reg. No. KL-11-G-3488 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 ?

8. On the basis of the above pleadings the following issues arise for determination in O.P 1066/17 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 driving of the offending vehicle bearing Reg. No. KL-11-G-3488 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 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 A8 were marked from the side of the applicants. Exts.A1 to A7 relate to O.P 659/17. Ext.A8 relate to O.P 1066/17. Ext.B1 was marked from the side of the 3rd 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 11.03.17 at about 04.00 pm, the applicant in O.P 659/17 was riding the motorcycle

bearing Reg. No. KL-21-F-4109 with the applicant in O.P 1066/17 as pillion rider from Kattakada to Ooruttambalam and when they reached near Thoongampara junction, a parking car bearing Reg. No. KL-11-G-3488 driven by the 2nd respondent in a rash and negligent manner so as to endanger human life, suddenly moved towards right without any traffic signal and the front portion of the car hit to the motorcycle. As a result, the applicants fell down and sustained the injuries. Exts.A1 to A8 documents were produced by the applicants to prove their case. Ext.A1 is the copy of final report in Ext.A8 FIR. Ext.A2 is the copy of statement. Ext.A3 is the copy of driving licence of the applicant in O.P 659/17. Ext.A4 is the copy of insurance policy. Ext.A5 is the copy of accident register cum wound certificate issued from the Pankajakasthuri Multi Speciality Hospital, Kattakada. Ext.A6 are the medical bills amounting to ₹3,185/-. Ext.A7 is the copy of driving licence of the applicant in O.P 659/17. Ext.A8 is the copy of FIR in crime No. 296/17 of Maranalloor police station. Ext.B1 is the copy of insurance policy. The applicants did not produce their PAN cards.

12. The accident was disputed by the insurer. Ext.A8, the copy of FIR in crime No. 296/17 of Maranalloor police station alleging the offence u/s. 279, 337 and 338 IPC and Ext.A1, the copy of final report in crime No. 296/17 of Maranalloor 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. Even though the 3rd respondent disputed the accident, no oral evidence is tendered to prove their case. On a careful scrutiny of Exts.A1 & A8, it is found that the accident was happened due to the rash and negligent driving of the car bearing Reg. No. KL-11-G-3488 by the 2nd respondent and thereby the applicant in O.P 659/17 had sustained injuries such as fracture neck of phalanges (displaced), wound over right leg and laceration right foot and the applicant in O.P 1066/17 had sustained injuries such as deep lacerated wound back of head, lacerated wound left cheek and abrasion both elbow and foot. 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-11-G-3488 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. But copy of certificate of registration of the vehicle is not produced before the Tribunal. The copy of driving licence of the 2nd respondent is also not produced. There is no allegation in Exts.A1 and A8 that the 2nd respondent was having no licence. The said vehicle was validly insured with the 3rd respondent at the time of accident. Exts.A4 and B1 are the copies 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.

15. The applicant in O.P 659/17 was aged 21 years at the time of accident. He was said to be an employee in Advertising Company and was said to be earning ₹10,000/- 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 as ₹17,325/-. As the accident had

happened in the year 2017, I fix his monthly notional income as ₹17,325/-.

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 659/17 were proved by Ext.A5. Ext.A5 is the copy of accident register cum wound certificate issued from the Pankajakasthuri Multi Speciality Hospital, Kattakada. 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 2%. The multiplier to be applied is 18. So, the applicant is entitled to future loss of earning on account of permanent disability to the tune of $₹17,325 \times 12 \times 18 \times 2 / 100 = ₹74,844/-$.

18. Considering the nature of injuries sustained by him, I find that he is entitled to get an amount of ₹25,000/- as compensation for pain and suffering and further an amount of ₹20,000/- 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 1 month during the period of treatment to the tune of ₹17,325/-.

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 ₹6,000/-.

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

22. 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.

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

24. The medical bills are produced and the amount claimed is ₹3,185/-. Hence he is entitled to get ₹3,185/- towards medical expenses.

25. The compensation due to the claimant in O.P 659/17 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	60,000	17,325	17,325 x 1 month
2	Transportation expenses	10,000	6,000	
3	Extra nourishment	--	4,000	
4	Damage to clothing	5,000	2,500	
5	Medical expenses	25,000	3,185	Medical bill produced
6	Bystander's expenses	5,000	650	650 x 1 day
7	Pain and sufferings	50,000	25,000	
8	Compensation for loss of future earning power	60,000	74,844	$17,325 \times 12 \times 18 \times 2 / 100$
9	Loss of amenities and enjoyment in life	15,000	20,000	
10	Permanent disability	2,16,000	--	
	Total		1,53,504 Rounded to 1,54,000	₹1,54,000/- with 7% interest per annum from 23.05.17 till realization.

26. I hold that the claimant in O.P 659/17 is entitled to recover compensation of ₹1,54,000/- [Rupees One Lakh and Fifty Four Thousand Only].

27. The applicant in O.P 1066/17 was aged 42 years at the time of accident. She was said to be a sales girl and was said to be earning ₹10,000/- 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 as ₹17,325/-. As the accident had happened in the year 2017, I fix her monthly notional income as ₹17,325/-.

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 1066/17 were proved. No medical records are produced. 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 ₹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.

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 ₹17,325/-.

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

36. The compensation due to the claimant in O.P 1066/17 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	60,000	17,325	17,325 x 1 month
2	Transportation expenses	10,000	6,000	
3	Extra nourishment	--	3,000	
4	Damage to clothing	5,000	2,500	
5	Medical expenses	25,000	--	
6	Bystander's expenses	5,000	--	
7	Pain and sufferings	50,000	30,000	
8	Compensation for loss of future earning power	15,000	--	
9	Loss of amenities and enjoyment in life	60,000	30,000	
10	Permanent disability	2,16,000	--	
	Total		88,825	₹89,000/- with 7% interest per annum from 07.09.17 till realization.
			Rounded to 89,000	

37. I hold that the claimant in O.P 1066/17 is entitled to recover compensation of ₹89,000/- [Rupees Eighty Nine Thousand Only].

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

39. **Issue No.5: --** In the result, the O.P 659/17 is allowed as follows: --

- (1) The claimant is allowed to realize an amount of ₹1,54,000/- [Rupees One Lakh and Fifty Four Thousand Only], with interest @ 7% per annum from 23.05.17 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.

40. In the result, the O.P 1066/17 is allowed as follows: --

- (1) The claimant is allowed to realize an amount of ₹89,000/- [Rupees Eighty Nine Thousand Only], with interest @ 7% per annum from 07.09.17 till realization.
- (2) The claimant shall be entitled to get proportionate cost.
- (3) R3, 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) 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 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 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 Applicants:-

A1	31-03-2017	Copy of Final Report.
A2	-	Copy of Statement.
A3	02-03-2015	Copy of Driving License.
A4	-	Copy of Insurance Policy.
A5	28-03-2017	Copy of Accident Register-cum-Wound Certificate.
A6	-	Medical Bills.
A7	02-03-2015	Copy of Driving License.
A8	15-03-2017	Copy of FIR.

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. 659 / 2017**For the Petitioner:-**

Court Fee	-	913.00
Legal Benefit Fund	-	1,540.00
Vakalath Fee	-	5.00
Process Fee	-	60.00
Stamp for Exhibits	-	30.00
Stamp for Petitions	-	12.00
Advocate Fee	-	10,100.00

Total	-	12,660.00 (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. 1066 / 2017**For the Petitioner:-**

Court Fee	-	310.00
Legal Benefit Fund	-	890.00
Vakalath Fee	-	5.00
Process Fee	-	145.00
Stamp for Exhibits	-	4.00
Stamp for Petitions	-	9.00
Advocate Fee	-	6,850.00

Total	-	8,213.00 (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.

659/2017 & 1066/2017

Dated: 30..03..2026.