

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTINGAL

Present: Sri. Sreekumar.D, Motor Accidents Claims Tribunal.

THURSDAY 12th MARCH, 2026/ 21st PHALGUNA, 1947.

OP(MV) – 232/2019

Applicant:-

Anandhu.S.N.Babu, S/o Satheesh Babu,
aged 22 years, Melevila Veedu, Cheruvaikkal,
Sreekaryam, Thiruvananthapuram and now
residing at Jardhana Vilasam, Ravi Varmala Lane,
Attingal.

By Advocate : - Sri.V.Shaji.

Respondents:-

1. Abdul Vaheed, S/o Rasheeda Beevi, Varuvilakam Veedu,
Opp.CHC Hospital, Andoorkonam P.O, Thiruvananthapuram.
2. Azeem Shah, S/o Abdul Vaheed, Varuvilakathu Veedu,
Opp.CHC Hospital, Andoorkonam.
3. The National Insurance Co Ltd., St,Joseph's Press Building,
Vazhuthacaudu, Thiruvananthapuram.

R1 & R2 by Advocate :- Nil

R3 by Advocate:- Sri.P.S.Suresh Kumar.

This Petition having been finally heard on 12.03.2026 and on the same day,
Tribunal passed the following:

AWARD

1. Petition filed under section 166 of the Motor Vehicles Act.
2. The petitioner's case is briefly stated as follows:-The accident referred to in this case occurred on 15/06/2018 at about 11.30 p.m., while the petitioner was travelling as a pillion rider on a motorcycle bearing Reg.No.KL-08AN-9964, from Sreekaryam to Ulloor along the Kollam-Thiruvananthapuram National Highway. When the vehicle reached near Chenthi Junction, a car bearing Reg.No.KL-22L-1732, driven by the 2nd respondent in a rash and negligent manner, came in the same direction and overtook the motorcycle and turned towards the left. As a result, the rear left side of the car hit the motorcycle. As a result, the petitioner fell off the vehicle and sustained serious injuries. He underwent treatment at the Govt. Medical College Hospital, Thiruvananthapuram. The respondents Nos.1 to 3 are the registered owner, driver and insurer, respectively, of the offending car bearing Reg.No.KL-22L-1732 at the time of the accident. The accident occurred due to the rash and negligent driving of the car by the respondent No. 2. Hence, the petitioner claims compensation from the respondents.
3. The 1st respondent remained absent, despite notice.
4. Though the 2nd respondent entered appearance, he failed to file a written statement.

5. The 3rd respondent filed a written statement, the substance of which is as follows:-The original petition is not maintainable. The motor car bearing registration number KL-22-L-1732 was insured with the 3rd respondent for the period from 03/02/2018 to 02/02/2019. However, this is not a case of a road traffic accident as alleged by the petitioner. There was no rashness or negligence on the part of the 2nd respondent while driving the car bearing Reg.No.KL-22-L-1732. The said car was not involved in the accident alleged in this case. The accident occurred solely due to the rashness, negligence and carelessness on the part of the petitioner and the rider of the motorcycle bearing Reg.No.KL-08-AN-9964. The petitioner was travelling as a pillion rider on the above motorcycle with another pillion rider. The said motorcycle was ridden by one Mr. Aravind, who did not possess a driving licence. The motorcycle did not have an insurance coverage. The vehicle was ridden in a dangerous manner at midnight. The rider of the motorcycle lost control of the vehicle and thereby the accident occurred. Hence, the petitioner is not entitled to any compensation from the respondents. The petitioner is bound to prove his age, occupation and income. He is also required to prove the injuries sustained and the treatments he underwent. He has not suffered any disability in the accident. The amounts claimed under various heads of compensation are exorbitant. The original petition is liable to be dismissed.

6. On the basis of the pleadings, the following issues were framed for consideration:-

- (1) Whether the accident referred to in this case arose out of the use of car bearing Reg.No.KL-22L-1732 at a public place, as alleged by the petitioner, and if so, whose negligence caused the accident?
- (2) Is the petitioner entitled to compensation? If so, what shall be the quantum?
- (3) Who is liable to pay the compensation, if any ?
- (4) Reliefs and costs

7. From the side of the petitioner PW1 was examined and Exts. A1 to A18 were marked . No evidence was adduced on the side of the 3rd respondent.

8. Heard. Perused the memorandum of arguments filed by the learned counsel for the insurer.

9. Issue No.(1) :- In order to prove his version of the accident, the petitioner has relied on Exts.A1 to A6, the records relating to the connected criminal case and the oral evidence of PW1, a person who claimed to have witnessed the accident referred to in this case.

10. Ext.A1 is a copy of the FIR, along with the First Information Statement, registered as Crime No. 2120/2018 at the City Traffic Police Station, Thiruvananthapuram, on 16/06/2018. Ext.A2 is a copy of the scene mahazar

prepared in this connection on 16/06/2018. As per this document, the accident occurred at a public place i.e; near Chenthi Junction on the National Highway. Ext. A3 is a copy of the mahazar of the car bearing Reg.No.KL-22L-1732, prepared on 01/09/2018. Ext.A4 is a copy of the mahazar relating to a stepney tyre belonged to the above car, which was recovered based on an information received by the police from the accused/the 2nd respondent in this case, while he was in the police custody.Ext.A5 series consists of the inspection reports in respect of the vehicles bearing Reg.No.KL- 08AN-9964 and KL-22L-1732, prepared by the Motor Vehicle Inspector. The inspection of the motorcycle was conducted on 18/06/2018, whereas, the inspection of the car was conducted on 10/09/2018. As per these documents, the accident was not a result of any mechanical defects in the vehicles. Ext.A6 is a copy of the final report. In the final report, the Investigating Officer affirms the involvement of the car bearing Reg.No.KL-22L-1732 and the complicity of the 2nd respondent in the incident. According to him, prior to the incident there was a heated exchange of words between the 2nd respondent and the riders of the motorcycle. Following this, the 2nd respondent chased the motorcycle on which the petitioner and the other riders were travelling at an intimidating speed and while frequently sounding the horn .

11. When they reached the place of occurrence, due to the above actions on the part of the 2nd respondent, the motorcycle lost control and the riders were thrown onto the road. One Aravind, the rider of the motorcycle succumbed to the injuries sustained in the accident. The 2nd respondent has been charged for having committed an offence punishable under Section 304 IPC. He is also charged for committing offences punishable under Section 279, 337, 338 IPC and Section 134 (a and b) of the Motor Vehicles Act.

12. The argument of the 3rd respondent is that the above mentioned car was not involved in the accident. It is pointed out that in the first information statement and in the FIR, the registration number of the car or the identity of the driver was not disclosed. Further, in the final report, there is no reference to the car having collided with the motorcycle.

13. PW1, Abhin deposed that he had witnessed the accident that took place in the middle of 2018 at 11.30 p.m. According to him he witnessed the accident while returning home from his grandmother's house at Pothencode. He was travelling as a pillion rider on a motorcycle ridden by his friend Vijish Kumar. When they reached in front of the Christian Church at Chenthy Junction, he noticed a car chasing a motorcycle at an excessive speed, continuously sounding the horn,

overtaking the motorcycle and hitting on its left side. The riders of the motorcycle fell onto the road. When he rushed to the spot he found two of the riders were his acquaintances. The injured were taken to the Govt. Medical College Hospital.

14. Apart from a suggestion that no accident had occurred as alleged by the witness and that the witness was deposing falsely to favour his friends, there was no further cross examination. The learned counsel for the 3rd respondent contended that no further cross examination was required as the witness did not specify the date of the accident or the registration number of the vehicles involved. I do not find force in the above argument. It is stated by the witness that the injured are previously acquainted with him and has clearly identified the place of occurrence. It is true that the witness has not stated the registration number of the vehicles or the exact date of the accident. However he has deposed about the occurrence in which the riders of the motorcycle sustained injuries.

15. The difference between the testimony of the witness and the final report is that, the final report does not specifically state that the car hit the motorcycle, whereas PW1 states that the car collided with the motorcycle. Be that as it may, the involvement of the car driven by the 2nd respondent is clearly mentioned in the final report. Even if the evidence of PW1 is brushed aside in toto, the conclusion of the

Investigating Officer remains unaffected.

16. The Hon'ble High Court of Kerala in '**New India Assurance Company Ltd Vs. Pazhani Ammal and Others'**: 2011(3) KHC 595, has held as follows: *“Prima Facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the indictee. If any one of the parties do not accept such a charge sheet, the burden must be on such party to adduce oral evidence. If oral evidence is adduced by any party, in a case where charge sheet is filed, the tribunals 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.”*

17. Now the question is whether to maintain a claim under Section 166 of the Motor Vehicles Act, actual physical contact with the offending vehicle is necessary.

18. In **Jestine K.J V. Prasad K. and Others (2013 KHC 740)**, The Hon'ble High Court of Kerala held that to claim compensation, what is required is that the accident should arise from the use of the motor vehicle. Actual hitting of two or more vehicles or vehicle hitting the victim is not absolutely necessary. If the offending vehicle was driven in such a way that it put another person in sudden

danger and he is thereby perplexed or agitated, he cannot be expected to exercise due care. If in that perplexed or agitated state of mind he does something or omits to do something which normally he is expected to do or not to do and consequently he suffers injury, he is entitled to claim and get compensation.

19. The above ruling is squarely applicable to the case on hand. Further, in the absence of any evidence to contradict the finding of the Investigating Officer, I hold that the petitioner has succeeded in proving his version that the accident referred to in this case arose out of the use of the car bearing Reg.No.KL-22L-1732 at a public place and the accident occurred due to the negligent act of the 2nd respondent. Issue No.(1) is found accordingly in favour of the petitioner.

20. **Issue No. (2)** :The petitioner has produced the records relating to the treatment undergone by him following the accident to show that he had sustained injuries in the above accident.

21. Ext.A7 is a copy of the treatment certificate issued from the Medical College Hospital, Thiruvananthapuram which shows that the petitioner sought treatment at the above hospital on 16/06/2018. Ext.A8 is a discharge summary issued from the above hospital which shows that the petitioner had undergone inpatient treatment there for 10 days from 16/06/2018 to 25/06/2018. The alleged

history was fall from bike. The treatment records show that the petitioner sustained **left olecranon fracture closed.**

Treatment given and course in the hospital:

ORIF with tension band wiring under supraclavicular block/GA in AOT on 19/06/2018.

Exts.A9, A10 and A12 are the outpatient records dated 29/06/2018, 30/06/2018 and 11/03/2023 issued from the Medical College Hospital, Thiruvananthapuram and Taluk Head Quarters Hospital, Chirayinkeezh, which shows that the petitioner sought outpatient treatment at the above hospitals.

22. Ext.A11 is a discharge summary issued from Nirmala Hospital, Chalakuzhi, showing that the petitioner had undergone inpatient treatment there from 12/04/2019 to 13/04/2019. In the clinical features, an old united fracture of the left olecranon is noted. Ext.A13 is a discharge summary issued from Shanti Sukham Panchakarma Center showing inpatient treatment undergone by the petitioner from 19/04/203 to 02/05/2023. In the argument note filed by the learned counsel for the insurer, it is stated that Ext.A11 is issued after 10 months and the fracture is united. With regard to Ext.A13 also, the same objection is raised. According to him, these two documents are not admissible. I do not find any reason to uphold the above objection. Both documents were marked without any objection. Nothing is brought

out to suspect the genuineness of the above two documents.

23. I have already found under Issue No.(1) that the accident in which the petitioner sustained injuries occurred due to the negligent driving of the offending car by the 2nd respondent. Thus, the petitioner has proved his entitlement to compensation. Now, the question remains with respect to the quantum of compensation.

24. According to the petitioner, at the time of the accident, he was a coolie with an income of ₹15,000/- per month. Ext.A16 is a copy of the Aadhaar card of the petitioner which shows that the date of birth of the petitioner is 18/12/1995. It means the petitioner was 23 years old at the time of the accident. But there is nothing on record to prove his job or to show his exact income at the time of the accident. Therefore, for the purpose of determining the compensation payable under the head 'loss of earning' and the allied heads, the only option available is to fix a reasonable amount as his income. The Hon'ble High Court in **Latheef @ Abdul Latheef V.Noufal P.P, reported in 2024 KHC 1687** by referring to G.O.(P) 56/2017/Fin. Dated 28/04/2017 and referring to the decision of the Apex Court in **Angad Tiwari and Another V. National Insurance Company Limited and Another** in civil appeal No.10950/2024, fixed the notional income of an

Agricultural Labourer as ₹17,325/- per month. The above G.O. prescribes the minimum wages payable under the provisions of the Minimum Wages Act, 1948 with effect from 01/04/2017. Thus, in the case on hand, a minimum wage of ₹17,325/- can be fixed as the notional income.

25. While considering the nature of injuries sustained and the age of the petitioner, it is reasonable to conclude that the petitioner must have taken at least 5 months' time to recover and therefore, can be presumed to have lost his earnings during that period. Therefore, I am inclined to award an amount of ₹86,625/- under the heading 'Loss of income'.

26. Considering his visits to the hospitals in connection with his treatment, an amount of ₹5,000/- is awarded towards 'Transportation Expenses'.

27. Considering the grievous nature of the injury sustained by him, an amount of ₹5,000/- is awarded towards 'Extra Nourishment Expense'.

28. I am inclined to award an amount of ₹1,500/- towards 'Damages to Clothing'.

29. Since the petitioner was treated as an inpatient for 26 days, an amount of ₹13,000/- is awarded as 'By-stander expense', calculated at the rate of ₹500/- per day.

30. Ext.A14 series, bills reveal that an amount of ₹56,629/- was spent for the treatment of petitioner. Item No. 12 in Ext.A14 series is objected on the following ground. It is not a medical bill or a cash receipt. It is not seen issued from the hospital. It is issued in the letterhead of Dr. Maman Thomas, a Senior Consultant in Orthopedics. It is pointed out by the learned counsel for the insurer that the pharmacy bills issued from Nirmala Hospital bear the seal and authentication of Nirmala Hospital. As far as Item No. 12 is concerned, the cash receipt seal is affixed personally by the doctor. The amount covered by the above document is ₹35,000/-. The document was marked subject to objection. I find the above grounds pointed out by the learned counsel for the insurer valid. No steps were taken to prove the above document duly. In the said circumstance that amount is liable to be deducted from the total bill amount. So, after deducting that amount, I award an amount of ₹21,629/- towards Medical expenses.

31. Considering the gravity of the injuries sustained by the petitioner, his prolonged hospitalization and the sufferings, I am inclined to award an amount of ₹50,000/- as compensation towards 'Pain and Suffering'.

32. Considering the discomfort, unhappiness and inconvenience which the petitioner would suffer on account of the injury sustained in the accident, an amount

of ₹45,000/- is also awarded towards compensation for 'loss of amenities of life'.

33. Ext.A15 disability certificate is objected on the ground that it was not a disability certificate issued by a doctor who has treated the patient. The petitioner had never undergone treatment at the Medical College Hospital Alapuzha. X-ray or scan report was not produced to establish the disabilities suffered by the petitioner. It is not stated in the disability certificate that the doctor had personally examined the patient. It is also argued that the disability assessed by the doctor is on a higher side. I find some force in the above argument. The disability certificate is not issued by a doctor who has treated the patient. No physical examination of the patient by the doctor is noted in the disability certificate. Further, no steps were taken to prove the document duly by examining the doctor. Even if the disability certificate is discarded, it is not in dispute that the petitioner has suffered some degree of permanent disability on account of the injury suffered in the accident. Now, as laid down by the Hon'ble Apex Court in '**Rajkumar Vs. Ajayakumar : (2011) 1 SCC 343,**' the reduction in the earning capacity of the petitioner caused on account of the said permanent disability is to be determined by this Tribunal. In the absence of any materials substantiating his occupation, treating him as a casual labourer, I assess the percentage of reduction in his earning capacity as 5%. As the petitioner was aged 23 years old at the time of the accident, the multiplier applicable is 18 as per the

decision of the Hon'ble Apex Court in '**Sarla Verma Vs. Delhi Transport Corporation' : 2010(2) KLT 802.**' Therefore, the loss of earnings on account of the said permanent disability would be ₹1,87,110/-

34. The petitioner is thus entitled to get a total compensation of **₹4,14,900/- (Rupees Four Lakh Fourteen Thousand Nine Hundred Only)** as shown in the table below:

<i>Sl. No.</i>	<i>Head of claim</i>	<i>Amount claimed</i>	<i>Amount awarded</i>	<i>Basis-Vital Details in a nutshell</i>
<u>Part-I</u>				
1	Loss of earning	48,000	86,625	17325 x 5 months
2	Loss of earnings(partial)	-	Nil	
3	Transportation charges	5,000	5,000	Travel to and from the hospital
4	Extra Nourishment	5,000	5,000	Considering the grievous injury sustained by the petitioner
5	Damage to Clothing	2,000	1,500	
6	Medical expenses	20,000	21,629	Ext.A14 series bills
7	By-stander expenses	5,000	13,000	500 x 26 days
<u>Part-II</u>				
8	Pain and suffering	25,000	50,000	Considering the grievous injury sustained by the petitioner.

9	Compensation for permanent or continuing disability	1,50,000	1,87,110	17,325 x 12 x 18 x 5%
10	Compensation for loss of future earning power	-	Nil	Nil
11	Loss of amenities of life	50,000	45,000	Considering the grievous injuries sustained by the petitioner
(Claim limited to ₹2,00,000/-)		3,10,000 =====		
Total award amount			₹4,14,864/- =====	
Rounded of			₹4,14,900/- =====	
(Rupees Four Lakh Fourteen Thousand Nine Hundred Only)				

Issue No.(2) is answered accordingly.

35. **Issue No.(3):-** I have already found that the accident took place due to the negligent act of the 2nd respondent while driving of the car bearing Reg.No.KL-22L-1732. Hence, the 2nd respondent is liable to pay compensation to the petitioner. The 1st respondent, who is undisputedly the owner of the said car, is therefore vicariously liable to compensate the petitioner. It is admitted by the 3rd respondent that the car was insured with the 3rd respondent at the time of the accident. In the absence of any material showing violation of conditions of the

insurance policy, I hold that the 3rd respondent, insurer is liable to satisfy the award by indemnifying the 1st respondent, the owner of the car. Issue No.(3) is answered accordingly.

36. Issue No.(4):- In view of my findings on Issue Nos.(1), to (3) the petition is allowed in part and an award is passed as follows:

(1) Respondent Nos. 1 and 2 are jointly and severally liable to pay an amount of **₹4,14,900/- (Rupees Four Lakh Fourteen Thousand Nine Hundred Only)** to the petitioner with interest at the rate of 8% per annum from the date of petition [21/02/2019] till realization or payment with proportionate costs.

(2) The 3rd respondent is directed to deposit the awarded sum directly to the credit of the Savings Bank Account of Anadhu S.N. Babu, A/c No.627502010003495 of Union Bank of India, Sreekariyam Branch with IFSC Code:UBIN0562751 & PAN No.FPUPB4037L as per Exts.A17 and A18 and cancelled cheque furnished by the petitioner and send a copy of the payment advice to this Tribunal and also serve a copy of the same to the petitioner or his counsel, as required by the Hon'ble High Court in its Circular No.01/2025 dated 19/09/2025. In case of TDS, form 16-A of the Income Tax Act 1961 shall be provided to the petitioner to enable him to seek refund of the tax deducted.

(3) The 3rd respondent shall produce cheques for ₹3,522/- and ₹4,149/-

respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Attingal, payable in the case.

(4) Upon deposit being made, the 3rd respondent shall submit to the Tribunal, a copy of the bank advice and a memo in the prescribed format. A copy of the payment advice, along with a copy of the memo shall also be served on the contesting parties and their respective counsel, if any.

(5) The office is directed to make necessary entries in the registers maintained in the office evidencing payment of the amount to the petitioner.

(6) The 3rd respondent is directed to pay the amount within one month failing which the petitioner can recover the same in accordance with law.

*Dictated to the C.A., transcribed and typed by her, corrected by me
and pronounced in open court on the 12th day of March, 2026.*

Sd/-

SREEKUMAR.D

MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX:

- | | | |
|----|------------|------------------------------------------------------------------------------|
| A1 | 16.06.2018 | : Copy of FIR & FIS in Crime No.2120/2018 of
City Traffic Police Station. |
| A2 | 16.06.2018 | : Copy of Scene Mahazar. |
| A3 | 01.09.2018 | : Copy of Vehicle Mahazar. |
| A4 | 11.09.2018 | : Copy of Mahazar. |
| A5 | series | : Copy of AMVI Reports. |

- A6 18.12.2018 : Copy of Final Report.
- A7 16.06.2018 : Copy of Treatment Certificate.
- A8 25.06.2018 : Discharge Summary issued from Medical College Hospital, Thiruvananthapuram.
- A9 29.06.2018 : Out Patient Record from Medical College Hospital, Thiruvananthapuram.
- A10 30.06.2018 : Out Patient Record from Medical College Hospital, Thiruvananthapuram.
- A11 13.04.2019 : Discharge Summary issued from Nirmala Hospital, Chalakuzhi.
- A12 11.03.2023 : Out Patient Record from Taluk Head quarters Hospital, Chirayinkeezhu.
- A13 02.05.2023 : Discharge Summary issued from Santhi Sukham, Panchakarma Center.
- A14 series : Medical Bills.
- A15 : Disability Certificate.
- A16 : Copy of Aadhar Card.
- A17 : Copy of PAN Card.
- A18 : Copy of Bank Passbook.

Exhibits for the Respondent: Nil

Court Exhibits: Nil

Witness for the Petitioner:

PW1 : 22.05.2025 – Abhin.M.S

Witness for the Respondent: Nil

Id/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MEMO OF COSTSCost for the Applicant:

Court fee and Additional Court fee	Rs.7671/-
Petition fee	Rs. 20/-
Vakalath fee	Rs. 5/-
Process fee	Rs. 90/-
Document fee	Rs. 16/-
Advocate fee (as per certificate)	Rs.16,445/- (Certificate produced)

Total	Rs.24,247/- (Order for realization)
	=====

Cost for the Respondents:

Vakalath fee	Rs. 5/-
Petition fee	Rs. 5/-

Total	Rs. 10/- (No order for realization)
	=====

Sd/-**MOTOR ACCIDENTS CLAIMS TRIBUNAL**

NB: The parties should apply as soon as possible for the return of all documents which they may wish to preserve, as the record will be liable to be destroyed after twelve years from this date.

Typed by: jr

Compared by: raji

FCS:

AWARD IN OP(MV)232/2019
DATED:12..03..2026.