

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTINGAL

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

FRIDAY 13th MARCH, 2026/ 22nd PHALGUNA, 1947.

OP(MV) – 624/2020

Applicant:-

Krishnanunni.B.H, S/o Baburaj, aged 25 years,
Vipanchika, Mahadeveswaram, Kilimanoor P.O,
Trivandrum.District, Kerala.

**By Advocates: - Sri.Thattathumala.S.Anilkumar &
Sri.A.Muhamed Sudham.**

Respondents:-

1. Jithin, S/o Jayachandra Babu, Jitha Bhavan, Mavinmoodu,
Kallambalam P.O., Trivandrum District, Kerala State.
2. Sabarinath.M.Kurup, S/o Muraleedharan Nair,
Mani Bhavan, Karathala, Palachira P.O, Varkala,
Trivandrum District, Kerala.
3. The Manager, New India Assurance Co. Ltd,
Main Road, Attingal, Trivandrum District.

R1 & R2 by Advocate:-Exparte.

R3 by Advocate:- Sri.P.Mahendran.

This Petition having been finally heard on 12.03.2026 and on 13.03.2026 the Tribunal passed the following:

AWARD

1. Petition filed under section 166 of the Motor Vehicles Act 1988.
2. The petitioner's case is briefly stated as follows:-The accident referred to in this case occurred on 18/01/2019 at about 10.30 p.m. while the petitioner was riding a motorcycle bearing Reg.No.KL-01CH-508 from Kottarakara to Kilimanoor through the Kottarakara-Thiruvananthapuram State Highway. When he reached near Sadananthapuram school junction, a Maruti car bearing Reg.No.KL-16F-8705, driven by the 2nd respondent in a rash and negligent manner, knocked him down. He sustained serious injuries. He underwent treatment at Vijaya Hospital, Kottarakra and the Govt. Medical College Hospital, Trivandrum. The respondents Nos.1 to 3 are the registered owner, driver and insurer, respectively, of the offending car bearing Reg.No.KL-16F-8705, at the time of the accident. The accident occurred due to the rash and negligent driving of the car by the 2nd respondent. Hence, the petitioner claims compensation from the respondents.
3. The respondents Nos.1 and 2 remained absent, despite notice. Hence,

they were set ex parte.

4. The 3rd respondent filed a written statement, the substance of which is as follows:-The original petition is not maintainable either in law or on the facts. The car bearing Reg.No.KL-16F-8705 was duly insured with the 3rd respondent for the period from 31/08/2018 to 30/08/2019. However, the 3rd respondent has no liability to compensate the petitioner. There was no negligence on the part of the 2nd respondent. The accident occurred due to the petitioner's own negligence. The petitioner is bound to prove his age, occupation and income. He is also required to prove the injuries sustained in the accident and the treatments he underwent. The amounts claimed under various heads of compensation are exorbitant. The original petition is liable to be dismissed.

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

- (1) Who is responsible for the accident referred to in this case?
- (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

6. From the side of the petitioner, Exts. A1 to A10 were marked. Exts.X1 was marked as court exhibit. No evidence was adduced from the side of the respondents.

7. Heard.

8. **Issue No.(1)** :-For proving the negligence on the part of the 2nd respondent, the petitioner has relied on Exts.A1 to A5 documents. Ext.A1 is a copy of the FIR in Crime No.0551/2019 registered on 05/03/2019 at the Kottarakkara Police Station in connection with the accident. Ext.A2 is a copy of the scene mahazar prepared in this connection on 06/03/2019. Ext.A3 is a copy of the mahazar of the vehicles involved in the accident prepared on 14/03/2019. Ext.A4 series consists of the copies of the inspection reports of the vehicles bearing Reg.Nos.KL-16F-8705 and KL-01CH-508 prepared by the AMVI on 14/03/2019. According to these documents, the accident was not a result of any mechanical defect in the vehicle. Ext.A5 is a copy of the final report. In Ext.A5 final report, the conclusion of the investigating officer is that the accident occurred due to the rash and negligent driving of the Maruti car bearing Reg.No.KL-16F-8705, by the 2nd respondent. 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.” In the absence of contra evidence, the above said evidence adduced by the petitioner, when read in the light of the above said decision, persuades me to hold that the petitioner has proved that the accident referred to this case occurred due to the rash and negligent driving of the Maruti car bearing Reg.No.KL-16F-8705, by the 2nd respondent. Issue No.(1) is answered accordingly.

9. **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.

10. Ext.A6 is a copy of the accident register cum wound certificate issued from Vijaya hospital, Kottarakkara showing that the petitioner had sought treatment at that hospital on 18/01/2019 at 11.00 pm with a history of RTA occurred on that

date. Ext.X1 series consists of treatment records issued from Ananthapuri Hospital, Thiruvananthapuram. The petitioner underwent 10 days inpatient treatment at Ananthapuri Hospital from 19/01/2019 to 29/01/2019. The treatment records show that the petitioner sustained **abrasion extending from (Rt) hypochondrium to epigastrium (12 x 2 cm), lacerated wound (Rt) upper eyelid, puncture on below lower lip, lacerated inner site of lower lip, rib fracture right 10, fracture floor of right orbit, fracture upper right incisor.**

11. 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 Maruti car by the 2nd respondent. Thus, the petitioner has proved his entitlement to compensation.

12. Now, the question remains with respect to the quantum of the compensation.

13. According to the petitioner, at the time of the accident, he was a sales executive with a monthly income of ₹15,000/-. Ext.A8, a copy of the Adhaar card would show that the date of birth of the petitioner is 19/01/1994. It means the petitioner was 25 years old at the time of the accident. But there is nothing on record to prove his job or his exact income at the time of the accident. So, for the purpose

of determining the compensation payable under the head 'loss of earning' and the allied heads, the only possibility 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 liable to be paid 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 notional income.

14. 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 4 months' time to recover and therefore, he can be presumed to have lost his earnings during that period. Therefore, I am inclined to award an amount of ₹69,300/- under the head 'Loss of income'.

15. Considering his visits to the hospitals in connection with the treatment, an amount of ₹3,000/- is awarded towards 'Transportation Expenses'.

16. Considering the grievous nature of injury sustained by him, an amount

of ₹5,000/- is awarded towards 'Extra Nourishment Expense'.

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

18. Since the petitioner was treated as an inpatient for 10 days, an amount of ₹5,000/- is awarded as 'By-stander expense', calculated at the rate of ₹500/- per day.

19. Ext.A7 series, bills reveal that an amount of ₹14,184/- was spent for the treatment of petitioner. Hence, I am inclined to award an amount of ₹14,184/- as 'Medical expense'.

20. Considering the gravity of injuries sustained by the petitioner, his visits to the hospitals and the sufferings, I am inclined to award an amount of ₹50,000/- as compensation for 'Pain and Suffering'.

21. Considering the discomfort, unhappiness and inconvenience which the petitioner would suffer on account of the injuries sustained in the accident, an amount of ₹50,000/- is also awarded as compensation for 'loss of amenities of life'.

22. The gravity of the injuries suffered by the petitioner is such that it would cause some degree of functional disability and there by a reduction in his earning capacity to that extent. 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 4%. As the petitioner was aged 25 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 ₹1,49,688/-.

23. The petitioner is thus entitled to get a total compensation of **₹3,47,700/-(Rupees Three Lakh Forty Seven Thousand Seven 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	90,000	69,300	17325 x 4 months
2	Loss of earnings(partial)	Nil	Nil	
3	Transportation charges	5,000	3,000	Travel to and from the hospital

4	Extra Nourishment	10,000	5,000	Considering the grievous injuries sustained by the petitioner
5	Damage to Clothing	5,000	1,500	
6	Medical expenses	1,00,000	14,184	Ext.A7 series bills produced
7	By-stander expenses	5,000	5,000	500 x 10 days
Part-II				
8	Pain and suffering	50,000	50,000	Considering the grievous injuries sustained by the petitioner .
9	Compensation for permanent or continuing disability	2,00,000	1,49,688	17,325 x 12 x 18 x 4%
10	Compensation for loss of future earning power	1,00,000	Nil	Nil
11	Loss of amenities of life	50,000	50,000	Considering the grievous injuries sustained by the petitioner
(Claim limited to ₹4,00,000/-)		6,15,000 =====		
Total award amount			₹3,47,672/- =====	
Rounded of			₹3,47,700/- =====	
(Rupees Three Lakh Forty Seven Thousand Seven Hundred Only)				

Issue No.(2) is answered accordingly.

24. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the Maruti car bearing Reg.No.KL-16F-8705 by the 2nd respondent. Hence, the 2nd respondent is liable to pay compensation to the petitioner. The 1st respondent, who is undisputedly the owner of the offending Maruti car, is therefore vicariously liable to compensate the petitioner. It is admitted by the 3rd respondent that the Maruti 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 Maruti car. Issue No.(3) is answered accordingly.

25. **Issue No.(4):- In view of my findings under 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 is liable to pay an amount of **₹3,47,700/-(Rupees Three Lakh Forty Seven Thousand Seven Hundred Only)** to the petitioner with interest at the rate of 8% per annum from the date of petition [15/07/2020] 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 Krishnanunni.B.H., A/c No.32428840732 of SBI, Thattathumala Branch with IFSC Code: SBIN0008787 as per Exts.A9 and A10 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 ₹3,373/- and ₹4,000/- 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 the 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 13th day of March, 2026.

Sd/-

SREEKUMAR.D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

Exhibits for the Applicant:

- A1 05.03.2019 : Copy of FIR & FIS in Crime No. 0551/2019
of Kottarakara Police Station.
- A2 06.03.2019 : Copy of Scene Mahazar.

- A3 14.03.2019 : Copy of Vehicle Mahazar.
A4 series : Copy of AMVI Reports.
A5 26.03.2019 : Copy of Final Report.
A6 18.01.2019 : Copy of Accident Register Cum Wound Certificate.
A7 series : Medical Bills
A8 : Copy of Aadhar Card,
A9 : Copy of Bank Passbook.
A10 : Cancelled Cheque.

Exhibits for the Respondent: Nil

Court Exhibits:

X1 series : Treatment Records produced from Ananthapuri Hospital and
Research Institute, Thiruvananthapuram.

Witness for the Petitioner: Nil

Witness for the Respondent: Nil

Id/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MEMO OF COSTS

Cost for the Applicant:

Court fee and Additional Court fee	Rs. 6,327/-
Petition fee	Rs. 50/-
Vakalath fee	Rs. 5/-
Process fee	Rs. 90/-
Document fee	Rs. 100/-
Senior Advocate fee (As per rule)	Rs.19,785/-(Certificate produced)

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Junior Advocate fee (As per rule)	Rs.9,893/-(Certificate produced)

Total	Rs.36,250/- (Order for realization)
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Cost for the Respondents:

Vakalath fee	Rs. 5/-

Total	Rs. 5/- (No order for realization)
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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)624/2020

DATED:13..03..2024