

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTINGAL

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

FRIDAY 10th APRIL, 2026/ 20th CHAITHRAM, 1948.

OP(MV) – 1346/2019

Applicant:-

Suchithra. V. Unnithan, aged 26 years, W/o Rajeev Kumar,
Ashtami, Ayiravilly, Pakalkkuri P.O, Pallikkal Village,
Thiruvananthapuram.

By Advocate: - Sri. S. Sudheer.

Respondents:-

1. Sajeev Kumar, S/o Raghavan, Parvathi Building,
Good Shed Road, Varkala. P.O, Thiruvananthapuram.
2. Shan Ali, S/o Ali, S.S. Manzil, Vettoor P.O, Varkala Village,
Thiruvananthapuram.
3. The Manager, Future Generali Insurance Co. Ltd.,
8th Floor, Carmel Tower, Cotton Hill P.O,
Vazhuthacaud, Thiruvananthapuram.

R1 & R2 :- ex-parte

R2 By Advocate:- Sri. Varkala B. Ravikumar.

This Petition having been finally heard on 06.04.2026 and on 10.04.2026 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 03/05/2019 at about 06.45a.m., while the petitioner was riding her scooter bearing Reg.No.KL-16-U-5213 along the Kulamada-Paripally public road towards Paripally direction. When she reached Kulamada Junction, a Mahindra Bolero pickup vehicle bearing Reg.No.KL-16-P-2565, driven by the 2nd respondent in a rash and negligent manner and coming from the opposite direction, hit the scooter and as a result, the petitioner was thrown onto the road. She sustained serious injuries and underwent treatment at the Government Medical College Hospital Kollam and Ananthapuri Hospital, Thiruvananthapuram. The respondents Nos.1 to 3 are the registered owner, driver and insurer, respectively of the offending vehicle at the time of the accident. The accident occurred due to the rash and negligent driving of the pickup vehicle bearing Reg.No.KL-16-P-2565 by the 2nd respondent. Thus, the petitioner claims compensation from the respondents.

3. The 2nd respondent remained absent despite notice. Hence, he was set ex parte.

4. Although the 1st respondent entered appearance, he failed to file a written statement. Hence, he was also set ex parte.

5. 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 facts. The existence of a policy of insurance to the vehicle bearing Reg.No.KL-16-P-2565 on the date of the accident is admitted. 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 solely due to the negligence of the petitioner. The petitioner is bound to prove her age, occupation and income. She is also required to prove the injuries sustained by her and the treatments she underwent. 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) Whose negligence caused 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

7. From the side of the petitioner, Exts. A1 to A12 were marked. Exts.X1 to X4 were marked as court exhibits. RW1 was examined from the side of the

respondents.

8. Heard. Third respondent filed argument note.

9. **Issue No.(1)** :- To prove 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 registered as Crime No.385/2019 at the Paripally Police Station on 03/05/2019. Ext.A2 is a copy of the scene mahazar prepared in this connection on 04/05/2019. Ext.A3 is a copy of the mahazar of the vehicles involved in the accident. Ext.A4 series consists of the copies of the inspection reports of the vehicles bearing Reg.Nos.KL-16U-5213 and KL-16P-2565 prepared by the AMVI. According to these documents, the accident was not a result of any mechanical defect in the vehicles. Ext.A5 is a copy of the final report filed in this case. 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 Mahindra Bolero pickup vehicle bearing Reg.No.KL-16-P-2565, 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 any evidence to prove the contrary, 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 in this case occurred due to the rash and negligent driving of the Mahindra Bolero pickup vehicle bearing Reg.No.KL-16-P-2565, by the 2nd respondent. Issue No.(1) is answered accordingly.

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

11. Ext.A7 is a discharge summary issued from Ananthapuri Hospital, Thiruvananthapuram. She sought treatment with history of RTA at Kulamada on 03/05/2019. The petitioner underwent 50 days inpatient treatment at Ananthapuri Hospital from 03/05/2019 to 21/06/2019. The treatment records show that the petitioner sustained **diffuse axonal injury, right temporal contusion, right**

pneumothorax with midline shift to left-S/p tube thoracostomy, B/L lung contusion, left 2nd rib fracture

Treatment and course in the hospital:

CT brain showed hemorrhagic contusion in right temporal lobe and right side of splenium corpus callosum, diffuse brain edema and features suggestive of diffuse axonal injury. CT chest showed right pneumothorax with mediastinal shift, bilateral lung contusion and bilateral multiple rib fracture. ICD was inserted on right side of chest in view of pneumothorax right. Orthopaedics consultation was done to rule out bony injury, CTVS consultation was done in view of right pneumothorax with mediastinal shift to left, Gastroenterology consultation was done in view of elevated SGOT and SGPT levels. OMFS consultation was done for submandibular hematoma. General surgery consultation was done to rule out visceral injury. Pulmonology consultation done and advises followed. Percutaneous dilatational tracheostomy was done on 07/05/2019 under GA. Patient was treated with anticonvulsants, muscle relaxants, antibiotics, antivirals, neuroprotectives, Ppls, analgesics, syndopa, epsiran tablets and other supportive measures.

Ext.A8 is a corresponding treatment certificate issued from Ananathapuri Hospital.

12. 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 pickup vehicle by the 2nd respondent. Thus, the petitioner has proved her entitlement to compensation. Now, the question remains with respect to the quantum of the compensation.

13. The occupation of the petitioner is shown to be a B.Sc. Nurse at Meditrena Hospital, Kollam with an income of ₹25,000/-p.m. From the side of the 3rd respondent, the Director of Meditrena Hospital, Kollam was examined as RW1. Through him, the salary slips for the months of March, April and May 2019 were marked as Exts. X2 and X3 series. Ext.X4 is a copy of the muster roll. From the oral and documentary evidences it is brought out that the petitioner was a trainee nurse at the Meditrena Hospital and the above training period was for one year before regularising her in her job as a nurse. During her training period her salary was ₹8,000/-. No salary would be payable for the days of leave. As per the oral evidence of RW1, on appointing as a regular nurse, her salary would be ₹18,000/- per month as per the minimum wages notification.

14. The learned counsel for the insurer cited a judgment reported in 2025 KHC 7101 to contend that the notifications of Minimum Wages Act can be a guiding factor only in a case where there is no clue available to evaluate monthly income. Where positive evidence has been let in, no reliance on the notification could be placed.

15. Here, the petitioner was a trainee nurse at the time of the accident. It is brought out in evidence of RW1 that after the accident, the petitioner did not attend her job. Considering the nature of injuries sustained by the petitioner, it is understood that on account of the gravity of the injuries, she was unable to attend her work. In the said circumstances, she lost her opportunity to become a regular nurse, whose salary would be ₹18,000/- per month. The Motor Vehicles Act is a beneficial legislation. Hence, the evidence must be appreciated by keeping the same in mind. Hence, while computing the loss of earnings and the loss of earning capacity, I find that ₹18,000/- can be fixed as her salary.

16. Ext.A6 is a copy of the driving licence of the petitioner. Ext.A9, a copy of the Secondary School Leaving Certificate of the petitioner. Ext.A10 is a copy of the Aadhaar card of the petitioner. Exts.A6, A9 and A10 conjointly reveal that the date of birth of the petitioner is 28/01/1993. It means the petitioner was 26 years old

at the time of the accident.

17. 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 10 months' time to recover and therefore, she can be presumed to have lost her earnings during that period. Therefore, I am inclined to award an amount of ₹1,80,000/- under the head 'Loss of income'.

18. Considering her visits to the hospitals in connection with the treatment, an amount of ₹8,000/- is awarded towards 'Transportation Expenses'.

19. Considering the grievous nature of injury sustained by her, an amount of ₹20,000/- is awarded towards 'Extra Nourishment Expense'.

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

21. Since the petitioner was treated as an inpatient for 50 days, an amount of ₹25,000/- is awarded as 'By-stander expense', calculated at the rate of ₹500/- per day.

22. Ext.A11 series, bills reveal that an amount of ₹8,11,995.77/- was spent for the treatment of petitioner. In Item No. 1, an amount of ₹2,62,518/- on the head of medical charges is opposed on the ground that there is no name of medicine,

quantity, price and GST, separately stated in the document. On considering this objection, I find that the above objection cannot be sustained. No blame can be put on the patient for the omission on the part of the hospital authorities. Further, a cash receipt seal is affixed on this document. Hence, the objection is overruled. It is pointed out that in Item No. 1 discharge bill, an amount of ₹28,640/- is added, which is on the head of canteen charges. I find that the above objection is valid and hence, the above amount is liable to be deducted. Further, it is pointed out that Item No. 6 is a list of medical bills and it is not a cash bill, but a tax invoice. The amount covered by the said document is ₹3,948/- I find that the above objection cannot sustain. Whether it is a tax invoice or bill, the amount is paid by the patient. It is pointed out that Item No. 22 for ₹200/-, Item No. 26 for ₹1,200/- and Item No. 30 for ₹1,200/- are in connection with the pregnancy test undergone by the petitioner. I find the objection valid. Hence the above amounts are liable to be deducted. After deducting the above amounts, the compensation payable towards treatment expenses is ₹7,80,756/-(7,80,755.97/-).

23. Considering the gravity of injuries sustained by the petitioner, her prolonged hospitalization and the sufferings, I am inclined to award an amount of ₹1,50,000/- as compensation for 'Pain and Suffering'.

24. Considering the discomfort, unhappiness and inconvenience which the petitioner would suffer on account of the injuries sustained in the accident, an amount of ₹1,50,000/- is also awarded as compensation for 'loss of amenities of life'.

25. Ext.X1 is a disability certificate issued on 15/06/2024 by the Medical Board constituted at the Medical College Hospital, Thiruvananthapuram, after examining the petitioner. As per the certificate, the disability is permanent in nature. The degree of disability has been found as 51%. as per the guidelines for the purpose of assessing the extent of specified disability in a person included under the Rights of Persons with Disabilities Act, 2016 Gazette, Government of India.

26. The learned counsel for the insurer filed a written objection to the disability certificate, the substance of which is as follows: It is an incorrect document. The signature and contents are to be proved by examining the author. The disability is not assessed as per the McBride scale. The disability certificate does not say whether the disability is limb or whole body disability or functional disability. The disability assessed is limb disability and not whole body or functional. Whether the disability is due to any injury alleged to have sustained in this accident is not is seen stated in the certificate. The certificate is not supported by any reason to arrive

at the alleged disability. The medical certificate unsupported by convincing and cogent reasons cannot be accepted or acted upon. The disability cannot be considered for awarding compensation in MACT cases. For MACT cases, only functional disability is relevant.

27. In spite of the above objection, the petitioner has not taken any steps to duly prove the above document by examining the author of the document. However, it is not in dispute that the nature of injury sustained by the petitioner would cause certain degree of permanent disability and thereby a functional disability to that extent.

28. 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 permanent disability is to be determined by this Tribunal. Considering the petitioner's occupation as of a nurse, I assess the percentage of functional disability suffered by her as 20%. As the petitioner was aged 26 years old at the time of the accident, the multiplier applicable is 17 as per the decision of the Hon'ble Apex Court in '**Sarla Verma Vs. Delhi Transport Corporation' : 2010(2) KLT 802.**'

29. The Hon'ble Apex Court in **Syed Sadiq etc., Vs. Divisional Manager,**

United India Insurance Company Ltd., reported in 2014 (2) SCC 735, has laid down that increment in future prospects of income can be given even in a claim seeking compensation for injuries sustained by a person, who is self-employed. Considering the fact that the petitioner is below 40 years of age and not permanently employed, I am inclined to add 40% of her income as future prospects of income based on the principles laid down by the **Hon'ble Apex Court in 'National Insurance Company Ltd Vs. Pranay Sethi** cited in 2017(4) KLT 662'. So, the income of the petitioner after adding 40% of her income as future prospects of income, will be ₹25,200/- per month [(18,000 x 40/100= 7,200), (18,000 + 7,200 = 25,200)] and the annual income of the petitioner will be ₹3,02,400/-(25,200 x 12). The loss of earning due to said functional disability would be 20% of ₹3,02,400/- which is ₹60,480/- per annum. Since the petitioner was aged 26 years at the time of accident, the multiplier applicable is 17 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 said permanent disability would be ₹10,28,160/-(60,480 x 17)

30. The petitioner is thus entitled to get a total compensation of **₹23,43,400/-(Rupees Twenty Three Lakh Forty Three Thousand Four 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	2,00,000	1,80,000	18,000 x 10 months
2	Loss of earnings(partial)	Nil	Nil	
3	Transportation charges	10,000	8,000	Travel to and from the hospital
4	Extra Nourishment	5,000	20,000	Considering the grievous injuries sustained by the petitioner
5	Damage to Clothing	2,000	1,500	
6	Medical expenses	15,00,000	7,80,756	Ext.A11 series bills
7	By-stander expenses	10,000	25,000	500 x 50 days
<u>Part-II</u>				
8	Pain and suffering	50,000	1,50,000	Considering the grievous injuries sustained by the petitioner .
9	Compensation for permanent or continuing disability	10,00,000	10,28,160	25200 x 12 x 17 x 20%
10	Compensation for loss of future earning power	2,00,000	Nil	Nil
11	Loss of amenities of life	25,000	1,50,000	Considering the grievous injuries sustained by the petitioner

(Claim limited to ₹25,00,000/-)	25,92,000 =====	
Total award amount		₹23,43,416/- =====
Rounded of		₹23,43,400/- =====
(Rupees Twenty Three Lakh Forty Three Thousand Four Hundred Only)		

Issue No.(2) is answered accordingly.

31. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the Mahindra Bolero pickup vehicle bearing Reg.No.KL-16-P-2565, 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 pickup vehicle, is therefore vicariously liable to compensate the petitioner. It is admitted by the 3rd respondent that the said vehicle 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 Mahindra Bolero pickup vehicle. Issue No.(3) is answered accordingly.

32. **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 **₹23,43,400/-(Rupees Twenty Three Lakh Forty Three Thousand Four Hundred Only)** to the petitioner with interest at the rate of 8% per annum from the date of petition [14/10/2019] 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 Suchithra V. Unnithan, A/c No.41204937956 of SBI, Velamannur Branch with IFSC Code: SBIN0070591 & PAN No.ALXPU9189J as per the documents 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 her 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 her to seek refund of the tax deducted.

- (3) The 3rd respondent shall produce cheques for ₹24,373/- and ₹25,000/- 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 10th day of April, 2026.*

Sd/-
SREEKUMAR.D
MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

- A1 03.05.2019 : Copy of FIR & FIS in Crime No. 0385/2019 of Parippally Police Station.
- A2 04.05.2019 : Copy of Scene Mahazar
- A3 : Copy of Vehicle Mahazar
- A4 series : Copies of AMVI
- A5 24.07.2019 : Copy of Final Report
- A6 : Copy of Driving Licence
- A7 21.06.2019 : Discharge Summary from Ananthapuri Hospital, Thiruvananthapuram.
- A8 14.01.2023 : Treatment Certificate
- A9 : Copy of Secondary School leaving Certificate
- A10 : Copy of Aadhar Card
- A11 series : Medical Bills
- A12 21.03.2015 : Certificate of Bachelor of Science in Nursing

Exhibits for the Respondent: Nil

Court Exhibits:

- X1 15.06.2024 : Disability Certificate
- X2 series : Salary Slip March 2019 to May 2019
- X3 series : Salary Slip March 2019 to May 2019
- X4 15.01.2025 : Copy of Muster Roll

Witness for the Petitioner : NIL

Witness for the Respondent:

RW1 12.02.2025 : Price K.V

Id/-**MOTOR ACCIDENTS CLAIMS TRIBUNAL****MEMO OF COSTS**Cost for the Applicant:

Court fee and Additional Court fee	Rs. 46,241/-	
Petition fee	Rs. 20/-	
Vakalath fee	Rs. 5/-	
Process fee	Rs. 90/-	
Document fee	Rs. 12/-	
Advocate fee (as per certificate)	Rs. 1,17,000/-	(Certificate produced)

Total	Rs. 1,63,368/-	(Order for realization)
	=====	

Cost for the Respondents:

Vakalath fee	Rs. 5/-	

Total	Rs. 5/-	(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)1346/2019
DATED:10..04..2026