

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTINGAL

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

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

OP(MV) – 1582/2019

Applicant:-

Abhijith, S/o Anil Kumar, aged 18 years, Anil Bhavan,
Nattupara, Katukkamoodu, Uriyakodu. P.O., Vellanad,
Uriyakodu, Thiruvananthapuram District.

By Advocate : - Sri.R.S.Jayan.

Respondents:-

1. Jenish.J.M, S/o Jayakumaran, Devi Nilayam,
Kinattuvila, Chowalloor, Padavancode, Vilappilsala.P.O,
Thiruvananthapuram.
2. Rahul.R.S, S/o Rajan, Nattupara, Thadatharikathu Veedu,
Uriyode.P.O, Vellanadu, Thiruvananthapuram, Pin:695543.
3. Manager, Oriental Insurance Co.Ltd., St.Mary Villa,
Ulloor, Medical College. P.O, Thiruvananthapuram.

R1 & R2 :- Exparte.

R3 by Advocate :-Sri.V.Manikantan Nair.

This Petition having been finally heard on 12.03.2026 and on the same day,
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 13/04/2019 at about 09.00 a.m. while the petitioner was travelling as a pillion rider on a motorcycle bearing Reg.No.KL-74-2199, from Vattapara to Kanyakulangara. When the vehicle reached near the petrol bunk at Kanyakulangara, the rider of the motorcycle suddenly turned the vehicle towards a gutter. Due to the impact, the petitioner fell off the vehicle and sustained serious injuries. The petitioner underwent treatment at the Govt. Medical College Hospital, Thiruvananthapuram. The respondents Nos.1 to 3 are the registered owner, rider and insurer, respectively, of the motorcycle bearing Reg.No.KL-74-2199 at the time of the accident. The accident occurred due to the rash and negligent riding of the motorcycle 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 contending mainly as follows:- The original petition is not maintainable either in law or on facts. The

motorcycle bearing Reg.No.KL-74-2199 was duly insured with the 3rd respondent at the time of the alleged accident. However, the 3rd respondent is not admitting the liability to compensate the petitioner. The petitioner is bound to prove his age, occupation and income. He is also required to prove the injuries, if any, sustained by him and the treatments he underwent. The amounts claimed under various heads of compensation are exorbitant. The petitioner is bound to prove that the accident occurred due to the negligence of the second respondent. The OP 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, PW1 was examined and Exts. A1 to A13 were marked. Exts.X1 and X2 were marked as court exhibits. 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 A4 documents. Ext.A1 is a copy of the FIR in Crime No.1489/2019 registered on 18/10/2019 at the Venjaramoodu Police Station in connection with the accident. Ext.A2 is a copy of the scene mahazar prepared in this connection on 19/10/2019. Ext.A3 is a copy of the mahazar of the vehicles involved in the accident prepared on 21/10/2019. Ext.A4 is a copy of the final report. In Ext.A4 final report, the conclusion of the investigating officer is that the accident occurred due to the rash and negligent driving of the motorcycle bearing Reg.No.KL-74-2199, 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 in this case occurred due to the rash and negligent driving of the motorcycle bearing Reg.No.KL-74-2199, 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.A5 is a treatment certificate issued from the Medical College Hospital, Thiruvananthapuram which shows that the petitioner sought treatment at the above hospital on 13/04/2019 with history of RTA. Ext.A6 is a discharge summary issued from the above hospital which shows that the petitioner had undergone inpatient treatment there for 18 days from 13/04/2019 to 30/04/2019. The treatment records show that the petitioner sustained **TBI + Haemorrhagic contusion, maxillary sinus medial wall fracture, bilateral posterior wall maxillary fracture.**

Treatment given and course in the hospital:

Managed with iv antibiotics, analgesics, anti-edema measures,

antiepileptics, neurosurgery, OMFS, ophtahlmology and ENT consultations were obtained. Interamaxillary fixation with arch bar was done.

Ext.A7 is a discharge card issued from the Community Health Centre, Vellanad which shows that the petitioner had undergone inpatient treatment for 2 days from 30/04/2019 to 01/05/2019. Ext.A8 series consists of outpatient records dated 08/05/2019 issued from the Medical College Hospital showing that the petitioner sought outpatient treatment also at the above hospital. Ext.A12 is a casualty ticket issued from the above hospital on 25/04/2019. The history of RTA is shown there also. He approached with history of RTA. Patient was drowsy. Vision could not be assessed. Ext.A11 is a referral OP card issued from the Regional Institute of Ophthalmology, Thiruvananthapuram on 08/08/2019. Ext.A13 is a case record issued from the Dental College, Thiruvananthapruam on 08/05/2019. X-ray Ellis Class III fracture also.

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 motorcycle 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 catering work with a monthly income of ₹20,000/-. Ext.A10, a copy of the Adhaar card would show that the year of birth of the petitioner is 2001. It means the petitioner was 18 years old at the time of the accident. But there is nothing on record to prove his employment or to show what was 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 7 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 ₹1,21,275/- under the head 'Loss of income'.

15. Considering his visits to the hospitals in connection with the treatment, an amount of ₹5,000/- 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 20 days, an amount of ₹10,000/- is awarded as 'By-stander expense', calculated at the rate of ₹500/- per day.

19. Ext.A9 series, bills reveal that an amount of ₹2,943/- was spent for the treatment of petitioner. Hence, I am inclined to award an amount of ₹2,943/- as 'Medical expense'.

20. Considering the gravity of injuries sustained by the petitioner, his

prolonged ospitalization and the sufferings, I am inclined to award an amount of ₹75,000/- 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 ₹1,00,000/- is also awarded as compensation for 'loss of amenities of life'.

22. Ext.X1 is a disability certificate issued by the Medical Board constituted at the Medical College Hospital, Thiruvananthapuram. The board has assessed the total permanent partial degree of disability as 34% 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, Govt. of India gazette 2024. While assessing the disability, the Board has assessed a visual disability of 30%. The remaining 4% is based on the other disabilities suffered by the petitioner in the accident.

23. The learned counsel for the insurer raised a contention that the visual disability suffered by the petitioner was not on account of any injuries suffered in the accident. His argument is based on Ext.A6, the discharge summary. According to him, no visual impairment is noted in the discharge summary. Whereas, the learned

counsel for the petitioner pointed out that in the said document itself, it is noted that the petitioner was referred for an ophthalmology consultation.

24. In view of the dispute, the petitioner examined PW1, the Assistant Professor in the Ophthalmology Department of Government Medical College Hospital, Thiruvananthapuram. She identified Ext.X1 disability certificate issued by the Medical Board, of which she was also a member. The procedure record was marked as Ext.X2 through this witness. In the witness box she identified Ext.A12 casualty ticket issued in respect of the petitioner from the Regional Institute of Ophthalmology, Thiruvananthapuram dated 25/04/2019. According to her, the said document was issued after examining the patient who had been admitted in the NICU. She further confirmed the ophthalmology consultation mentioned in Ext.A6. Further, Ext.A11 was also identified as the OP ticket issued in connection with the ophthalmology consultation. In her examination-in-chief, she affirmed that the patient suffered a visual disability of 30%. She admitted during cross examination that the patient had undergone CT scan during the treatment. However, she denied the suggestion that any injury to optic nerve would necessarily appear in the CT scan. According to her, such injury would appear in a CT scan only if a serious fracture had occurred to the optic canal. According to the doctor, the condition of

optic neuropathy must have been sustained by the petitioner due to a forceful hit by a hard object. She further deposed that in such cases, it is not necessary for the injured person to suffer some corresponding external injury around his eyes. She further deposed that during her first examination of the patient, there was no proper reaction of the pupils, and it was sluggish. Further, she noticed injury around his eyes. In the light of all these, she arrived at a conclusion that the patient had suffered traumatic optic neuropathy in the accident. The doctor further deposed that the patients with such a condition would be able to see objects only if they are placed very close to the eye.

25. I do not find any reason to discard the above findings of the doctor. She has given satisfactory explanation to all the queries made to her during the cross-examination. On the basis of her evidence, it can be concluded that the above visual impairment was sustained by the petitioner in the accident referred to in this case.

26. According to the petitioner, he was working as a catering employee at the time of 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 permanent disability is to be determined by this Tribunal. Considering his occupation as a catering worker and the

nature of injuries suffered by the petitioner, I find that a functional disability of 20% can be fixed in this case. 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 self-employed, I am inclined to add 40% of his 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 his income as future prospects of income, will be ₹24,255/- per month [(17,325 x 40/100= 6,930), (17,325 + 6,930 = 24,255)] and the annual income of the petitioner will be ₹2,91,060/-(24,255 x 12). The loss of earning due to said functional permanent disability would be 20% of ₹2,91,060/- which is ₹58,212/- per annum. Since the petitioner was aged 18 years at the time of 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 said permanent disability would be ₹10,47,816/-(58,212 x 18).

27. The petitioner is thus entitled to get a total compensation of **₹13,68,500/- (Rupees Thirteen Lakh Sixty Eight Thousand Five 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	1,21,275	17325 x 7 months
2	Loss of earnings(partial)	Nil	Nil	
3	Transportation charges	7,000	5,000	Travel to and from the hospital
4	Extra Nourishment	5,000	5,000	Considering the grievous injuries sustained by the petitioner
5	Damage to Clothing	5,000	1,500	
6	Medical expenses	50,000	2,943	Ext.A9 series bills produced
7	By-stander expenses	13,000	10,000	500 x 20 days
<u>Part-II</u>				
8	Pain and suffering	50,000	75,000	Considering the grievous injuries sustained by the petitioner .
9	Compensation for permanent or continuing disability	3,50,000	10,47,816	24,225 x 12 x 18 x 20%
10	Compensation for loss of future earning power	1,50,000	Nil	Nil

11	Loss of amenities of life	1,50,000	1,00,000	Considering the grievous injuries sustained by the petitioner
	(Claim limited to ₹6,00,000/-)	8,70,000 =====		
	Total award amount		₹13,68,534/- =====	
	Rounded of		₹13,68,500/- =====	
(Rupees Thirteen Lakh Sixty Eight Thousand Five Hundred Only)				

Issue No.(2) is answered accordingly.

28. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the motorcycle bearing Reg.No.KL-74-2199 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 motorcycle, is therefore vicariously liable to compensate the petitioner. It is admitted by the 3rd respondent that the motorcycle 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

motorcycle. Issue No.(3) is answered accordingly.

29. 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 **₹13,68,500/-(Rupees Thirteen Lakh Sixty Eight Thousand Five Hundred Only)** to the petitioner with interest at the rate of 8% per annum from the date of petition [16/11/2019] 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 Abhijith.B., A/c No.110168648775 of Canara Bank, Vellanad Branch with IFSC Code: CNRB0014008 & PAN No.HUYPB5620J 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 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 ₹13,048/- and ₹13,675/- 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 12th day of March, 2026.*

Sd/-
SREEKUMAR.D
MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

- A1 - 18.10.2019 : Copy of FIR & FIS in Crime No. 1489/2019 of Venjaramoodu Police Station.
- A2 - 19.10.2019 : Copy of Scene Mahazar.
- A3 - 21.10.2019 : Copy of Vehicle Mahazar.
- A4 - 25.10.2019 : Copy of Final Report.
- A5 - 23.10.2019 : Copy of Treatment Certificate
- A6 - 30.04.2019 : Discharge summary issued from Medical College Hospital, Thiruvananthapuram.
- A7 - 01.05.2019 : Discharge Card from Community Health Centre, Vellanad.
- A8 08.05.2019 : Out Patient Record from Medical College Hospital, Thiruvananthapuram.
- A9 series : Medical Bills
- A10 : Copy of Aadhar Card.
- A11 08.08.2019 : Referral OP from Regional Institute of Ophthalmology, Thiruvananthapuram.
- A12 25.04.2019 : Casualty Ticket from Regional Institute of Ophthalmology, Thiruvananthapuram.
- A13 : Case records from Dental College, Thiruvananthapuram.

Exhibits for the Respondent: Nil

Court Exhibits:

- X1 16.07.2025 : Disability Certificate
- X2 18.02.2026 : Case records from Hospital.

Witness for the Petitioner:

- PW1 18.02.2026 : Dr.Valsala.T.Stephen.

Witness for the Respondent: Nil

Id/-
MOTOR ACCIDENTS CLAIMS TRIBUNAL

MEMO OF COSTS

Cost for the Applicant:

Court fee and Additional Court fee	Rs. 26,743/-
Petition fee	Rs. 90/-
Vakalath fee	Rs. 5/-
Process fee	Rs. 90/-
Document fee	Rs. 12/-
Advocate fee (as per rule)	Rs. 70,825/- (Certificate produced)

Total	Rs. 97,765/- (Order for realization)
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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)1582/2019
DATED:12..03..2026