

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, WAYANAD, KALPETTA

Present: Sri.A.V.Unnikrishnan, Motor Accidents Claims Tribunal, Kalpetta

Saturday, this the 06th day of June, 2026
16th day of Jyaishtha, 1948

ORIGINAL PETITION (MV) No. 112/2024

Between:

Salim T., S/o Ussain, Aged 54 years,
Thacharakkal House, Noolpuzha, V.T.C.,
Kuppadi Post, Sulthan Bathery Taluk,
Wayanad District, Pin - 673 592.

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Petitioner

And:

R1. Jishnu Gopal.V, Aged 29 years,
S/o Venugopal, Peedikapurath House,
Manalvayal Post, Irulam Village,
Sulthan Bathery Taluk,
Wayanad District, Pin - 673 579.

***(Owner-cum-Driver of the Vehicle
No.KL-73 E-0459 Motor Cycle)***

R2. United India Insurance Company Ltd.,
Noornal Building, Mysore Road,
Sulthan Bathery Post, Wayanad District,
Pin - 673 592.

***(Insurer of the Vehicle No.KL-73 E-0459
Motor Cycle)***

(*) The New India Assurance Company Ltd.,
Supl. MGT Building, Kalpetta North Post,
R3. Vythiri Taluk, Wayanad -673 122.

***(Insurer of the Vehicle No. KL-73 E-0459
Motor Cycle)***

(*) ***(Supplemental respondent No.3 impleaded
and amended as per orders in IA 03/2025
and IA 04/2025 dated 25/06/2025)***

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Respondents

This OP(MV) is coming on this the 20th day of May, 2025 for final hearing before me in the presence of Sri.V.P.Pramod, Counsel for petitioner, Sri.K.M.Thomas, Counsel for respondent No.2, Sri.P.C.Prasad, Counsel for supplemental respondent No.3 and respondent No.1 remained absent and set exparte and having stood over for consideration to this day, the Tribunal passed the following.

A W A R D

This petition is filed U/s 164 (1) of the Motor Vehicles Act 1988.

2. Case of the petitioner in brief is as follows:- At the time of the accident, petitioner was a coolie worker, aged 54 years, and was earning a monthly income of ₹17,000/-. On 09.08.2023, at about 7.30 pm, while the petitioner was walking along the margin of the Public Road at Kalloor, near Kalloor bridge, a motorcycle bearing Reg.No.KL-73E-0459, ridden by R1 in a rash and negligent manner, knocked down the petitioner and thereby he sustained grievous injuries. R1 was the rider of the motorcycle bearing Reg.No.KL-73E-0459, who rode it in a rash and negligent manner and caused the accident. Originally, R2 is shown as the insurer. Later supplemental R3 has been impleaded as the real insurer.

3. Originally the petition was filed U/s 166 (1) (a) of the Motor Vehicles Act. Later OP(MV) was converted to one U/s.164 of Motor Vehicles Act. Petitioner is claiming a compensation of ₹2,50,000/- jointly and severally from the respondents.

4. On receipt of the summons, R1 remained absent. Hence, he was called absent and set exparte. R2 and R3 appeared through counsels and filed written statements.

5. R2 filed written statement contending as follows:- R2 contended that they issued a 'stand alone policy' with respect to the vehicle bearing Reg.No.KL-73E-0459 involved in the accident. As R2 has not under taken to indemnify third party liability, R2 is not liable to pay any compensation.

6. R3 filed a written statement contending as follows :- R3 admitted that the motorcycle bearing Reg.No.KL-73E-0459 involved in the accident was validly insured with them at the time of the accident. It is contended by R3 that the accident was occurred not due to the negligence of R1. It is also contended that the petitioner sustained no grievous injuries. Without prejudice to this contention, it is further stated that the compensation claimed is highly excessive.

7. The following issues were framed for consideration:

- 1 Whether the petitioner sustained grievous hurt in the accident arose out of the use of a Motor vehicle?
- 2 Whether the petitioner is entitled to get compensation u/s 164 of the Motor Vehicles Act, 1988 and if so, what is the quantum ?
- 3 Who is liable to pay compensation to the petitioner?
- 4 Reliefs and costs?

8. Both sides reported no oral evidence. On the side of the petitioner Exts.A1 to A9 are marked. No document is produced on the side of the respondents.

9. Heard both sides.

10. **Issue Nos. 1 to 3**:- As per Ext.A4 final report, the accident in question was occurred due to the rashness and negligence of R1. Petitioner is

claiming compensation under Section 164 of the Motor Vehicles Act. Section 164 is a special provision dealing with the payment of compensation in case of death or grievous hurt of third party by the owner of motor vehicle and authorised insurer, notwithstanding anything contained in the Motor Vehicles Act. In other words, injured with grievous hurt or the legal heirs of deceased in an accident are entitled to get a fixed compensation even without proving negligence on the part of the driver of the vehicle. Even in a case where the driver of the vehicle who was negligent and caused the accident also claim u/s 164 of Motor Vehicles Act is maintainable.

11. It is contended by R3 that, the accident was not due to the negligence of R1. While deciding similar contentions in a case under section 163 (A) of pre-amended Act, the **Honourable Supreme Court in United India Insurance Company Ltd. Vs Sunilkumar and another** reported in **AIR 2017 SC 5710** held that *“though aforesaid section of Act does not specifically exclude a possible defence of Insurer based on negligence of claimant as contemplated by section 140(4), to permit such defence to be introduced by insurer and/or to understand provisions of section 163 A of the Act to be contemplating any such situation would go contrary to very legislative object behind introduction of 163A of the Act, namely, final compensation within a limited time frame on the basis of the structured formula to overcome situations where claims of compensation on the basis of fault liability was taking an unduly time. In fact, to understand section 163 A of the Act to permit insurer to raise the defence of negligence would be to bring a proceeding under section 163(A) of the Act at par with proceeding under section 166 of Act which would not only be self contradictory but also defeat legislative intention”*. I am of the opinion that law laid by the Honourable Supreme Court in

the above mentioned decision is equally applicable to claim u/s 164 of the Motor Vehicles Act.

12. In the written statement filed by R3, the accident in which the petitioner sustained injuries stands not denied. Further, it is admitted by R3 that the motorcycle bearing Reg.No.KL-73E-0459 involved in the accident was validly insured with them.

13. Coming to the facts of the case Ext.A6 is the copy of discharge summary issued from Dr. Moopen's Hospital, Meppadi. As per Ext.A6, the petitioner sustained undisplaced fracture of left frontal sinus wall and left orbit. That being the case, the injury sustained to the petitioner is grievous within the meaning of Section 116 of BNS and Section 320 of IPC. As the petitioner sustained grievous injuries, he is entitled to get fixed compensation of ₹2,50,000/- as stipulated in section 164 of the Motor Vehicles Act.

14. **Now the next question is who shall pay the compensation.** While discussing issues No.1 to 3, I have already come to a conclusion that the petitioner sustained grievous hurt in a road traffic accident in which the insured vehicle bearing Reg.No.KL-73E-0459 was involved. In such circumstances, R1 the owner of the offending vehicle and R3 being the insurer of the offending vehicle are jointly and severally liable to pay fixed compensation of ₹2,50,000/- (**Rupees Two lakh and Fifty thousand only**) u/s 164 of the Motor Vehicles Act. R3 being insurer shall pay compensation for and on behalf of R1. These issues are answered accordingly.

15. **Issue No.4:-** In view of the above findings, the petitioner is entitled for a sum of **₹2,50,000/- (Rupees Two lakh and Fifty thousand only)** as compensation. The petitioner is entitled to realise an amount of **₹2,50,000/-** as compensation from **R3** with interest at the rate of 8% per annum from the date of petition i.e., **12.02.2024** till realisation with proportionate costs. This issue is found in favour of the petitioner.

In the result,

- 1 An award is passed for **₹2,50,000/- (Rupees Two lakh and Fifty thousand only)** with interest @ 8% per annum from the date of filing of the petition i.e., **12.02.2024** till realisation with proportionate costs.
- 2 **R3** is directed to furnish cheques for **₹1,873/-** towards Court Fee and **₹2,500/-** towards Legal Benefit Fund payable by the petitioner, in favour of MACT, Kalpetta.
- 3 **R3** shall deposit the award amount with proportionate costs and interest directly to the bank account of petitioner **stated in Ext.A7 (A/c No.40179100312284 IFSC : KLGB0040179)** within one month from the date of award by way of electronic funds transfer, which the petitioner shall be at liberty to withdraw.
- 4 Immediately when the payments as aforestated are made, **R3** shall file a statement before the Tribunal, regarding compliance of the order along with a copy of the transaction records certified by the Bank concerned which will be countersigned and issued to the petitioner by the Tribunal.

5 Office shall make necessary entries in the registers of the Tribunal, evidencing payment of the amount to the petitioner.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 06th day of June, 2026)

MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Petitioner's Witnesses : Nil

Petitioner's Exhibits :

A1- 15/08/2023 Copy of First Information Report & FIS
A2- 20/08/2023 Copy of Scene Mahazar
A3- 28.03.2023 Copy of AMVI Report
A4- 02/10/2023 Copy of Final Report
A5- 09/08/2023 Copy of Accident Register cum Wound Certificate
A6- 19.08.2023 Copy of Discharge Summary
A7- 30/12/2013 Copy of Bank Pass Book
A8- - Copy of PAN Card
A9- 22/03/2012 Copy of Aadhaar Card

Respondent's Witnesses & Exhibits : Nil

Court Witnesses & Exhibits : Nil

MOTOR ACCIDENTS CLAIMS TRIBUNAL

Typed by : Sadeesh.K
Compared by : Kalesh R.
FCS :

<u>FAIR AWARD IN OP (MV)</u> No.112/2024	
<u>Dated: 06/06/2026</u>	
Court fee paid on	:
Award ready on	:
Date notified for appearance to receive the copy	:
Date when copy delivered	:
FAIR COPY SUPERINTENDENT	
Note:	“The parties should apply as soon as possible for the return of all documents which they may wish to preserve as the record will liable to be destroyed after twelve years from this date”.