IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, WAYANAD, KALPETTA

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

Monday, this the 07th day of July, 2025
16th day of Ashadha, 1947

ORIGINAL PETITION (MV) No.216/2024

Between:

Nandu P.V, S/o Vijayan K.V, Aged 29 years, Pulimarathil House, Cheeral Post, S.Bathery Taluk, Pin - 673 595.	Petitioner

And:

R1. Noushad N.K., S/o Abdul Rahman, Age about 38 years, Nuchattinkara House, Puthenkunnu, Sulthanbathery Taluk, Pin - 673 595. ***(Driver cum owner of the Pickup No.KL-73E-3841)*** R2. The Branch Manager, Reliance General Insurance Co.Ltd., 2nd Floor, Citadel Arcade, R.C.Road, Calicut, Pin - 673 001. ***(Insurer of the Pickup No.KL-73E-3841)***	Respondents

This OP(MV) is coming on this the 11th day of June, 2025 for final hearing before me in the presence of Sri.Ranjith A.V., Counsel for petitioner and respondent Nos.1 & 2 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 is a petition filed U/s.166 (1)(a) of the Motor Vehicles Act, 1988.

2. Case of the petitioner in brief is as follows:- At the time of accident, petitioner was an Employee in Axis Bank, Sulthanbathery, aged 29 years, and was earning a monthly income of **₹20,000/-**. On 13.09.2023 at about 7.45 am, while the petitioner was riding the motorcycle bearing Reg.No.KL-43F-7581, along

Puthankunnu – Sulthanbathery Public Road, near Block Office, Sulthanbathery, a pickup van bearing Reg.No.KL-73E-3841, driven by R1 in a rash and negligent manner, coming from behind, knocked down the motorcycle ridden by the petitioner and thereby the petitioner sustained grievous injuries. Respondent No.1 was the driver cum owner of the pickup van bearing Reg.No.KL-73E-3841, who drove it in a rash and negligent manner and caused the accident. R2 was the insurer. On account of the accident, petitioner suffered huge loss to the tune of **₹7** lakh/-. Petitioner is claiming compensation jointly and severally from respondents.

3. On receipt of the notice, R1 and R2 remained absent. Hence they were called absent and set exparte.

4. Both sides reported no oral evidence. On the side of the petitioner Exts.A1 to A13 (series) and X1 are marked. No document is produced on the side of the respondents.

5. Heard.

6. The first question to be considered by me is that whether the accident in question was due to the rashness and negligence of R1. Ext.A1 is the FIR in Cr.No.1235/2023 of Sulthanbathery Police Station. Ext.A4 is the final report submitted by the Investigation Officer. As per Ext.A4, the Investigation Officer found that R1 being the driver of the pickup van bearing Reg.No.KL-73E-3841 drove it in a rash and negligent manner and caused the accident as narrated in the petition. Now, it is settled legal position as held by the Hon'ble High Court of Kerala in ***New India Assurance Co. v. Pazhaniammal and others (2011 (3) KLT 648)*** and in ***Kolavan and Others V. Salim and Others (2018 (1) KLT 489).*** It is

held by the Honourable High Court of Kerala**,** that, unless otherwise proved the finding arrived at by the Investigation Officer, after due process of investigation can be accepted as to find out upon whom the negligence can be attributed. I find nothing to disbelieve the findings of the investigating officer. From the material available before me, I am of the opinion that the petitioner succeeded in proving that cause of the accident was rashness and negligence of the R1, driver of the pickup van bearing Reg.No.KL-73E-3841.

7. It is averred in the petition that R1 is the driver cum owner and R2 is the insurer of the pickup van bearing Reg.No.KL-73E-3841. Even after receipt of notice, R1 and R2 remained absent and hence they were called absent and set exparte.

8. Ext.A5 is the accident register cum wound certificate issued from Iqraa Hospital, Sulthanbathery which shows that petitioner sustained the following injuries.

i. Loose of tooth

ii. Abrasion over left arm.

iii. Fracture wall of acetabulam.

9. Ext.A1, A4 and A5 will prove that petitioner sustained injuries in an accident as stated in the petition.

10. According to the petitioner, he was an employee of Axis Bank, Sulthanbathery and was earning monthly income of **₹20,000**/-. Apart from making such averments in the petition, no positive evidence is produced to prove the petitioner's occupation and income. In the absence of any such documents, I am of

the opinion that notional income can be considered as the income of the petitioner. Accident in question was in the year of 2023. As per the dictum laid down by the Hon'ble Supreme Court in ***Ramachandrappa Vs. Royal Sundaram Alliance Insurance (AIR 2011 SC 2951)*** the monthly notional income of the petitioner in the year 2023 can be taken as **₹14,000/-**

11. Ext.A5 is the accident register cum wound certificate issued from Iqraa Hospital, Sulthanbathery which shows that petitioner sustained the following injuries such as loose of tooth, abrasion over left arm and fracture wall of acetabulam. Ext.A6 is the discharge summary issued from Baby Memorial Hospital, Kozhikode. As per Ext.A6, the petitioner was admitted in that hospital on 13.09.2023 and discharged on 17.09.2023 (5 days). The petitioner was diagnosed with fracture dislocation left hip with posterior wall, fracture maxillary left lateral incisor, grade III mobile and intruded maxillary left central incisor, lacerated wound chin and abrasions left arm. At the hospital, procedure of closed reduction left hip and ORIF (left) acetabulam were done.

12. Ext.X1 is the report of the Medical Board, District Hospital, Mananthavady, which assessed the permanent disability of the petitioner as 44% with respect to whole body. Medical Board found that petitioner has difficulty in chewing and smiling.

13. Upon considering the nature of the injuries sustained to the petitioner, the period for which he was treated as inpatient, and the disability suffered by him, I am of the opinion that petitioner is entitled to get a sum of

₹60,000/- as compensation for pain and sufferings. Towards loss of amenities, the petitioner is entitled to get a sum of **₹40,000/**-.

14. As per Ext.A6 discharge summary, petitioner was treated as an inpatient for a total period of 5 days. I am of the opinion that petitioner is entitled to get bystander expenses at the rate of **₹600/**- per day which will come to **₹3,000/**- (600x5).

15. Towards extra nourishment, the petitioner is entitled to get **₹3,000/**- (600x5).

16. Upon considering the nature of the injuries sustained to the petitioner and the period for which he was treated, I am of the opinion that petitioner might not have worked for four months after the accident and the petitioner is entitled to get an amount of **₹56,000/**- towards loss of earnings (14000x4).

17. Towards damage to clothing and articles petitioner is entitled to get a sum of ₹**3,000/**-.

18. Towards transportation, the petitioner produced Ext.A12 (series) Trip sheets for ₹**26,080/**-. Ext.A12 are not opposed by the learned counsel for R2. Hence that amount is allowed.

19. Towards medical expenses, the petitioner produced Ext.A13 series medical bills for an amount of **₹1,98,700/**-. Ext.A13 series are not opposed by the learned counsel for R2. Hence that amount is allowed.

20. Ext.A7 is the future treatment records. Expenses may claim to **₹50,000/-** can be awarded towards future treatment.

21. Ext.X1 is the report of the District Medical Board, District Hospital, Mananthavady which assessed the permanent disability of 44% with respect to whole body. *In **Raj Kumar v Ajay Kumar 2011(1) SCC 343,** it is held by the Hon'ble supreme Court that, "the percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of the loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability)".*

22. In this case upon considering the nature of injuries, and the work of the petitioner, I am of the opinion that occupational disability of the petitioner is taken as 44%. Ext.A10 is the copy of PAN card. As per Ext.A10, date of birth of the petitioner is 14.01.1995. The accident was in the year 2023. Age of the petitioner at the time of the accident was 28 years. Since the petitioner is a bank employee aged 28 years, an enhancement of 40% is to be added to the monthly income for future prospects as per the dictum *in **National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157***. Accordingly the monthly income of the petitioner is arrived as **₹19,600/-** (14000+40% of 14,000). The multiplier of **'17'** is to be applied. The compensation for continuing

and permanent disability will come to **₹17,59,296/-** (19600x12x17x44/100). That amount is allowed.

23. **Now the next question is who shall pay the compensation**. I have already come to a conclusion that the accident was occurred due to the rashness and negligence of the R1, the driver of the pickup van bearing Reg. No.KL-73E-3841. In such circumstances R1, the owner cum driver of the offending vehicle and R2 being the insurer of offending vehicle are jointly and severally liable to pay the compensation amount. Since R2 is the insurer, R2 shall pay the compensation for and on behalf of R1.

SUMMARY OF CLAIMS RAISED AND ALLOWED

Sl. No.	Head of claim	Amount claimed in ₹	Amount awarded in ₹	Basis
PART -				
1	Loss of earning (Total)	1,20,000	56,000	14000X4 months
2	Loss of earning (Partial)	50,000	0	Nil
3	Medical and miscellaneous expenses	2,00,000	1,98,700	Ext.A13 series
4	Future treatment	50,000	50,000	Nil
5	Bystander expenses	25,000	3,000	600x5
6	Transportation expenses	25,000	26,080	Ext.A12 series
7	Extra nourishment	20,000	3,000	600x5
8	Damage to clothing, etc	5,000	3,000	Nil
9	Pain and suffering	50,000	60,000	Considering nature of injuries
10	Loss of earning power	1,00,000	0	Nil
11	Loss of amenities and conveniences , etc	50,000	40,000	Nil

12	Compensation for continuing/ permanent disability	2,00,000	17,59,296	Nil
13	Physical and mental shock	25,000	0	Nil
14	Loss of expectation of life	50,000	0	Nil
15	Inconveniences, hardship, discomfort, disappointment, frustration and mental stress in life	0	0	Nil
	Total	**₹9,70,000/- claim limited to ₹7 lakh**	**₹21,99,076/- rounded to ₹21,99,100/-**	

24. In view of the above findings, the petitioner is entitled for a sum of **₹21,99,100/- (Rupees Twenty one lakh Ninety nine thousand and One hundred only**) as compensation. The petitioner is entitled to realise an amount of **₹21,99,100/**- as compensation from R2 with interest at the rate of 8% per annum from the date of petition i.e., 21.03.2024 till realisation with proportionate costs.

In the result,

1 An award is passed for for **₹21,99,100/- (Rupees Twenty one lakh Ninety nine thousand and One hundred only**) with interest @ 8% per annum from the date of filing of the petition i.e., 21.03.2024 till realisation with proportionate costs.

2 **R2** is directed to furnish cheques for ₹**21,364/**- (6373+14991) towards Court Fee including excess Court fee on excess award amount and ₹**21,991/**- towards Legal Benefit Fund payable by the petitioner, in favour of MACT, Kalpetta.

3 **R2** shall deposit an amount of **₹12,00,000/**-(**Rupees Twelve lakh only**) with proportionate costs and interest directly to **Ext.A11 bank account of petitioner (stated in Ext.A11 bank pass book (A/c No.32729423591.**

IFSC: SBIN0005099) within one month from the date of award by way of electronic funds transfer,which the petitioner shall be at liberty to withdraw. And for the balance amount create a Fixed Deposit for one year which shall have a lien marked on the face of the receipt stating that the amount shall be repaid only on maturity by automatically crediting it with interest to the petitioner's account or else only on the orders of the Tribunal/High Court. This shall be done within one month from the date of order.

4 Immediately when the payments as afore stated are made, **R2** 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 On production of the said statement countersigned by the Tribunal, the Bank shall hand over the Fixed Deposit Receipt to the petitioner.

6 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 **07th day of July, 2025**)*

MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Petitioner's Witnesses : Nil

Petitioner's Exhibits :

A1-	01/11/2023	Copy of First Information Report
A2-	02/11/2023	Copy of Scene Mahazer
A3-series	16/11/2023	Copy of AMVI Reports
A4-	06/01/2024	Copy of Final Report

A5-	25.11.2023	Copy of Accident Register cum Wound Certificate
A6-	17/09/2023	Discharge Summary
A7-	03/04/2025	Treatment Certificate
A8-series	-	OP Tickets
A9-	03/12/2012	Copy of Aadhar Card
A10-	-	Copy of PAN Card
A11-	25/12/2012	Copy of Bank Pass Book
A12-series	-	Trip Sheets
A13-series	-	Medical Bills

Respondent's Witnesses & Exhibits: Nil

Court Witnesses : Nil

Court Exhibits :

X1-	17/12/2024	Medical Certificate issued by District Medical Board, Wayanad

MOTOR ACCIDENTS CLAIMS TRIBUNAL

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