

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, WAYANAD, KALPETTA

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

Monday, this the 30th day of March, 2026
09th day of Chaithra, 1948

ORIGINAL PETITION (MV) No.216/2024

Between:

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

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Petitioner

And:

R1. Noushad N.K, S/o Abdul Rahman, Age about
38 years, Nuchattinkara House, Puthenkunnu,
S.Bathery Taluk, Pin – 673 595.

*(Driver cum Owner of the Pickup
No. KL-73-E-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-73-E-3841)

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Respondents

This OP(MV) is coming on this the 17th day of March, 2026 for final hearing before me in the presence of Sri. Ranjith A.V, Counsel for petitioner and Sri. Thomas Mathew & Smt. Aneesha K, Counsels for respondent No.2 and respondent No.1 remained absent and set exparte and having stood over for consideration to this day, the Tribunal passed the following.

AWARD

Originally the above numbered OP(MV) was disposed off vide order dated 07.07.2025 by setting aside R2 exparte. On an application filed by R2, the exparte award has been set aside.

2. The above OP(MV) was filed U/s 166 (1) (a) of the Motor Vehicles Act claiming compensation of ₹7,00,000/- for the injuries sustained by him in a motor vehicle accident.

3. 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. R1 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.

4. On receipt of the notice, R1 remained absent. Hence he was called absent and set exparte.

5. R2 filed written statement contending as follows :- R2 admitted that the pickup van bearing Reg.No.KL-73E-3841 involved in the accident was validly insured with them at the time of the accident. It is contended by R2 that the accident was occurred not due to the negligence of R1. It is also contended that at

the time of the accident, the insured vehicle had no valid vehicular documents. Without prejudice to this contention, it is further stated that the age, nature of injury, period of treatment and expenses as narrated in the petition are not correct and hence denied. The petitioner has to prove these aspects with strict proof. For the reasons stated above prays to dismiss the petition.

6. The following issues were framed for consideration :-

- 1 Whether the accident was occurred due to the rash and negligent driving by R1?
- 2 Whether the petitioner sustained injuries in the accident?
- 3 Whether the petitioner is entitled to get compensation and if so, who is liable to pay the same?
- 4 If issue Nos.1 to 3 are decided in favour of the petitioner, what should be the quantum of compensation entitled by the petitioner?
- 5 Reliefs and costs?

7. 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.

8. Heard.

9. **Issue No.1:-** In the written statement filed by the R2 it is contended that the accident occurred not due to the rash and negligent driving of the pickup van bearing Reg.No.KL-73E-3841 by R1. Apart from taking such a contention in the written statement, R2 has not produced any evidence to prove said contention. 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. In the case at hand, 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. 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.

10. **Issue No.2** :- In the written statement filed by the R2, the accident in which the petitioner sustained injuries stands admitted. R2 in their written statement admitted that, the pickup van bearing Reg.No.KL-73E-3841 is validly insured with them.

11. 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 acetabulum.

12. The admission of R2 in their written statement and from Exts.A1, A4 and A5 will prove that petitioner sustained injuries in an accident as stated in the petition. This issue is found in favour of the petitioner.

13. **Issue Nos.3 and 4** :- 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 income of the petitioner. In the absence of any such evidence, I am of the opinion that only a notional income can be considered as the income of the petitioner. The Hon'ble High Court in **Fathima K.T @ Pathummu v the Manager, National Insurance Company Limited**, in MACA No.1059/2021 dated 06.03.2025, relying on the decision of the **Honourable Supreme Court in Angad Tiwari and Another v National Insurance Company Ltd. and Another reported in 2024 KHC 8590**, held that, the Tribunals and Courts shall not fix income below the minimum wages. The Honourable High Court fixed a minimum wage of ₹17325/- relying on G.O(P) No.56/2017/Fin.dated 28.04.2017. I am of the opinion that the minimum wages of the petitioner can be fixed as ₹17325/-.

14. Ext.A5 is the accident register cum wound certificate issued from Iqraa Hospital, Sulthanbathery which shows that the petitioner sustained the following injuries such as loose of tooth, abrasion over left arm and fracture wall of acetabulum. 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) acetabulum were done.

15. 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 opined that petitioner has left hip range of movement full, power grade V, squatting partial, weight bearing plus, pain plus, and difficulty in chewing and smiling.

16. 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. The Medical Board found that the petitioner has difficulty in chewing and smiling. Hence, a sum of ₹1,00,000/- is awarded towards the head loss of amenities.

17. 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).

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

19. 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 **₹69,300/-** (17325x4) towards loss of earnings.

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

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

22. 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.

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

24. 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)". The total disability of the petitioner is assessed as 44%. The split up data of disability under each head has not been strictly mentioned. The petitioner being a coolie worker, difficulty in chewing and smiling may not have direct impact on his earning capacity. I am of the opinion that the functional disability of the petitioner can be taken as **25%**.

25. 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 **₹24,255/-** (17325+40% of 17325). The multiplier of '17' is to be applied. The compensation for continuing and permanent disability will come to **₹12,37,005/-** (24255 x12x17x25/100). That amount is allowed.

26. 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 the written statement R2 admitted the insurance of said vehicle. In such circumstances R1, the owner cum driver of the offending vehicle and R2 being the insurer of the 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. These issues are found in favour of the petitioner.

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	69300	17325x4 months
2	Loss of earning (Partial)	50,000	0	Nil
3	Medical and miscellaneous expenses	2,00,000	198700	Ext.A13 series
4	Future treatment	50,000	50000	Ext.A7
5	Bystander expenses	25,000	3000	600x5
6	Transportation expenses	25,000	26080	Ext.A12 series
7	Extra nourishment	20,000	3000	600x5
8	Damage to clothing, etc	5,000	3000	Nil
9	Pain and suffering	50,000	60000	Considering nature of injuries
10	Loss of earning power	1,00,000	0	Nil
11	Loss of amenities and conveniences , etc	50,000	100000	Nil

12	Compensation for continuing/ permanent disability	2,00,000	1237005	24255x12x17x 25/100
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	₹17,50,085	

27. **Issue No.5** :- In view of the above findings, the petitioner is entitled for a sum of ₹17,50,085/- (**Rupees Seventeen lakh Fifty thousand and Eighty five only**) as compensation. The petitioner is entitled to realise an amount of ₹17,50,085/- 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. **The amount awarded for future treatment is excluded from interest.**

In the result,

- 1 An award is passed for for ₹17,50,085/- (**Rupees Seventeen lakh Fifty thousand and Eighty five only**) with interest @ 8% per annum from the date of filing of the petition i.e., 21.03.2024 till realisation with proportionate costs. The amount awarded for future treatment is excluded from interest.
- 2 **R2** is directed to furnish cheques for ₹16,874/- (6373+10501) towards Court Fee including excess Court fee on excess award amount, and ₹17,500/- towards Legal Benefit Fund payable by the petitioner, in favour of MACT, Kalpetta.

- 3 **R2** shall deposit **one half of the award amount** with proportionate costs and interest directly to the bank account of the petitioner stated in Ext.A11 (**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.
- 4 For the balance amount create a Fixed Deposit in the name of the petitioner for **two years** 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.
- 5 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.
- 6 On production of the said statement countersigned by the Tribunal, the Bank shall hand over the Fixed Deposit Receipt to the petitioner.
- 7 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 30th day of March, 2026)

APPENDIX

Petitioner's Witnesses : Nil

Petitioner's Exhibits :

A1	01.11.2023	Copy of First Information Report & FIS
A2	02.11.2023	Copy of Scene Mahazar
A3-series	16.11.2023	Copy of AMVI Reports
A4	06.01.2024	Copy of Charge Sheet
A5	13.09.2023	Copy of Accident Register cum Wound Certificate
A6	17.09.2023	Discharge Summary
A7	03.04.2025	Future Treatment Certificate from Dental Clinic
A8	-	OP Tickets
A9	03.12.2012	Copy of Aadhar Card
A10	-	Copy of PAN Card
A11	20.11.2023	Copy of Bank Pass Book
A12-series	-	Trip Sheets
A13-series	-	Medical Bills

Respondent's Witnesses & Exhibits : Nil

Court Witnesses Exhibits : Nil

Court Exhibits :

X1	17.12.2024	Medical Board Report issued from District hospital, Mananathavady
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MOTOR ACCIDENTS CLAIMS TRIBUNAL

Typed by : Jasna.P.H.
Compared by : Kalesh R
FCS :