

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, WAYANAD, KALPETTA
Present: Sri.A.V.Unnikrishnan, Motor Accidents Claims Tribunal, Kalpetta

Thursday, this the 30th day of April, 2026
10th day of Vaisakha, 1948

ORIGINAL PETITION (MV) No.656/2024

Between:

- P1. Mary, Aged 67 years, W/o Subramanyan,
Palekkatil House, Manal Vayal Post,
Irulam Village, Sulthanbathery Taluk,
Wayanad District, Pin- 673 579.
- P2. Janifar, Aged 5 years, D/o Saritha,
Palekkatil House, Manal Vayal Post,
Irulam Village, Sulthanbathery Taluk,
Wayanad District, Pin- 673 579.
(Petitioner No.2 being a minor she is represented
by her Grandmother, Mary the first petitioner)

Petitioners

And:-

- R1. Sony George, S/o K.M.George, Aged 30 years,
Now residing at Manalivila House,
Valancherikunnu, Chethalayam Post,
Kidanganad Village, Sulthanbathery Taluk,
Wayanad District, Pin- 673 592.

(Driver of the Omni Van bearing No. KL 49-5006)

- R2. Saji P.M., S/o Mathai, Aged 52 years,
Puthanpurakkal House, Pulpally Post,
Thazhayangadi, Pulpally Village,
Sulthanbathery Taluk, Wayanad District,
Pin- 673 579.

(Owner of the Omni Van bearing No. KL 49-5006)

- R3. The Branch Manager,
United India Insurance Co Ltd., Branch Office,
Kalpetta Arcade, 2nd Floor, Near New Bus Stand
Kalpetta, Kalpetta Post & Village, Vythiri Taluk,
Wayanad District, Pin- 673 121.

(Insurer of the Omni Van bearing No. KL 49-5006)

Respondents

This OP(MV) is coming on this the 06th day of April, 2026 for final hearing before me in the presence of Sri.Bejoy Anand, Counsels for petitioner, Sri.Saji Mathew, Counsel for respondent No.3 and respondent Nos.1&2, called absent and set exparte and having stood over for consideration to this day the Tribunal passed the following.

AWARD

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 :- Petitioners are the legal heirs of the deceased Saritha who had sustained injuries in a motor accident. Petitioner No.1 is the mother and petitioner No.2 is the daughter of the deceased. On 12.04.2024, at about 16.00 hours, while the injured along with petitioners were travelling in an ambulance bearing Reg.No.KL-49-5006, along Wayanad to Malabar Medical College Hospital, Ulliyeri, for the treatment purpose of the 2nd petitioner, at a place between first and second hair pin bent at Thamarassery Ghat road, R1, the driver of the ambulance drove it in a rash and negligent manner, lost control over the vehicle and it dashed against a side wall ghat road and as a result, the injured Saritha sustained grievous injuries. Apart from Saritha, petitioners also have sustained injuries. R1 was the driver of the ambulance bearing Reg. No. KL-49-5006 who drove it in a rash and negligent manner and caused the accident. R2 is the owner and R3 is the insurer. On account of the accident, petitioner suffered a huge loss to the tune of ₹7 lakh. Petitioner is claiming compensation jointly and severally from the respondents.

3. On receipt of the notice, R1 and R2 remained absent. Hence, they were called absent and set exparte. R3 appeared through counsel and filed written statement.

4. R3 filed written statement with the following contentions :- R3 admitted that, the ambulance bearing Reg.No.KL-49-5006 involved in the accident was validly insured with them at the time of accident. It is contended by R3 that, the accident occurred not due to the negligence of R1. It is also contended that the death of Saritha was not due to the injuries sustained in the accident. 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.

5. The following issues were framed for consideration :-

- 1 Whether the accident was caused due to negligence of R1?
- 2 Whether the petitioner sustained injuries as alleged?
- 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 answered in favour of the petitioner, what is the quantum of compensation entitled by the petitioner?
- 5 Reliefs and costs?

6. Both sides, reported no oral evidence. On the side of the petitioner, Exts.A1 to A17 are marked. Ext.B1 is marked on the side of R3.

7. Heard both sides.

8. **Issue No.1** :- In the written statement filed by the R3, it is contended that the accident was occurred not due to the negligence of R1. Admittedly no other vehicle is involved in the accident. No such document is produced by R3 to say that due to the intervention of some other vehicle the accident was occurred. Ext.A6 final report submitted by the Investigation Officer will go to show that the accident was occurred due to the rashness and negligence of R1 as the driver of the bearing Reg.No.KL-49-5006 involved in the accident. 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)*** 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, copy of the FIR is marked as Ext.A1. As per Ext.A1, the accident was on 12.04.2024 and the FIR was registered on 26.04.2024. Ext.A6 is the Final Report submitted by the Sub Inspector of Police, Thamarassery Police Station. Going by Ext.A6 it can be seen that, the investigating officer upon conclusion of his investigation charge sheeted the R1, driver of the offending vehicle for commission of offences punishable under Sections 279, 337 & 338 of the IPC. The Investigating Officer after due

process of investigation found that R1 being the driver of the ambulance bearing Reg.No.KL-49-5006 drove it in a rash and negligent manner and caused the accident. 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 the cause of accident was rashness and negligence of R1, driver of the ambulance bearing Reg.No.KL-49-5006. This issue is found in favour of the petitioner.

9. **Issue No.2**:- In the written statement filed by the R3, the accident in which the petitioner sustained injuries stands admitted. R3 in their written statement admitted that the ambulance bearing Reg.No.KL-49-5006 is validly insured with them.

10. **Ext.A3** is the copy of wound certificate issued from Malabar Medical College Hospital, Ulliyeri. As per Ext.A3, petitioner sustained the injuries such as; swelling on the right knee and leg region, lacerated wound on the right lip region, and type II open both bone fracture right leg.

11. The admission of R3 in their written statement and the Exts.A1, A3 and A6 will prove that the petitioner sustained injuries in an accident as stated in the petition. This issue is found in favour of the petitioner.

12. **Issue Nos.3 and 4**:- According to the petitioners, at the time of accident, the injured Saritha was a coolie worker aged 39 years, and was earning a monthly income of ₹15,000/-. No evidence is produced by the petitioner to prove

his occupation and income. 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 ₹17,325/- 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 ₹17,325/-.

13. Ext.A3 is the copy of Wound certificate issued from Malabar Medical College Hospital, Ulliyeri. Ext.A12 is the copy of discharge summary issued from the same hospital. As per Ext.A12, the petitioner was admitted in that hospital on 12.04.2024 and was discharged on 17.04.2024 4 (6 days) diagnosed with type II open proximal tibia fracture right leg (schatzkar type VI). At the hospital, procedure of external fixation + wound debridement was done.

14. Upon considering the nature of the injuries sustained to the injured, the period for which she was treated, I am of the opinion that petitioner is entitled to get a sum of ₹60,000/- as compensation for pain and sufferings.

15. As per Ext.A12, the petitioner was treated as an inpatient for a total period of 6 days. Hence, a sum of ₹3,600/- (600x6) is awarded towards bystander expenses.

16. Towards, extra nourishment, the petitioner is entitled to get a sum of **₹3,600/-** (600x6).

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

18. As per Ext.A7, the injured was passed away on 02.06.2024, for the reasons unrelated injuries sustained in the accident. Upon considering the nature of the injuries sustained to the petitioner and the period for which she was treated, I am of the opinion that petitioner might not have worked for 52 days after the accident and the petitioner is entitled to get an amount of **₹30,030/-** (17325/30x52) towards loss of earnings.

19. Towards transportation expenses, the petitioners produced Ext.A15 series trip sheets for a total sum of **₹24,750/-**. These bills are not objected by the learned counsel for R3. Hence, that amount is allowed.

20. Towards medical expenses, the petitioners produced Ext.A13 series medical bills for a total sum of **₹2,512/-**. These bills are not objected by the learned counsel for R3. Hence, that amount is allowed.

21. The second petitioner is entitled to get half of the compensation awarded under the heads loss of earnings and pain and sufferings ie., **₹45,015/-** (15015+30000) with proportionate interest and cost. The balance amount ie., **₹82,477/-** shall be paid to the 1st petitioner with proportionate interest and cost.

22. The second petitioner is a minor as well as an intellectually disabled girl. Hence, her estate shall be dealt with as per the provisions of the the Rights of Persons with Disabilities Act, 2016. The disbursal of the share of the compensation awarded to the second petitioner is subject to the orders of the competent authority under the Rights of Persons with Disabilities Act, 2016.

23. **Now the next question is who shall pay the compensation.** While discussing issue No.1, I have already come to a conclusion that the accident occurred due to the rashness and negligence of the R1, the driver of the ambulance bearing Reg.No.KL-49-5006. In such circumstances R2 and R3, the owner and insurer respectively of the offending vehicle are jointly and severally liable to pay compensation. Since R3 is the insurer of the vehicle, R3 shall pay the compensation for and on behalf of R2. 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)	30000	30030	17325/30x52
2	Loss of earning (Partial)	0	0	Nil
3	Medical and miscellaneous expenses	300000	2512	Ext.A13 series
4	Future treatment	0	0	Nil
5	Bystander expenses	15000	3600	600x6
6	Transportation expenses	15000	24750	Ext.A15 series
7	Extra nourishment	50000	3600	600x6

8	Damage to clothing, etc	5000	3000	Nil
9	Pain and suffering	200000	60000	Considering nature of injuries
10	Loss of earning power	100000	0	Nil
11	Loss of amenities and conveniences, etc	200000	0	Nil
12	Compensation for continuing/permanent disability	100000	0	Nil
13	Physical and mental shock	0	0	Nil
14	Loss of expectation of life	0	0	Nil
15	Inconveniences, hardship, discomfort, disappointment, frustration and mental stress in life	0	0	Nil
16	Loss of future earnings	0	0	Nil
17	Compensation for disfigurement	0	0	Nil
	Total	₹10,15,000/- - claim limited to ₹7 lakh	₹1,27,492/-	

24. **Issue No.5** :- In view of the above findings, the petitioners are is entitled for a sum of ₹1,27,492/- (**Rupees one lakh twenty seven thousand four hundred and ninety two only**) as compensation. The petitioners are entitled to realise an amount of ₹1,27,492/- as compensation from **R3** with interest at the rate of 8% per annum from the date of petition i.e. **01.10.2024** till realisation with proportionate costs. This issue is found in favour of the petitioners.

In the result,

- 1 An award is passed for for ₹1,27,492/- (**Rupees one lakh twenty seven thousand four hundred and ninety two only**) with interest @ 8% per annum from the date of filing of the petition i.e. **01.10.2024** till realisation with proportionate costs.

2. R3 is directed to furnish cheques for **6,373/-** towards Court Fee and **₹7,000/-** towards Legal Benefit Fund payable by the petitioner, in favour of MACT, Kalpetta.
3. Out of the amount deposited by R3 as aforesaid, the amount ordered to be paid to the 1st petitioner ie., **₹82,477/-** with proportionate cost and interest shall deposit directly to her bank account stated in Ext.A11 (A/c No.40246100200595 Kerala Gramin Bank, Irulam branch) within one month from the date of award by way of electronic funds transfer, which the petitioner shall be at liberty to withdraw.
4. The disbursal of the share of the compensation awarded to the second petitioner ie., **₹45,015/-** with proportionate interest and cost is subject to the orders of the competent authority under the Rights of Persons with Disabilities Act, 2016.
5. Immediately when the payments as afore stated 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.
- 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 30th day of April, 2026)

MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Petitioner's Witnesses : Nil

Petitioners' Exhibits :

A1-	26.04.2024	Copy of First Information Report & FIS
A2-	26.04.2024	Copy of First Information Statement
A3-	12.04.2024	Copy of Accident Register Cum Wound Certificate
A4-	27.04.2024	Copy of Scene Mahazar
A5-	22.05.2024	Copy of AMVI Report
A6-	26.06.2024	Copy of Final Report
A7-	15.06.2024	Death Certificate of Saritha
A8-	05.07.2024	Family Membership Certificate
A9-	25.11.2021	Disability Certificate of Janifar
A10-Series	-	Copy of Aadhar Cards of Petitioners
A11-	18.01.2007	Copy of Bank Pass Book of Mary
A12-	17.04.2024	Discharge Summary
A13-Series	-	Medical Bills
A14-	-	Digital Copy Pan Card of Mary
A15-Series	-	Trip Sheets
A16-	18.06.2024	Copy of Bank Pass Book of Janifar
A17-		Copy Pan Card of Janifar

Respondents' Witnesses : Nil

Respondents' Exhibits :

B1	-	Copy of Policy
----	---	----------------

Court Witnesses & Exhibits: Nil

MOTOR ACCIDENTS CLAIMS TRIBUNAL