

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, WAYANAD, KALPETTA

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

Thursday, this the 26th day of March, 2026
05th day of Chaithra, 1948

ORIGINAL PETITION (MV) No.924/2024

Between:

Devaki, W/o Ayyappan, Aged 72 years,
Kakkarath House, Meenangadi Post,
Meenangadi, Purakkadi Village,
Sulthan Bathery Taluk, Wayanad – 673 591.

Petitioner

And:

R1. Santhosh S, S/o Soman,
Panavilacode Thekkethattu Veedu, Mulloor Post,
Vizhinjam, Thiruvananthapuram - 695 521.

(Driver of the Vehicle TO-124 KL -7963 A Number Car)

R2. Permanent Address:

Saji Chandran C.S, S/o Chandran,
Aged 39 years, C.S Nivas House, Thekkeplavila,
Vizhinjam, Nellikunnu, Mulloor Post,
Thiruvananthapuram - 695 521.

Temporary Address:

G.D Assistant, Hospital Development Society,
I.D No: HDS 064/23,
Government Medical College Hospital,
Thiruvananthapuram - 695 011.

(Owner of the Vehicle TO-124 KL -7963 A Number Car)

R3. The Manager, SBI General Insurance Company
Ltd, 2nd Floor, Thaarra Towers,
Vellayambalam - Sasthamangalam Road,
Sasthamangalam Post,
Thiruvananthapuram - 695 010.

(Insurer of the Vehicle TO-124 KL -7963 A Number Car)

Respondents

This OP(MV) is coming on this the 24th day of February, 2026 for final hearing before me in the presence of Sri. M. Satheesh Poothikkad, Counsel for petitioner, Sri. P.C. Prasad, Counsel for respondent No.3 and respondent No.1&2 remained 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 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 72 years and was earning a monthly income of ₹18,000/-. On 09.07.2024 at about 11.45 am, while the petitioner was crossing the public road near Meenangadi Police Station, a car bearing Reg.No.TO-124KL-7963A driven by R1 in a rash and negligent manner, knocked down the petitioner and thereby the petitioner sustained grievous injuries. R1 was the driver of the car bearing Reg.No.TO-124KL-7963A, 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 huge loss to the tune of ₹15 lakh/-. Petitioner is claiming compensation jointly and severally from the respondents.

3. On receipt of the summons, 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 contending as follows :- R3 contended that the car bearing Reg.No.TO-124KL-7963A involved in the

accident was **not** validly insured with them at the time of the accident. It is also contended that the accident occurred not due to the negligence of R1. 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 A15 and Ext.C1 are marked. No evidence is adduced on the side of the respondents.

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.A3 – 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 car bearing Reg.No.TO-124KL-7963A 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)***. 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, copy of the FIR is marked as Ext.A1. As per Ext.A1, the accident was on 09.07.2024 and the FIR was registered on the same day. Ext.A3 is the Final Report submitted by the Sub Inspector of Police, Meenangadi Police Station. Going by Ext.A3 final report it can be seen that, the investigating officer upon conclusion of his investigation charge sheeted the R1, the driver of the offending vehicle for commission of offences punishable under sections 281 and 125(b) of the BNS. The Investigating Officer after due process of investigation found that the R1 being the driver of the car bearing registration No.TO-124KL-7963A drove it in a rash and negligent manner 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 cause of the accident was rashness and negligence of R1, the driver of the car bearing Reg.No.TO-124KL-7963A. 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 denied the insurance of the car bearing Reg.No.TO-124KL-7963A involved in the accident.

10. Ext.A4 is the wound certificate issued from Arogya Hospital, Meenagnadi. As per Ext.A4, the petitioner sustained the following injury such as; range of movement right hip painful and restricted.

11. The admission of R3 in their written statement and the Exts.A1, A3 and A4 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 petitioner, at the time of the accident, she was a coolie worker and was earning a monthly income of ₹18,000/-. 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 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 **₹17,325/-**.

13. Ext.A6 is the discharge card issued from Government Medical College Hospital, Kozhikode. As per Ext.A6, the petitioner was admitted in that hospital on 09.07.2024 and was discharged on 11.07.2024 (3 days) diagnosed with AWC fracture L1 and fracture superior and interior public rami right. Ext.A6(a) is another discharge card issued from General Hospital, Kalpetta. As per this the petitioner was admitted in that hospital on 11.07.2024 for follow up treatment. The date of discharge is not specified.

14. Ext.C1 is the report of Medical Board issued from District Hospital, Mananthavady, which assessed a permanent disability of 10% with respect to whole body.

15. Upon considering the nature of the injuries sustained to the petitioner and the period for which she was treated as inpatient and the disability suffered by her, I am of the opinion that petitioner is entitled to get a sum of **₹70,000/-** as compensation for pain and sufferings. Towards loss of amenities **₹20,000/-** is allowed.

16. As per Ext.A6, petitioner was treated as an inpatient for a total period of 3 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 **₹1,800/-** (600x3).

17. Towards extra nourishment, the petitioner is entitled to get ₹1,800/- (600x3).

18. Towards damage to clothes ₹3,000/- is awarded.

19. Upon considering the nature of the injuries sustained to the injured, I am of the opinion that injured might not have worked for four months after the accident and he is entitled to get an amount of ₹69,300/- (17325x4) towards loss of earnings.

20. Towards transportation expenses, the petitioner produced Ext.A11 series trip sheets for a sum of ₹13,400/-. These bills are not opposed by the learned counsel for R3. Hence, that amount is allowed.

21. Towards medical expenses the petitioner produced Ext.A10 series medical bills for a sum of ₹14,277/-. These bills are not opposed by the learned counsel for R3. Hence, that amount is allowed.

22. Ext.C1 is the report of Medical Board issued from District Hospital, Mananthavady, which assessed the permanent disability as 10% 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)”. Considering the nature of the injuries, I am of the opinion that 10% can be taken as the occupational disability.

23. Ext.A15 is the copy of PAN card of the petitioner. As per Ext.A15, date of birth of the petitioner is 01.01.1943. The date of accident was on 09.07.2024. Age of the petitioner at the time of the accident was 81 years. Since the petitioner is aged above 59, no enhancement is to be added for future prospects. Considering the age of the petitioner, the applicable multiplier is '5' as per the dictum in *Sarla Verma and Others Vs Delhi Transport Corporation and another reported in AIR 2009 SC 3104*. The compensation for continuing and permanent disability will come to ₹1,03,950/- ($17325 \times 12 \times 5 \times 10 / 100$). That amount is allowed.

24. **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 was occurred due to the rashness and negligence of R1, the driver of the car bearing Reg.No.TO-124KL-7963A. In the written statement R3 denied the insurance of said vehicle. No evidence is produced by R1 and R2 to show that the vehicle was insured with R3. Hence, R3 cannot be held liable to pay compensation. In such circumstances R1 and R2, the driver and owner respectively of the offending vehicle are jointly and severally liable to pay the compensation amount. 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)	108000	69300	17325x4
2	Loss of earning (Partial)	200000	0	Nil
3	Medical and miscellaneous expenses	100000	14277	Ext.A10 series
4	Future treatment	0	0	0
5	Bystander expenses	0	1800	600x3 days
6	Transportation expenses	25000	13400	Ext.A11 series
7	Extra nourishment	200000	1800	600x3 days
8	Damage to clothing, etc	3000	3000	Nil
9	Pain and suffering	300000	70000	Considering nature of injuries
10	Loss of earning power	300000	0	Nil
11	Loss of amenities and conveniences , etc	200000	20000	Nil
12	Compensation for continuing/ permanent disability	300000	103950	17325x12x5x10/100
13	Compensation for mental shock	200000	0	Nil
14	Loss of earning power	0	0	Nil
15	Inconveniences, hardship, discomfort, disappointment, frustration and mental stress in life	0	0	Nil
16	Compensation for shortened expectation of life	0	0	Nil
17	Compensation for disfiguration	0	0	0
	Total	₹19,36,000/- claim limited to ₹15 lakh	₹2,97,527/- rounded to ₹2,97,550/-	

25. **Issue No.5** :- In view of the above findings, the petitioner is entitled for a sum of ₹2,97,550/- (Rupees Two lakh Ninety seven thousand Five hundred and Fifty only) as compensation. The petitioner is entitled to realise an amount of ₹2,97,550/- as compensation **jointly and severally from R1 & R2** with interest at the rate of 8% per annum from the date of petition i.e., 27.12.2024 till realisation with proportionate costs. This issue is found in favour of the petitioner.

In the result,

- 1 An award is passed for for ₹2,97,550/-(Rupees Two lakh Ninety seven thousand Five hundred and Fifty only) with interest @ 8% per annum from the date of filing of the petition i.e., 27.12.2024 till realisation with proportionate costs.
- 2 R1 & R2 jointly and severally are directed to furnish cheques for ₹14,373/- towards Court Fee and ₹15,000/- towards Legal Benefit Fund payable by the petitioner, in favour of MACT, Kalpetta.
- 3 R1 & R2 jointly and severally shall deposit the award amount with proportionate costs and interest directly to the bank account of petitioner stated in Ext.A14 (A/c No.17710100013676 IFSC : FDRL0001771) 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 afore stated are made, R1 & 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 Office shall make necessary entries in the registers of the Tribunal, evidencing payment of the amounts to the petitioner.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 26th day of March 2026).

MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Petitioner's Witnesses :

Nil

Petitioner's Exhibits :

A1	09.07.2024	Copy of First Information Report & FIS
A2	10.07.2024	Copy of Scene Mahazar
A3	10.08.2024	Copy of Final Report
A4	19.07.2024	Copy of Accident Register cum Wound Certificate
A5	18.07.2024	Copy of AMVI Report
A6-series	-	Discharge Summaries
A7	09.07.2024	Referring Letter
A8-series	-	Prescriptions
A9-series	27.07.2024	Outpatient Card
A10-series	-	Medical Bills
A11-series	-	Trip Sheets
A12-series	09.07.2024	CT Scan Report
A13	12.01.1999	Copy of Election ID
A14	20.12.2012	Copy of Bank Pass Book
A15	-	Copy of PAN Card

Respondent's Witnesses & Exhibits :

Nil

Court Witnesses :

Nil

Court Exhibits :

C1 06.05.2025 Medical Board Report issued from District hospital,
Wayanad.

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

MOTOR ACCIDENTS CLAIMS TRIBUNAL