

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, WAYANAD, KALPETTA

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

Saturday, this the 18th day of April, 2026
28th day of Chaithra, 1948

ORIGINAL PETITION (MV) No.235/2025

Between:

Arun P.S, S/o Subramanyan & Meenakshi,
Aged 29 years, Pulikkal House, Appad,
Mylampadi, Purakkadi Village, S.Bathery,
Wayanad – 673 591.

Petitioner

And:

R1. Pramod John, S/o John, Aged 52 years,
Pulluvelil House, Kodanchery Post,
Thamarassery, Kozhikode – 673 580.

***(Driver of the Vehicle No.KL TN-06 A-2007
Innova Car)***

R2. Noble Joseph, S/o Joseph, Age about 40 years,
No. 23/9, Shivji Enclave, Rathnam Street,
Gopalapuram, Chennai - 600086.

***(Owner of the Vehicle No.KL TN-06 A-2007
Innova Car)***

R3. The Manager, ICICI Lombard General
Insurance Co. Ltd, City Plaza, YMCA Cross
Road, Kozhikode – 673 001.

***(Insurer of the Vehicle No.KL TN-06 A-2007
Innova Car)***

Respondents

This OP(MV) is coming on this the 17th day of March, 2026 for final hearing before me in the presence of Smt.Fasna P., 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 petition is filed U/s 164 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 Painter by profession, aged 29 years, and was earning a monthly income of ₹20,000/-. On 30.10.2024, at about 6 pm, while the petitioner was riding the motorcycle bearing Reg.No.KL-73E-9307 along the Sulthan Bathery – Meenangadi public road, at a place namely Dottappankulam, an Innova Car bearing Reg.TN-06A-2007, coming behind his vehicle, driven by R1 in a rash and negligent manner, knocked down the motorcycle ridden by the petitioner and thereby the petitioner sustained grievous injuries. R1 was the rider of the Innova Car bearing Reg.No.TN-06A-2007 who rode it in a rash and negligent manner and caused the accident. R2 is the owner and R3 is the insurer. Petitioner is claiming compensation of ₹2,50,000/- 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 a written statement contending as follows :- R3 admitted that the motorcycle bearing Reg.No.TN-06A-2007 involved in the accident was validly insured with them at the time of the accident. It is contended by R3 that the accident occurred not due to the negligence of R1. It is also contended that the OP(MV) under Section 164 of the Motor Vehicles Act is not

maintainable, since the petitioner sustained no grievous injuries. Without prejudice to this contention, it is further stated that the compensation claimed is highly excessive.

5. The following issues were framed for consideration:

- 1 Whether the petitioner sustained grievous hurt in the accident arose out of the use of 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?

6. Both sides reported no oral evidence. On the side of the petitioner Exts.A1 to A11 are marked. No document is produced on the side of the respondents.

7. Heard both sides.

8. **Issue Nos 1 to 3**:- As per Ext.A4 final report, 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.

9. 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 Motor Vehicles 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 Motor Vehicles 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 Motor Vehicles Act to be contemplating any such situation would go contrary to very legislative object behind introduction of 163A of the Motor Vehicles 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 Motor Vehicles Act at par with proceeding under section 166 of Motor Vehicles 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.

10. 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.TN-06A-2007 involved in the accident was validly insured with them.

11. Coming to the facts of the case Ext.A6 is the copy of wound certificate issued from Assumption Hospital, Sulthan Bathery. As per Ext.A6, the petitioner sustained fracture of right metacarpal. 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 injury, he is entitled to get fixed compensation of ₹2,50,000/- as stipulated in section 164 of the Motor Vehicles Act.

12. **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.TN-06A-2007 was involved. In such circumstances, R2 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 and lakh Fifty thousand only)** u/s 164 of the Motor Vehicles Act. R3 being insurer

shall pay compensation for and on behalf of R2. These issues are answered accordingly.

13. **Issue No.4:-** In view of the above findings, the petitioner is entitled for a sum of **₹2,50,000/- (Rupees Two and lakh 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., **12.05.2025** 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., **12.05.2025** 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.A8 (A/c No.**0827101037908** IFSC : CNRB0000827) 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, 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 18th day of April, 2026).

MOTOR ACCIDENTS CLAIMS TRIBUNAL

APPENDIX

Petitioner's Witnesses : Nil

Petitioner's Exhibits :

A1	01.11.2024	Copy of First Information Report & FIS
A2	02.11.2024	Copy of Scene Mahazar
A3	07.12.2024	Copy of AMVI Reports
A4	-	Copy of Final Report
A5	-	Copy of Memorandum of Evidence
A6	30.10.2024	Copy of Accident Register Cum Wound Certificate
A7	04.11.2024	Copy of Discharge Summary
A8	20.09.2018	Copy of Bank Pass Book
A9	-	Copy of PAN Card
A10	03.01.2013	Copy of Aadhar Card
A11-series	-	Prescriptions and Medical Bills

Respondents' Witnesses & Exhibits : Nil

Court Witnesses & Exhibits : Nil

MOTOR ACCIDENTS CLAIMS TRIBUNAL

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