

**IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
PALAKKAD**

Present:- Sri. Prakash R T, M A C Tribunal,

Saturday the 3rd day of May, 2025
(13th day of Vaisakha, 1947 S.E.)

Original Petition (MV) 1087/2020

Petitioner:

Nidhin Lal.E.C, aged 25 years, S/o.Balan.K, Mundyodummam, Thinoor P.O, Kakkattil, Narippatta, Thinur, Kozhikode, Kerala - 673 507, Now residing at Sreeja Nivas, Sabari Asramam Road, N.S.S Engineering College P.O, Akathethara, Palakkad, Kerala.

V/S.

Respondents:

1. Ravi.G, age not known, S/o.Guruswamy.V, Nithya Nivas, Vadakkumannam, Mannarkkad, Palakkad, Kerala - 678 582 (RC owner of the motorcycle bearing Reg. No.KL-08-AZ-7287).
2. Arun Baby, aged 22 years, S/o.Baby, Akka Parambil House, Thazhe Ariyoor, Ariyoor Post Mannarkkad, Palakkad, Kerala - 678 583 (Rider of the motorcycle bearing Reg. No.KL-08-AZ-7287).
3. United India Insurance Co. Ltd., Divisional Office, 3rd Floor, Malabar Fort Building, Old Kandath Complex, G.B Road, Palakkad, Kerala-678001, Policy No. 3008003119P104963321, Period of cover: 18-07-2019 to 17-07-2020, Date of Accident: 12-12-2019 at 6.30P.M (Insurer of the motorcycle bearing Reg. No.KL-08-AZ-7287).

This is a petition filed under section 164 of the Motor Vehicle Act, 1988. This

petition presented on 06-07-2020 and coming on 22-04-2025 for final hearing before me in the presence of Sri. N.Abhilash and Smt. Roshni Advocates for Petitioner, Sri. Abdul Rasheed T.M. Advocate for R1 & R2, and Sri. Feroze Arakkal Advocate for R3., and having stood over to this day for consideration this Tribunal delivered the following:-

AWARD

This is a Claim Petition filed under Section 164 of the Motor Vehicles Act, 1988 for the injuries sustained by the petitioner.

2. Case of the petitioner, in brief, is as follows:- The petitioner was a Road Construction Worker and was earning ₹21,000/- per month. On 12.12.2019, while the petitioner was riding a motorcycle through Anakatty – Mannarkkad public road and reached the place of accident, another motorcycle bearing Reg. No. KL-08-AZ-7287 ridden by R2 in a rash and negligent manner, hit against the petitioner's motorcycle, causing injuries to the petitioner. The petitioner was immediately taken to Taluk Head Quarters Hospital, Mannarkkad, where he was treated as outpatient. According to the petitioner, he has suffered a lot of pecuniary as well as non pecuniary loss due to this accident and hence this claim petition for a compensation of ₹2,50,000/- from the respondents. R1 is the owner, R2 was the rider and R3 is the insurer of the motorcycle bearing Reg. No. KL-08-AZ-7287.

3. R1 and R2 entered appearance and filed written statement admitting that R1 was the owner and R2 was the rider of the offending motorcycle bearing Reg. No. KL-08-AZ-7287, however denied the liability to pay compensation contending that accident did not occur due to the negligence of R2. According to them, the accident has occurred due to the negligence of the petitioner himself. Interalia, it was also contended that the vehicle was duly insured with R3 and hence compensation payable, if any, is only by R3.

4. R3/insurer entered appearance and filed written statement and also filed

additional written statement admitting the insurance coverage of the motorcycle bearing Reg. No. KL-08-AZ-7287 driven by R2, however denied the liability to pay compensation to the petitioner on the ground that the accident did not occur due to the negligence of R2. According to them, this claim petition under new Section 164 of MV Act is not maintainable since charge is against R2/rider. It was further contended that since the amendment of Section 164 of MV Act has taken effect only from 01.04.2022 this claim filed in the year 2020 cannot be considered under Section 164 of the Act. Inter-alia, it was also contended that compensation claimed is excessive.

5. This being a claim under Sec.164 of the Motor Vehicles Act, the following issues arise for consideration :-

- 1) Whether the petitioner is entitled for compensation as prayed ?
- 2) If yes, the quantum of compensation ?
- 3) Who is liable to pay compensation, if any ?
- 4) Reliefs and costs ?

6. No oral evidence was adduced on either sides, however Exts.A1 to A7 were marked on behalf of the petitioner without objections. No evidence was adduced on behalf of the respondents.

7. Heard both sides and perused the records.

8. **Issue Nos.1 & 2** :- This being a claim under Section 164 of the Motor Vehicles Act, the first question is whether the newly amended Sec.164 of Motor Vehicles Act is applicable to this case or not. The amendment was notified with effect from 01.04.2022. Canvassing the proposition that the newly amended Sec.164 of the Act is applicable to all pending cases, learned Counsel for the petitioner submitted ruling rendered by Honourable Supreme Court in ***Ram Murti and others v. Punjab State Electricity Board reported in 2023 ACJ 631***. In the above said case the Honourable Apex Court was pleased to specifically hold that since Sec.140 of the pre-amendment Act has been now omitted and new Sec.164 has taken its place, the

benefit of said amendment of a beneficial legislation had to be given to the claimants. In Paragraph 7 and 8 of the said Judgment the Hon'ble Apex Court was pleased to rule as follows:-

“The provisions of Section 140 which formed a part of Chapter 10 of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of ₹5 lakhs and in the case of grievous hurt of ₹2.5 lakhs.

We are inclined to give the appellants the benefit of the beneficial provisions which have been enacted by Parliament.”

With that dictum the Honourable Apex Court was pleased to apply new Section 164 of Motor Vehicles Act to an accident occurred much before 1994, as gatherable from the fact that the impugned judgment under consideration of Honourable Apex Court itself was of the year 1994 bearing No.FAO No.1461 of 1994. This position has been again reiterated by Hon'ble Apex Court in ***New India Assurance Co. Ltd., vs. Urmila Halder*** reported in **2025 ACJ 244** while considering amendment of Section 163.A of the Act. So, applying these dictums it is very clear that the newly incorporated provision of Sec.164 in the Motor Vehicles Act is applicable to all pending cases.

9. Now the question is whether applying the newly incorporated Sec.164 of Motor Vehicles Act the petitioner is entitled for compensation, and if yes at what rate. Sec.164 of the Act makes the owner of the vehicle or the insurer, as the case may be liable to pay a consolidated amount of ₹2 ½ Lakhs, in case of grievous hurt. So, if the petitioner succeeds in establishing that she had suffered grievous hurt she would be entitled for a compensation of ₹2,50,000/-. Hence let me verify whether the petitioner has suffered grievous hurt in this case.

10. 'Grievous hurt' has been defined in Sec.145(c) of the newly amended Act, which states that grievous hurt shall have the same meaning as assigned to it in **Sec.320 of Indian Penal Code 1860**. Sec.320 of Indian Penal Code defines grievous

hurt as follows :

“Sec.320 'Grievous Hurt'. - The following kinds of hurt only are designated as “grievous” :-

- First - Emasculation.*
- Secondly - Permanent privation of the sight of either eye.*
- Thirdly - Permanent privation of the hearing of the either ear.*
- Fourthly - Privation of any member or joint.*
- Fifthly - Destruction or permanent impairing of the powers of any member or joint.*
- Sixthly - Permanent disfiguration of the head or face.*
- Seventhly - Fracture or dislocation of a bone or tooth.*
- Eighthly - Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.”*

Clause Nos.7 of the above definition is squarely applicable to this case, because the petitioner had following fracture as proved by Ext. A3 wound certificate **(1) Loss of upper incision tooth broken, (2) One tooth loss, (3) Two teeth fracture.** So, it is very clearly proved that the petitioner has suffered grievous hurt as defined under Sec.145(c) of the Motor Vehicles Act as amended at present.

11. Having proved that the petitioner has suffered grievous hurt then the only question is what is the quantum of compensation payable to the petitioner. Sec.164 of the amended Act clearly stipulates that the amount of compensation to a case of grievous hurt shall be a lumpsum of ₹2,50,000/-. Thus it can be seen that the petitioner is entitled for a compensation of ₹2,50,000/-. Issues answered accordingly.

12. **Issue No.3** :- Now, the question is who is liable to pay the compensation amount. It is settled position of law that in a claim under Section 164 the question of negligence is irrelevant and even without any negligence or default of the owner of the vehicle he is liable to pay compensation to the claimant and his liability is to be

indemnified by the insurer. This is very evident from clause (1) & (2) of Section 164 of MV Act 1988. Moreover, in this case charge is against 2nd respondent. Even when charge is against the respondent, it is option of the claimant to proceed under Section 164 or 166 of MV Act. R3 is the insurer of the motorcycle bearing Reg. No. KL-08-AZ-7287 as on the date of accident. There is no case of any violation of policy conditions seriously canvassed or proved by R3/insurer. Hence there cannot be any doubt that the liability of R1/owner/insured has to be indemnified by R3 the insurer. Thus it can be seen that R3 is liable to pay the compensation in this case. Issue is answered accordingly.

13. **Issue No.4 :-** For the reasons discussed above and findings rendered thereunder it is held that the petitioner is entitled to realise an amount of ₹2,50,000/- from R3 towards the compensation, with interest @ 8% per annum from the date of the petition and also the proportionate costs of the proceedings. Issue is answered accordingly.

In the result,

An award is passed in favour of the petitioner to realise an amount of **₹2,50,000/- (Rupees Two lakh and fifty thousand only)** from the 3rd respondent, with interest @ 8% per annum from the date of the petition (06.07.2020) till realisation with proportionate costs. The petitioner has to pay **₹1,868/-** as balance court fee and also **₹2,500/-** as additional court fee towards Legal Benefit Fund u/s.76(1) of Kerala Court Fees and Suit Valuation Act, 1959. R3/insurer shall pay the Award amount as follows:-

(1) (a) R3/insurer shall pay **₹1,868/- (Rupees One thousand eight hundred and sixty eight only)** being the balance court fee in favour of MACT, Palakkad, by way of online payment through e-filing portal.

(b) R3/insurer shall pay **₹2,500/- (Rupees Two thousand and five hundred only)** being the additional court fee towards the Legal Benefit Fund in favour of MACT, Palakkad, by way of online payment through e-filing portal.

(2) R3/insurer shall deposit the balance Award amount to the credit of the

Bank Account of Motor Accidents Claims Tribunal, Palakkad shown below, directly by National Electronic Fund Transfer (NEFT)/ Real Time Gross Settlement (RTGS) or any other electronic mode.

Name of Account Holder	Name of Bank	Name of Branch	Account Number	IFSC Code
MACT, PALAKKAD	State Bank of India	Civil Station, Palakkad	42797951875	SBIN0004925

(3) R3/insurer shall instruct their bank to ensure deposit of the Award amount by way of Direct Bank Transfer to the account of the Motor Accidents Claims Tribunal, Palakkad shown above containing following informations in the prescribed format (which is already circulated) by way of compliance of the Award.

1.	OP(MV) Number	
2.	On the file of (Motor Accidents Claims Tribunal Name)	
3.	Date of Award	
4.	Compensation Amount	
5.	Income Tax Deduction at Source, if any, in accordance with law.	
6.	Bank Transaction Reference No./Unique Transaction Reference (UTR) No.	

(4) On such deposit being made R3/insurer shall submit a letter to this Tribunal enclosing a copy of said bank advice in the prescribed format (which is already circulated) as per which deposit was made to the bank account of this Tribunal.

(5) R3/insurer shall also send a copy of payment advice to the Motor Accidents Claims Tribunal concerned and serve a copy of the same on the claimant or his counsels.

(6) The Office of this Tribunal shall ensure that as and when the Award amount is received in the Bank account of MACT, it shall be disbursed to the credit of the bank account of claimant shown below directly by way of NEFT/RTGS or any

other electronic mode.

Name of petitioner	Name of Bank	Name of Branch	Account Number	IFSC Code
NIDHIN LAL . E. C	Bank of Baroda	Palakkad	09480100017853	BARB0PALGHA

(7) The office is further directed to make necessary entries in the Cheque Issue Register or any other Registers concerned, evidencing payment of above amount to the petitioner.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 03rd day of May, 2025.

Sd/-

**Motor Accidents Claims Tribunal
Palakkad**

Appendix

Petitioners Witnesses Examined:- Nil

Petitioners Exhibits Marked:-

A1 : 13-12-2019	Copy of First Information Report
A2 : 01-01-2020	Copy of Charge Sheet
A3 : 12-12-2019	Copy of Accident Register cum Wound Certificate (Taluk Head Quarters Hospital, Mannarkkad)
A4 : 13-12-2019	OP Card (Dr. Athira's Dental Clinic)
A5 : - - - - -	Copy of Aadhar Card of Nidhin Lal E.C
A6 : - - - - -	Copy of PAN Card of Nidhin Lal E.C
A7 : - - - - -	Copy of Bank Pass Book of Nidhin Lal E.C

Respondents Witnesses Examined:- Nil

Respondents Exhibits Marked:- Nil

Third Party Witnesses Examined and Exhibits Marked:- Nil

Sd/-

**Motor Accidents Claims Tribunal
Palakkad**

Memo of Costs

Petitioners Costs:- Proportionate Cost allowed (Costs list filed).

Sl. No.	Particulars	Amount claimed	Amount allowed
1.	CF on Vakkalath	5.00	5.00
2.	CF on Petition	1,873.00	1,873.00
3.	Process Fee	90.00	90.00
4.	Typing Charge	500	150
5.	Cost for Exhibits	1,000.00	40.00
6.	Advocate Fee	15,125.00	14,900.00
	Total	18,593.00	17,058.00

Respondents costs:- Cost not allowed.

Given under my hand and seal of the Tribunal on this the 3rd day of May, 2025.

Sd/-
Motor Accidents Claims Tribunal
Palakkad

Typed by: Sadanandan.S,

Compared by: Santhosh C.

- Note:- Parties should apply as soon as possible for the return of all documents which they may wish to preserve as records will be liable to be destroyed after twelve years from this date.

Fair/Copy of Award in
OP (MV) No. 1087/2020
Date: 03-05-2025