

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, MUVATTUPUZHA.

Present :

Sri. Harikumar K.N., Motor Accidents Claims Tribunal.

Tuesday, 3rd day of February, 2026/ 14th Magha, 1947.

O.P. (MV) No.88/2024

Petitioner:-

Sebastian M.A, aged 28 years , S/o Alphons, residing at Malayil House, Kinar Bhagom, Sreemoolanagaram Kara, Sreemoolanagaram P.O, Chowara Village, Aluva Taluk, Pin-683580.

By Advs. Jijo Joseph & Siraj M.M

Respondents:-

1. Jerrin K.J, aged about 28 years, S/o Johnson K.A, Kunnamthudy House, Sreemoolanagaram Kara, Sreemoolanagaram P.O, Chowara Village, Aluva Taluk, Pin- 683580.
2. Shainy Johnson, aged about 55 years, W/o Johnson, Kunnamthudy House, Sreemoolanagaram Kara, Sreemoolanagaram P.O, Chowara Village, Aluva Taluk, Pin-683580.
3. United India Insurance Company Ltd. MMC XIX/642, 2nd floor, Kulangara Tower, Kacherithazham, Muvattupuzha Kara, Muvattupuzha P.O, Ramangalam Village, Muvattupuzha Taluk, 686673 rep. By its Divisional Manager.

R1 & R2 : By Adv. Gayathri C.R

R3 : By Adv. Saji Joseph

This petition is coming on for final hearing on **28.01.2026** in the presence of the above counsels for both sides and having to the this day the Tribunal passed the following.

A W A R D

This is an original petition filed by the petitioner u/s 166 of Motor Vehicles Act 1988 r/w Rule 371 of Kerala Motor Vehicles Rules 1989 seeking relief of compensation of **Rs.20,00,000/-** with interest and costs.

2. The case of the petitioner in brief is that, at about 07.30 pm on 31.07.2023, while the petitioner was riding the Motorcycle bearing Reg.No. KL-41-L-6259 through Kalady-Aluva public road, when the petitioner had reached at the place of occurrence, the Motorcycle bearing Reg. No KL-41-N-0627 ridden by the 1st respondent in rash and negligent manner hit the petitioner's vehicle. The petitioner who sustained serious injuries was immediately taken to the Rajagiri Hospital, Aluva and treated as inpatient. The accident happened due to rash and negligent riding of the Motorcycle by the 1st respondent. The 2nd respondent is the registered owner of the Motorcycle. The respondent No.3 is the insurer of the Motorcycle. The respondents are jointly and severally liable to compensate the petitioner. The petitioner seeks compensation of Rs.20,00,000/- from the respondents 1 to 3.

3. The respondents No.1 and 2 filed written statement as follows:- The Motorcycle bearing Reg. No KL-41-N-0627 was duly insured with the respondent no. 3 for the period between 07.3.2023 to 06.3.2024. The 1st respondent was having valid driving license.

The allegation that the 1st respondent was driving the motorbike negligently is denied. The accident occurred due to rash and negligent driving of the petitioner. Cr.460/23 had been registered by Nedumbassery Airport Police against the petitioner u/s.279 and 338 IPC. So these respondents are not liable to compensate the petitioner. The age, occupation and income of the petitioner also are disputed in the written statement. 1st respondent had filed OP 1625/2023 before the MACT, Irinjalakuda.

4. The respondent No.3 filed written statement admitting that, that respondent had issued a policy in favour of the 2nd respondent for the Motorcycle bearing Reg. No KL-41-N-0627 for the period from 17.3.2023 to 16.3.2024. The accident occurred solely due to the negligence of the motorcycle which the petitioner was riding. The petitioner was an accused in the crime pertaining to the accident. That respondent disputed the quantum of compensation claimed by the petitioner on different heads.

5. Issues that arise for consideration are :

1. *Whether the accident occurred due to the rash and negligent riding of the motorcycle bearing Reg.No.KL-41-N-0627 by the 1st respondent?*
2. *Whether the injuries claimed are genuine?*
3. *Whether the petitioner is entitled to get the compensation?. If so, the quantum?*
4. *Reliefs and costs?*

6. PW1 to PW4 were examined and Exts.A1 to A12 were marked on the side of the petitioner. Exts.B1 and B2 were marked in evidence for the respondents. Ext.C1 was also marked.

7. Heard both sides.

8. **Issue No.1:-** The petitioner has specifically alleged rashness and negligence on the part of 1st respondent, the rider of the offending Motorcycle involved in the accident. In order to prove the negligence on the part of the 1st respondent, the petitioner has produced copies of FIR, final report in Cr.460/2023 Nedumbassery Police Station. Those were marked as Exts.A1 and A2 respectively.

9. The police, after investigation filed Ext A2 final report concluding that the accident was due to the negligent riding of the Motorcycle bearing Reg. No KL-41-N-0627. Ext.A2 final report was filed for the offences u/s.279 and 338 IPC. In Ext. A2 the investigation officer arrived into the conclusion that the accident occurred due to the rash and negligent riding of Motorcycle bearing Reg. No KL-41-N-0627 by the 1st respondent. The Hon'ble High Court of Kerala in ***New India Assurance Company Ltd. Vs. Pazhani Ammal (2011 (3)KLT 648)*** has held that production of police charge sheet is prima facie sufficient evidence of negligence for the purpose of a claim under section 166 of the Motor Vehicles Act.

10. But in the case on hand, the respondents raised a contention that the Police had filed two final reports in respect of the

same occurrence. It was submitted that in one charge sheet the petitioner herein was found to be negligent in riding the Motorcycle bearing Reg. No KL-41-L-6259. Ext.B2 is the copy of the final report filed in the same crime against the petitioner herein. In Ext.B2 the investigating officer concluded that the accident occurred due to the rash and negligent riding of the Motorcycle bearing Reg. No KL-41-L-6259 by the petitioner. Therefore the fact of negligence is to be decided on the basis of other evidence.

11. The petitioner examined PW1 to PW4 to prove that the accident occurred due to negligence of the 1st respondent. When the petitioner was being examined as PW1 he stated that while he was riding his motorcycle by observing the traffic rules, the motorcycle bearing Reg.No.KL-41N-0627 ridden by the 1st respondent in wrong side from the opposite direction in rash and negligent manner hit on the motorcycle of PW1 and he fell down. He would state that cause of the accident was sole negligence of the 1st respondent. PW2 and PW3 deposed that on 31.7.23 at about 7.30 pm while the petitioner was riding the motorcycle from east to west along Kalady-Aluva road, the motorcycle ridden by the 1st respondent in wrong side in rash and negligent manner hit the motorcycle of PW1.

12. Learned counsel for the respondent No.3 cross-examined PW1 to PW3. PW1 admitted that the police had filed Ext. B1 final report showing his negligence. It was suggested that the accident

occurred due to the negligence of the petitioner. In cross examination of PW2 he stated that the accident occurred on the southern side of the road. The suggestion that the spot of the accident was middle of the road was denied by PW2. PW3 also gave similar answer in cross-examination.

13. The investigating officer who filed Exts.A2 and B1 was examined as PW4. In chief examination he stated that he filed Ext.A2 final report against the 1st respondent. But in cross-examination he equally stated that he filed final report against the petitioner also. Therefore nothing is available in the evidence of PW4 to decide on the fact of negligence. The evidence of PW1 to PW3 as a whole shows that the testimony of PW1 to PW3 that the respondent no.1 rode his motorcycle in wrong side from the opposite direction of the road is not discredited.

14. Learned counsel for respondent 3 advanced the arguments that the scene mahazer which might have been the best evidence was suppressed by the petitioner by its non-production. The counsel applied for adverse inference against the petitioner on account of non-production of the scene mahazer. It is important that the scene mahazer cannot be said to be a private document in exclusive possession of the petitioner. The respondents also had equal opportunity to produce copy of the scene mahazer. The respondents also have not produced the scene mahazer. So the

arguments for the respondent No.3 urging for adverse inference is not sustainable. Evaluation of the materials on record as a whole, and the preponderance of probabilities leads this Tribunal to the conclusion that cause of the accident was the negligence of respondent no.1 in riding the motorcycle. Issue is answered accordingly in favour of the petitioner.

15. **Issue No.2:-** As per column No.11 of the original petition, the petitioner alleged to have sustained following injuries:-
1) fracture of one bone on the right foot, crush injury with skin avulsion on the right foot with decreased vascularity and abrasion on the front aspect right knee and abrasion over the index finger of left hand. To prove the injuries and period of hospitalization the petitioner produced Exts.A3 accident cum wound certificate and A8 photograph. The petitioner proved that the injuries shown in Exts.A3 and A8. Issue is answered in favour of the claimant.

16. **Issue No.3:-** The petitioner claimed Rs.3,60,000/- for loss of earnings. The petitioner states that he was an Air Conditioner Technician aged 28 years, earning a monthly income of Rs.30,000/- as on date of the accident. PW1 stated in chief examination that he was an air conditioner technician at the time of the accident. He would state that due to the accident he was not able to stand through out and so he lost his work. The evidence of PW1 that he was an air conditioner technician is not challenged in cross-

examination. Apart from that the petitioner produced Exts. A6 and A7 documents to prove that he was a qualified Mechanic in Refrigeration and Air conditioning. So there is evidence to prove the qualification of the petitioner as an air conditioner technician. But there is no evidence that he was actually occupied as an air conditioner technician or that he was earning income of Rs.30,000/- per month at the time of the accident. PW1 has not given any such oral evidence regarding income also. In the absence of any convincing evidence regarding the actual occupation of the petitioner as an air conditioner mechanic and his regular monthly income notional income is to be taken. In **Angad Thivari v National Insurance Co.Ltd. (2024 KHC 8590)** the Honourable Supreme Court held that in cases where there is no direct proof of income the minimum wage applicable at the relevant time must be the baseline income for determination. In this case, the parties have not furnished the details of Minimum wage applicable. As per the gazette notification No.SRO 554/2019 dated 29.07.2019 of the Government of Kerala the minimum wage fixed for an unskilled worker per day is Rs.770/-. S.13(1)(b) of the Minimum Wages Act 1948 provide for a day of rest in every period of 7 days which shall be allowed to all employees. In Rule 23(1) of the Kerala Minimum Wages Rules 1958 it is provided that unless otherwise permitted by the government no worker shall be required or allowed to work in a scheduled employment on the first day of the week. The said Rules

were made in exercise of the powers conferred by S.30 of the Minimum Wages Act 1948. It is also noted that as per the Gazette Notification No.LBRD-E1/1/2021-LBRD dated 14.12.2021 of Labour and Skills (E) Department, Government of Kerala, in its clause 7 weekly day of rest stating that an employee shall be allowed a day of rest every week (the rest day) which shall ordinarily be Sunday is provided. The petitioner has not contended that he works the whole days of a month on daily wages. It is just and proper to multiply the daily wages with 26 days, by excluding the rest days, to determine the monthly income. Ext.A3 shows that the petitioner was admitted in the hospital on 31.7.2023 and discharged on 12.08.2023. The petitioner was present in person before this Tribunal. This Tribunal has considered Ext.A8 photograph also. This Tribunal is satisfied that due to the injuries the petitioner might not have been able to go for work for about 2 months. So loss of earnings for 2 months can be assessed. **Rs.40,040/- (20,020x 2 months)** can be awarded on this head.

17. The petitioner claimed Rs.30000/- as compensation for transportation. Petitioner produced Ext.A5 ambulance bills for Rs.17200/- Considering the travel of the petitioner to hospital **Rs.17200/-** is fixed as compensation on this head.

18. The petitioner claimed Rs.15000/- on the head of extra-nourishment. Ext.A3 reveals that the petitioner underwent inpatient

treatment from 31.07.2023 to 12.08.2023. Therefore **Rs.9000/-** is assessed as compensation on this head.

19. The petitioner claimed Rs.50000/- on the head of bystander expenses. Considering the inpatient treatment, **Rs.9000/-** is assessed as compensation on this head.

20. The petitioner claimed Rs.8,00,000/- on the ground of medical expenses, Petitioner produced Ext.A4 series medical bill for Rs. 282133.41. The learned counsel for respondent no.3 objected the bills no.4 and 7 at the time of the marking. In cross-examination of PW1 questions were asked challenging credibility of the medical bill. The learned counsel argued that out of the total bill amount of Rs.1,83,318 after deducting the discount of 10,988/- the petitioner had remitted only Rs.1,72,330/-. PW1 denied the said suggestion. In the bill no.4 no such discount is expressly shown. The respondents have not proved discount of any amount in the medical bills. So **Rs.2,82,133.41** is allowed on the head of medical bills.

21. The petitioner claimed Rs.2,00,000/- on the ground of anticipated medical expenses, In Ext.A3 the condition on discharge was conscious, improved and the wounds were healing. Only rest for 6 weeks was advised as per Ext.A3. In the oral evidence of PW1 also the details of the requirements for any future treatments or its anticipated expenses are not disclosed. So this claim is disallowed.

22. The petitioner claimed Rs.5,00,000/- as compensation for pain and sufferings and Rs.500,000/- as compensation for loss of amenities in life. Considering the injuries **Rs.30,000/-** is assessed as compensation for pain and sufferings and **Rs.20,000/-** is assessed as compensation for loss of amenities and convenience in life.

23. The petitioner claimed Rs.8,00,000/- on the ground of permanent disability. Ext.C1 is the disability certificate issued by General Hospital, Muvattupuzha. The doctors assessed locomotor disability of 6% of right foot. Learned counsel for the petitioner urged for accepting permanent disability of 6% on the basis of Ext.C1. Being a qualified Air Conditioner Technician the fracture of one bone on the right foot might have considerably affected the functional ability of the petitioner reducing his earning capacity. As per Ext.C1, what is assessed is permanent physical impairment. It is also seen from Ext.C1 that the condition is likely to improve and there was recommendation for re-assessment of disability after five years. This Tribunal is satisfied that the finding in Ext.C1 that there was disability can be accepted. In view of the judgment ***Raj Kumar vs Ajay Kumar and another (2011(1) KLT 620)*** this Tribunal is of the considered opinion that it is only just and proper to take the functional disability affecting earning capacity of the petitioner as 5%.

24. Ext.A10 copy of PAN card shows that date of birth of the petitioner was 25.11.1994. Petitioner was 28 years old as on the date of accident. So the multiplier applicable is '17'. The monthly income assessed is Rs. 20,020/-. Based on the above data, the compensation for permanent disability is fixed at **Rs.204204/-** (20020x12x17x5%) and the same is awarded.

25. Rs.1,80,000/- on the ground of partial loss of earning. This claim is disallowed for want of evidence.

26. The compensation claimed and awarded can be summarized as follows:-

Head of claim	Amount claimed (In Rs.)	Amount awarded (In Rs.)	Basis-vital details in a nut shell
Compensation for Loss of earnings	360000	40040	(20020 x 2 months)
Partial loss of earnings	180000	0	No evidence
Transport to hospital	30000	17200	As Just compensation
Extra-nourishment	15000	9000	As Just compensation
Bystander expenses	50000	9000	As Just compensation
Nursing care	100000	0	No evidence
Medical Expenses	800000	282133.41	As per bills produced
Future treatment expenses	200000	0	No evidence
Pain and suffering	500000	30000	As Just compensation

Loss of amenities & pleasure in life	500000	20000	As Just compensation
Continuing and permanent disability	800000	204204	20020x12x17x5%
Total Claim is limited to Rs.2000,000/-	3535000	611577.41	(rounded at Rs.6,12,000/-

27. **Issue No.4:** 1st respondent being the rider of the offending vehicle and as the tort-feaser, he is liable to compensate the petitioner. 2nd respondent as the owner of the offending vehicle is vicariously liable to compensate the petitioner. 3rd respondent is the Insurer of the offending vehicle and as such they are liable to indemnify for the loss arose out of the use of the vehicle and accordingly they shall satisfy the Award.

28. On the basis of the finding on Issues No. 1 to 3 this Petition is to be allowed in part. The Petitioner is entitled to get a total sum of **Rs.6,12,000/-** as compensation. Ext.A12 cancelled cheque. Therefore the compensation shall be directly transferred to the said Bank account of the petitioner in accordance with Circular No.1/2025 dated 19.09.2025 of Hon'ble High Court. Respondents are jointly and severally liable to pay the above compensation to the Petitioner.

In the result, this Petition is allowed in part as follows. :

a	An award is passed for sum of Rs.6,12,000/- (Rupees Six lakhs twelve Thousand only) as compensation with interest at 8% per annum for the awarded amount from 29.01.2024 date of the petition, till the date of deposit, with proportionate costs.
b	The 3 rd Respondent is directed to deposit/transfer the amount of compensation payable to the petitioner within thirty days from the date of this Award in accordance with the procedure laid down in the Circular No.1/2025 dated 19.09.2025 of the Hon'ble High Court.
c	The 3 rd respondent shall produce cheques for Rs.19373/- drawn in favour of MACT, Muvattupuzha towards the Court Fee and for Rs.20,000/- towards the Legal Benefit Fund payable by the petitioner within thirty days from the date of this Award to this Tribunal.
d	The 3 rd Respondent shall transfer the balance amount of the compensation, along with interest and costs, as directed above, to the person entitled to receive the compensation as per the Award, by way of NEFT or RTGS or any other electronic mode, to the Petitioner's Bank account. The petitioner's account details shown in Ext.A12 shall be appended with the original Award.
e	The Adhaar Number, PAN details and email ID, if any, of the petitioner furnished as per Clause 1 (a) of the Circular shall be

	appended to the Original Award. The petitioner shall promptly notify this Tribunal of any change in bank account details, email ID, or any other particulars already furnished.
f	The 3 rd Respondent shall submit a memo regarding deposits being made to this Motor Accidents Claims Tribunal enclosing a copy of the Bank Advice in the format prescribed in the Circular No.1/2025 dated 19.09.2025.

Dictated to the Confidential Asst. transcribed and typed by her, corrected and pronounced by me in Open Court on this the 3rd day of February, 2026.

Sd/-
HARIKUMAR K.N
MOTOR ACCIDENTS CLAIMS TRIBUNAL

A P P E N D I X

Petitioner's Exhibits:-

- A1 : 04.08.2023 Copy of FIR in Cr. No. 460/2023 of Nedumbassery Airport Police Station
- A2 : 20.10.2023 Copy of Final Report in Cr. No. 460/2023 of Nedumbassery Airport Police Station
- A3 : 23.08.2023 Copy of Accident Register cum Wound Certificate issued from Rajagiri Hospital, Aluva.
- A4 : Nil Medical Bills.
- A5 : Nil Ambulance Bill

- A6 : 31.07.2016 Copy of Course certificate issued from Balanagar Technical Institute Private I.T.I, Mookkannur.
- A7 : 04.01.2017 Copy of National Trade Certificate issued from Govt. of India.
- A8 : Nil Photograph.
- A9 : Nil Copy of Aadhar card of Petitioner.
- A10 : Nil Copy of PAN Card of Petitioner.
- A11 : Nil Copy of Bank Passbook of Petitioner.
- A12 : Nil Cancelled Cheque.

Respondents Exhibits :

- B1 : Nil Policy copy issued from United India Insurance Company Limited.
- B2 : 14.09.2023 Copy of Final Report in Cr. No. 460/2023 of Nedumbassery Airport Police Station

Court Exhibits: :

- C1 : 31.12.2024 Certificate of Disability issued from General Hospital, Muvattupuzha.

Witness Exhibits: : Nil

Petitioner's Witness: :

- PW1 : 22.11.2025 Sebastian M.A.
- PW2 : 28.11.2025 Jose.
- PW3 : 28.11.2025 Meena Rajan.
- PW4 : 09.01.2026 George Thomas.

Respondents Witness : Nil

Id/-
MOTOR ACCIDENTS CLAIMS TRIBUNAL

MEMO OF COST**For petitioner's side:-**

Court fee	:	19373.00 (Statement of cost filed)
Legal Benefit Fund	:	20000.00
Stamp for Vakalath	:	5.00
Stamp for Documents	:	18.00
Stamp for Petition	:	70.00
Process fee	:	285.00
Commission Batta	:	1750.00
Witness Batta	:	300.00
Sr. Advocate fee	:	102400.00
Jr. Advocate fee	:	51200.00
Other Expenses	:	250.00
Total	:	195651

Proportionate cost allowed Rs.59,869/-.

For Respondents Side:

Cost not allowed.

Id/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

OP(MV) No.88/2024

AWARD

Dated: 03.02.2026