IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, MANJERI
Present:- Smt. Rajitha.T.H, Motor Accidents Claims Tribunal Judge.

Friday, the 31st day of January, 2025

OP (MV) No. 1194/2022

Between:-

Koraliyadan Abdul Jabbar, 71 years,
S/o Aidermankutty, Parammal House, Maithra, **: Petitioner**
Areekode, Urangattiri, Malappuram District.

By: Adv. M.V.Anwar and Sunobia

And :-

1. Hijas Rahman.T, S/o Abdul Rasak, 22 years, Karattiyil House, Calicut Airport P.O, Kolathoor, Kozhikode. (Driver)
2. Pravitha.P, 32 years, W/o Ajithkumar, 13/61 Mele Palliyalil House, Muthuvallur P.O, Kondotty (Via), Malappuram. (Owner) **: Respondents**
3. The Branch Manager, United India Insurance Co.Ltd., 512/19 Kottakkunnu road, Up Hill, Malappuram. (Insurer)

R1 and R2	:	**Exparte**
R3	:	**Adv. P.V.Seethumadhavan**

Claim	₹ 2,20,000/-
Claim limited to	₹ 2,00,000/-
Court Fee Payable	₹ 1372.50+5/-
Court fee paid	₹ 5/-
LBF Payable	₹ 2000/-
Application Presented on	13-10-2022

This petition coming on this day for final hearing before me and upon perusing the records and on hearing the arguments, this Tribunal passed the following :-

A W A R D

(1) This is a petition filed under Section 166 of MV Act claiming compensation of ₹2,00,000/- (Rupees Two Lakhs Only) for the injuries suffered by the petitioner in a motor vehicle accident happened on 04.06.2022.

(2) The case of the petitioner can be summarised as follows:
on 04.06.2022 at about 8:30 AM., the petitioner was travelling along with his wife on a scooter bearing No.KL-10-BC-6495 from Ikarappadi to Kondotty side. On reaching Neettanimmal a car bearing No.KL-84-5862 coming from the same side and hit on the scooter from behind and the petitioner sustained serious injuries. Immediately after the incident, injured was taken to Hospital. According to the petitioner, he was an Agriculturalist aged 71 years with an income of Rs.30,000/- per month. He claimed total sum of Rs.2,00,000/- as compensation.

(3) At the time of the accident, R1 has driven the offending vehicle in a rash and negligent manner so as to endanger human life. The accident was solely due to the rashness and negligence of R1. R2 was the owner of the offending vehicle and R3 its insurer. Hence, the respondents are jointly and severally liable to pay the compensation.

(4) In response to summons, R1, R2 called absent and was set exparte. R3 entered appearance and filed written statement.

(5) R3 denied the allegations in the petition. But admitted the insurance coverage of the offending vehicle. R3 submits that the alleged accident occurred due to the over capacity of the passengers in the offended vehicle. The allegations regarding the manner of the accident is denied. The accident happened due to the negligence of the petitioner. The averments regarding the injuries, treatment availed by the petitioner, age and

occupation are denied. The amount claimed is excessive and without any basis. The petition is liable to be dismissed.

(6) On the basis of the above contentions the following issues are raised for consideration:

ISSUES

(1) *Whether the accident occurred due to the rash and negligent driving of the Car bearing number KL-84-5862 by the 1st respondent?*

(2) Whether the petitioner is entitled to get any compensation? If so what is the quantum?

(3) Who are all liable to pay the compensation?

(7) No oral evidence adduced by the parties. Exhibits A1 to A7 are marked on the side of the petitioner. No evidence is adduced on the side of the respondents. Heard both sides.

ISSUE No. 1

(8) Ext.A1 is the copy of the First Information Report, Ext. A2 is the copy of the Wound Certificate and Ext.A3 is the Final Report. From these documents it can be safely concluded that the petitioner sustained injuries in the accident as alleged. From Ext.A3 document it is seen that the police after investigation found that R1 was liable for the accident and it occurred due to his rashness and negligence. In the absence of any contra evidence this document can be safely relied to conclude that the accident was due to the rashness and negligence of R1. I am fortified this view by the decision rendered by Honourable High Court of Kerala in ***New India Assurance Co. Ltd. Vs. Pazhaniyammal*** reported in ***2011 (3) KLT 648.*** Issue found accordingly.

ISSUE 2

(9) The petitioner contended that he was an Agriculturalist with an income of Rs.30,000/- per month. But there is no evidence to prove the

same. Hence, his income can be fixed notionally. In ***Ramachandrappa Vs. Manager Royal Sundharam Alliance Insurance Company Limited*** reported in ***2011 (3) SCC 236*** the Apex court reckoned in the monthly income of a coolie (manual labourer) who met with a road accident in the year 2004 at the age of 35 years notionally as Rs. 4,500/-. In ***Sayed Sadiq & Others Vs. Division manager United India Insurance Co. Ltd 2014 (2) SCC 735*** taking note of the earlier decision in Ramachandrappa is case supra, the Apex court reckoned in the monthly income of a vegetable vendor who met with a road accident in the year 2008 at the age of 24 years notionally fix as Rs. 6,500/-. In ***Ulahannan Vs. Rajeesh and Others (ILR 2020 (2) Kerala 295)*** the Honourable High Court of Kerala reckoned a monthly income of a coolie (manual labourer) who met with a road accident in the year 2013 at the age of 53 years notionally fix as Rs. 9,000/-. Considering the above 3 cases it is seen that there is an increase of Rs. 500/- per year in the notional income. So the same increase can be given in the present case also. The present case took place in the year 2022. Hence, I fix the notional income of the petitioner as Rs. 13,500/-.

(10) Petitioner sustained, Multiple abrasion over right for arm and elbow and head injury. Considering this I hold that the petitioner is entitled to get a sum of **Rs.30,000/- as compensation for pain and suffering.**

(11) The injury suffered by the petitioner would considerably diminish the enjoyment of life and amenities. Considering this a sum of **Rs.10,000/- is awarded under the head loss of amenities.**

(12) Considering the nature of injuries sustained and the period and process of treatment underwent by the petitioner it can be reasonably assumed that the petitioner might have been prevented from engaging his daily avocation for a period of 2 weeks, For taking income during laid up period the petitioner is entitled to get a sum of **Rs. 6,750/- towards loss of earnings.**

(13) Petitioner has produced Ext. A6 series medical bills for Rs.2,048/-. The respondent has not raised any objection regarding the admissibility of bills. Hence, the petitioner is entitled to get an amount of **Rs.2,048/- towards the medical expenses.**

(14) Immediately after the accident the petitioner was taken to MIMS Hospital Calicut and treated there as outpatient. He had not visited the Hospital for review. Considering this, the petitioner is entitled to get a sum of **Rs.2,500/-** as compensation under the head **transport to the hospital.**

(15) Considering the nature of injury sustained by the petitioner it is only reasonable to assume that the petitioner had to take extra nourishment at least for 3 days. The petitioner is entitled to get a sum of **Rs.1,500/- (500x3) as compensation for extra nourishment.**

(16) The petitioner is also entitled to get a sum of **Rs. 1,000/- as compensation for loss of clothing articles** as held by the Hon'ble Supreme Court in ***National Insurance Company Ltd Vs Pranay Sethi and others (ILR 2017 (4) Ker 513).***

(17) The petitioner was not admitted in the hospital. Hence, the petitioner is not entitled to get any amount **towards the expenses of bystander.**

(18) All other claims are also liable to be declined.

(19) On the basis of the above discussion it follows that petitioner is entitled to get a total sum of **Rs.53,798/-(rounded to Rs.53,800 /-) as compensation** for the injury sustained by him in the accident. Issue found accordingly.

ISSUE No. 3:

(20) As stated earlier there is sufficient evidence to prove that the petitioner sustained grievous injuries in this accident due to the negligence of R1. R2 was the owner of the offending vehicle at the relevant time who is vicariously liable for the accident. R3 admitted the insurance policy.

There was no violation of policy conditions. Hence, R3 is liable to indemnify R2.

(21) On the basis of my finding on issue no. 1 & 2 this petition is to be allowed. The petitioner is entitled to get a total sum of **Rs.53,800/-** as described here under.

S.No	Head of Claim	Amount Claimed	Amount Awarded	Remarks
1	Compensation for the continuing or permanent disability and loss of earnings power.	1,00,000/-	Nil	
2	Pain & suffering	35,000/-	30,000/-	
3	Medical expenses	20,000/-	2,048/-	Ext. A6
4	Loss of earnings and partial loss of earning from till date	35,000/-	6,750/-	
5	Transport to hospital	2,000/-	2,500/-	
6	Extra nourishment	10,000/-	1,500/-	(500x3)
7	Damage to clothing & articles	3,000/-	1,000/-	
8	By stander expenses	5,000/-	Nil	
9	Loss of amenities	10,000/-	10,000/-	
		Total Rs.2,20,000/- (Claim limited to Rs.2,00,000/-)	Rs. 53,798/- (rounded to Rs.53,800/-)	

(22) In the result this petition is allowed as follows. :

(1) *Respondents are found jointly and severally liable to pay a sum of Rs.53,800/- (Rupees Fifty Three Thousand Eight Hundred only) as compensation to the petitioner with interest at the rate of 8% per annum from the date of petition i.e.,13-10-2022 till the date of deposit with proportionate cost.*

(2) R3 is directed to deposit the compensation so arrived within thirty days from the date of this Award.

(3) *R3 shall issue 2 cheques/ DDs for Rs.1,373/- (Rupees One Thousand Three Hundred and Seventy Three only) and for Rs.2,000/- (Rupees Two Thousand only) in favour of the M.A.C.T, Manjeri being the value of court fee and legal benefit fund.*

(4) *The 3rd respondent shall deposit the entire balance amount directly into the bank account of MACT, Manjeri maintained with SBI, Manjeri Viz. Account No 42805689458 IFSC Code SBIN0070197.*

(5) *It shall be the duty of the Insurance Company to produce a statement regarding the compliance of the order with the following particulars. OP No. Date of Award, Compensation Amount, Income Tax deduction at source, Bank transaction Reference No./UTR No.*

(6) *On making deposit the insurance company shall submit a letter to this Tribunal enclosing a copy of bank advise in prescribed format made mentioned in High Court Circular No.01/2024.*

(7) *Insurance Company shall also produce copy of payment advise to this Tribunal and serve a copy of the same on the claimant or their Advocates.*

(8) *If any tax is deducted at source, the insurance company shall produce Form-16A of Income Tax Act so as to enable the petitioner to seek refund of the tax.*

(9) *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 directly by way of NEFT/RTGS or any other electronic mode.*

(10) *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 in claim petition.*

(Pronounced by me in open court on this 31st day of January, 2025)

Motor Accident Claims Tribunal.

APPENDIX :-

Witness Examined for the petitioner:-Nil

Witness Examined for the Respondents :- Nil

Exhibits Marked for the petitioner:-

A1	5-6-2022	Copy of FIR.
A2	21-6-2022	Copy of Accident Register cum Wound Certificate.
A3	--	Copy of Charge sheet.
A4	--	Copy of Aadhaar card of the petitioner.
A5	--	Copy of Bank pass book.
A6	Series	Medical Bills
A7	--	Copy of PAN card.

Exhibits Marked for the Respondents :- Nil

Third Party Exhibits Marked:- Nil

Motor Accident Claims Tribunal.

Petitioner's cost allowed:-

1	Court fee	Rs.140/-
2	LBF	Rs.538/-
3	Stamp on vakalath	Rs.5/-
4	Typing charge	Rs.200/-
5	Stamp on documents	Rs.10/-
6	Process Fee	Rs.102/-
7	Stamp on petitions	Rs.10/-
8	Advocate fee (Senior)	Rs.5090/-
9	Advocate fee (Junior)	Rs.2500/-
	Total	**Rs.8595/-**

Motor Accident Claims Tribunal.

NB: The parties should apply as soon as possible for the return of all documents which they may wish to preserve as the record will be liable to be destroyed after twelve years from this date.

Typed by: - Sahadevan.P

Compared by: -1. Suprabha

2. Sahadevan.P

Fair/copy Award in OP (MV)No.1194/2022

Dated: 31-1-2025
