

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, OTTAPALAM

Present :- Smt. Gosha C.G., M.A.C. Tribunal

Thursday, the 06th day of Februry, 2025

(17th day of Pousha, 1946 S.E.)

ORIGINAL PETITION (MV) No.702/2022 & 716/2022

OP (MV) No. 702/2022

Petitioner

Anil Kumar P, 36 years, S/o Prasannakumari, Parekkattil House,
Panayur Post, Vaniyamkulam, Ottapalam, Palakkad, Kerala – 679 522

By Advocates : Adv. K. Sujith Kumar & Adv. Karan K. Sudhakar

Vs

Respondents:

- 1) Dr. Manoj Kumar R M, 42 years, S/o Manavalan, 24 25 F1, Sarojini Street, Madhananthapuram, Mugalivakkam, Kancheepuram, Tamilnadu – 600 125, Now residing at House No. IV/776, Thazhathe Veettil, Pulachithara, Vaniyamkulam, 679 522
(Driver cum Owner of KL 51-K-6900 Car)

By Advocates : R1 : Exparte

OP (MV) No. 716/2022

Petitioner

Nandhitha E K, 27 years, D/o Muraleedharan and W/o Anil Kumar,
Kallanmaril House, Thuvakkad, Peringottukurussi Post, Palakkad,
Kerala – 678 574, Now Residing at Parekkattil house, Panayur Post
Vaniyamkulam, Ottapalam, Palakkad Kerala – 679 522

By Advocate : Adv. K. Sujith Kumar & Adv. **Karan O. Sudhakar**
Vs

Respondents:

- 1) Dr. Manoj Kumar R M, 42 years, S/o Manavalan, 24 25 F1,
Sarojini Street, Madhananthapuram, Mugalivakkam,
Kancheepuram, Tamilnadu – 600 125, Now residing at House No.
IV/776, Thazhathe Veetil, Pulachithara, Vaniyamkulam, 679 522,

By Advocates : R1 : Exparte

This petition having been finally heard on 23/01/2024 and the Tribunal on 29/01/2025 passed the following.

COMMON AWARD

These two claim petitions were filed by the respective petitioners for compensation to the injuries sustained to them in a motor vehicle accident u/s 166(1) (a) of the Motor Vehicles Act, 1988.

2. Though the petitioners are different in both petitions the respondents are same and the accident involved in both cases are also same. Therefore, the petitioner in OP(MV)No.702/2022 filed I.A.No.1/2024 for joint trial of the above said petitions and it was allowed treating OP(MV)No.702/2022 as the leading case.

3. Common case of the petitioners in brief is that on 12.07.2022 at about 7.00 p.m., while the petitioner in OP(MV)No.702/2022 was riding the motor cycle bearing registration No.KL-49/J-5850 along with his wife, the petitioner in OP(MV) No.716/2022 as pillion rider, through Ottapalam – Kulappully public road and when

they reached near Kanniyampuram, a car bearing registration No.KL-51/K-6900 driven by the respondent in a rash and negligent manner hit the petitioners' vehicle thereby the petitioners in both claim petitions were sustained simple and grievous injuries. Hence OP(MV) No.702/2022 is for a total compensation of ₹15,00,000/- and OP(MV) No.716/2022 is for a total compensation of ₹ 1,00,000/-.

4. The respondent remained exparte.

5. To prove the case of the petitioners Exts.A1 to A21 were marked. No oral or documentary evidence has been adduced on the side of the respondent.

6. Heard both sides.

7. The common issues that arise for consideration in OP(MV) Nos. 702/2022 and 716/2022 are as follows:-

1. Whether the respondent was driving the vehicle bearing registration No.KL-51/K-6900 in a rash and negligent manner with excessive speed and thereby caused the accident?
2. Whether the petitioners were sustained injuries and are entitled to get compensation as claimed?
3. If so, what is the quantum to be awarded?
4. Who is liable to pay compensation to the petitioners?

8. Issue No.1 in OP(MV)Nos.702/2022 and 716/2022:-

It is the case of the petitioners that on 12.07.2022 at about 7.00 p.m., while the petitioner in OP(MV)No.702/2022 was riding the motor cycle bearing registration No.KL-49/J-5850 along with his wife, the petitioner in OP(MV)No.716/2022 as pillion rider, through Ottapalam – Kulappully public road and when they reached

near Kannyampuram, a car bearing registration No.KL-51/K-6900 driven by the respondent in a rash and negligent manner hit the petitioners' vehicle thereby the petitioners in both claim petitions were sustained simple and grievous injuries. The respondent remained exparte. On the other hand to prove the negligence of the respondent copy of FIR with FIS was marked as Ext.A2, copy of scene mahazar was marked as Ext.A3, copy of final report was marked as Ext.A4 and copy of AMVI report was marked as Ext.A5.

Exhibits marked in OP(MV)No.702/2022 are: -

Ext.A1 disability certificate, Ext.A6 copy of wound certificate, Ext.A7 to A9 discharge summaries, Ext.A10 prescription, Ext.A11 series medical bills, Ext.A12 is the salary slip, Ext.A13 is the copy of Aadhar card, Ext.A14 copy of Bank passbook and Ext.A15 copy of PAN card of petitioner

Exhibits marked in OP(MV)No.716/2022 are: -

Ext.A16 OP ticket from Valluvanad hospital, Ext.A17 medical bills, Ext.A18 copy of wound certificate, Ext.A19 school certificate, Ext.A20 copy of bank passbook and Ext.A21 copy of Aadhar card of the petitioner.

A perusal of Ext.A4 shows that the then Sub Inspector of police, Ottapalam Police Station conducted investigation of the case, completed the investigation and submitted the final report with finding that on 12.07.2022 at 7.00 p.m., the respondent being the driver of the vehicle bearing registration No.KL-51/K-6900 through Ottapalam - Kulappuly public road in a rash and negligent manner without

having valid insurance policy and when it reached at the place Kanniyampuram, it hit on the scooter bearing registration No.KL-49/J-5850, ridden by the petitioner in OP(MV)No.702/2022 along with his wife, the petitioner in OP(MV)No.716/2022 as pillion rider, thereby the petitioners in both claim petitions were sustained simple and grievous injuries. Hence the respondent had committed the offences punishable under sections 279 and 338 of IPC and 185,146 r/w 196 of MV Act. It is well settled that final report is the sufficient prima facie evidence to prove negligence in a claim for compensation u/s 166 of the Motor Vehicles Act (**New India Assurance Company Ltd. v. Palani Ammal and others – ILR 2011(3) Kerala 677**). So I find that the petitioners have successfully proved their case that the accident was occurred solely due to the rash and negligent driving of the respondent with the aid of Exts.A2 to A5. Issues are answered accordingly.

9. Issue No.2 and 3 in OP(MV)No.702/2022:- It is the case of petitioner that as a result of the accident he was sustained grievous injuries, immediately taken to Valluvanad Hospital, Ottapalam, from there taken to Elite Mission Hospital, Thrissur, admitted and treated there as an inpatient from 12.07.2022 to 03.08.2022. Again he was admitted in the same hospital on 04.11.2022 and was discharged on 09.11.2022. Thereafter he was admitted in the same hospital, admitted and treated there was an inpatient from 17.03.2022 to 23.03.2022. To prove the injuries sustained and treatment given to the petitioner, copy of wound certificate was marked as Ext.A6 and discharge summaries were marked as Exts.A7 to A9. As per the above documents the petitioner was treated as stated above. As per Ext.A6 the petitioner was sustained the following injuries:

1. fracture @ leg both bone comminuted with no signs of vascularity
2. fracture @ hand

As per Ext.A7 the diagnosis is as follows:

diagnosis:-

Grade III C compound fracture both bone right leg with avulsed leg segment

As per Ext.A8 the diagnosis is as follows:

diagnosis:-

segmental both bone fracture right leg

As per Ext.A9 the diagnosis is as follows:

diagnosis:-

infected implant right leg

abscess right leg over the implant

10. Going through the above medical records, I find that the petitioner was sustained injuries in the accident which was caused due to the rash and negligent driving of the respondent while driving the vehicle in question. Therefore, I find that the petitioner is entitled to get compensation for the injuries sustained in the accident.

11. Ext.A11 series are the medical bills produced and marked by the petitioner for ₹5,23,081/- which is not in dispute. According to the petitioner at the time of accident he was aged 36 years, working as Software Engineer L2 in Techcedence Infosystems Private Limited at Coimbatore and his monthly income was of ₹61,750/-. As per Ext.A15 copy of PAN card of the petitioner, his date of birth is 06.04.1986. Therefore, I find that at the time of accident the petitioner was aged 36 years. To prove the occupation and income of

the petitioner no evidence has been adduced. The petitioner has no case that due to the accident, he lost his job due to the accident. Hence this Tribunal fixed the notional at ₹13,500/- for the purpose of computing compensation.

12. Ext.A1 is the Disability Certificate issued by Dr.P.J.Jacob. As per Ext.A1, the petitioner is having permanent whole body disability of 16%. The respondent did not challenge Ext.A1. The petitioner being aged 36 years at the time of accident the proper multiplier is 15. Therefore, the compensation for loss of functional disability can be assessed at $₹13500 \times 12 \times 15 \times 16 / 100 = 3,88,800/-$. According to the petitioner due to the accident he was not able to go for work for four months. Considering the nature of injuries and other medical records, I am of the view that he is entitled to get loss of earning for four months. So he is entitled to get ₹54,000/- (13500×4) towards loss of earning. The medical records would show that the petitioner was admitted in the hospital several times. Considering the distance between the hospital and home, he is entitled to get a reasonable amount towards transportation expenses. Therefore, a sum of ₹8,000/- is allowed towards transportation expenses.

Considering the entire facts and circumstances of the case, nature of injuries sustained, period of treatment, disability etc. I find that the following can be fixed as just and reasonable compensation in the case.

Sl. No.	Head of Claim	Amount claimed	Amount awarded	Basis-vital details in a nut shell
1	Loss of earning	150000	54000	13500x4 months
2	Partial loss of earning	50000	0	
3	Transportation expenses	10000	8000	As per the available documents the petitioner went to the hospital several times
4	Extra nourishment	10000	2000	
5	Damage to clothing and articles	1000	1000	Nominal amount

6	Bystander expenses	10000	18000	500x36 days
7	Medical expenses	400000	523081	As per Ext.A11 series medical bills
8	Future treatment expenses	200000	0	
9	Compensation for pain and suffering	200000	50000	Considering the nature of injuries
10	Compensation for loss of enjoyment and amenities of life	100000	45000	Considering the disability
11	Compensation for permanent disability	500000	388800	13500x12x15x16/100
12	Compensation for future loss of earning power	100000	0	
	Total	17,31,000	10,89,881	
	Limited to	15,00,000		

Issues are answered accordingly.

13. Issue No.2 and 3 in OP(MV)No.716/2022:- It is the case of petitioner that as a result of the accident she was sustained simple injuries, immediately taken to Valluvanad Hospital, Ottapalam and treated there as an outpatient. To prove the injuries sustained and treatment given to the petitioner, copy of wound certificate was marked as Ext.A18 and OP ticket was marked as Ext.A16. As per the above documents the petitioner was treated as stated above. As per Ext.A18 the petitioner was sustained lacerated wound @ knee, swelling @ foot, fracture @ 5th metatarsal, abrasion @ leg.

14. Going through the above medical record, I find that the petitioner was sustained injuries in the accident which was caused due to the rash and negligent driving of the respondent while driving the vehicle in question. Therefore, I find that the petitioner is entitled to get compensation for the injuries sustained in the accident.

15. Ext.A17 series are the medical bills produced and marked by the petitioner for ₹3,447/- which is not in dispute. According to the petitioner at the time of accident she was aged 27 years, teacher by profession and her monthly income was of ₹25,000/-. As per Ext.A19 copy of SSLC book of the petitioner, her date of birth is 06.12.1994.

Therefore, I find that at the time of accident the petitioner was aged 28 years. To prove the occupation and income of the petitioner no evidence has been adduced. Even then considering the age of the petitioner and other attending circumstances, I find that monthly income of the petitioner can be calculated as of ₹13,500/- for the purpose of computing compensation. According to the petitioner due to the accident she was not able to go work for a long period. Considering the age of the petitioner and nature of injuries, I am of the view that the petitioner did not go for work for a period of one month. Hence she is entitled to get ₹13,500/-(13500x1) towards loss of earning.

Considering the entire facts and circumstances of the case, nature of injuries sustained, period of treatment etc. I find that the following can be fixed as just and reasonable compensation in the case.

Sl. No.	Head of Claim	Amount claimed	Amount awarded	Basis-vital details in a nut shell
1	Loss of earning	25000	13500	13500x1 month
2	Partial loss of earning	10000	0	
3	Transportation expenses	5000	2000	As per the available documents the petitioner went to the hospital several times
4	Extra nourishment	5000	2000	
5	Damage to clothing and articles	1000	1000	Nominal amount
6	Bystander expenses	5000	0	Treated as outpatient
7	Medical expenses	25000	3447	As per Ext.A17 series medical bills
8	Future treatment expenses	10000	0	
9	Compensation for pain and suffering	50000	35000	Considering the nature of injuries
10	Compensation for loss of enjoyment and amenities of life	50000	30000	Considering the nature of injuries
11	Compensation for permanent disability	100000	0	No disability
12	Compensation for future loss of earning power	50000	0	
	Total	3,36,000	86,947	
	Limited to	1,00,000		

Issues are answered accordingly.

16. Issue No.4 in OP(MV) Nos.702/2022 and 716/2022:-

It has come on record that at the material time of accident the respondent was the rider cum owner of the offending vehicle bearing registration KL-51/K-6900 in both claim petitions. This Tribunal found that the accident was occurred due to the negligence on the side of the respondent. It has also come on record that there was no valid insurance coverage to the offending vehicle at the material time accident. Therefore, this Tribunal finds that the respondent liable to pay the entire award amount to the petitioners. Issues are answered accordingly.

In the result,

17. OP(MV)No.702/2022 is allowed in part and an award is passed for ₹10,89,881/- (Rupees ten lakh eighty nine thousand eight hundred and eighty one only) with interest @ 8% per annum from the date of filing of the petition on 23.11.2022 till realisation with proportionate cost.

The respondent is directed to furnish cheques for ₹14,368/- being court fee and ₹15,000/- being Legal Benefit Fund payable by the petitioner in in the name of the Motor Accidents Claims Tribunal, Ottapalam.

20. OP(MV)No.716/2022 is allowed in part and an award is passed for ₹86,947/- (Rupees eighty six thousand nine hundred and forty seven only) with interest @ 8% per annum from the date of filing of the petition on 28.11.2022 till realisation with proportionate cost.

The respondent is directed to furnish cheques for ₹368/- being court fee and ₹1,000/- being Legal Benefit Fund payable by the petitioner in the name of the Motor Accidents Claims Tribunal, Ottapalam.

The respondent shall deposit the balance Award amount in both claim petitions within one month to the credit of the Bank Account of Motor Accidents Claims Tribunal, Ottapalam 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
Ottapalam MACT	State Bank of India	Ottapalam	42798164060	SBIN0000257

(1) The respondent shall instruct their bank to ensure deposit of the Award amount in both claim petitions by way of Direct Bank Transfer to the account of the Motor Accidents Claims Tribunal, Ottapalam 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.	

(2) On such deposit being made the respondent 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.

(3) The respondent shall also send a copy of payment advice to the Motor Accidents Claims Tribunal concerned and serve a copy of the same on the claimants or their counsels.

(4) 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 accounts of claimants shown below directly by way of NEFT/ RTGS or any other electronic mode.

Details of the petitioner in OP(MV)No.706/2022:-

Name of petitioner	Name of Bank	Name of Branch	Account Number	IFSC Code
ANILKUMAR P	HDFC Bank Ltd	Thudiyalur	50100436418556	HDFC0000729

Details of the petitioner in OP(MV)No.716/2022:-

Name of petitioner	Name of Bank	Name of Branch	Account Number	IFSC Code
NANDHITHA E K	State Bank of India	Vaniamkulam	20154509568	SBIN0005540

(5) 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 petitioners.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 6th day of February 2025.

Motor Accidents Claims Tribunal

APPENDIX

Petitioner's Witness Examined : Nil

Petitioner's Exhibits Marked :

A1	:	24/08/2024	:	Disability Certificate
A2	:	13/07/2022	:	Copy of FIR and FIS
A3	:	13/07/2022	:	Copy of Scene Mahazar
A4	:	24/08/2022	:	Copy of Charge Sheet
A5	:	25/07/2022	:	Copy of AMVI Report
A6	:	12/07/2022	:	Copy of Wound Certificate
A7	:	03/08/2022	:	Discharge Summary
A8	:	09/11/2022	:	Discharge Summary
A9	:	23/08/2023	:	Discharge Summary
A10	:	Series	:	Prescription
A11	:	Series	:	Medical Bills for 5,23,081
A12	:	01/06/2022	:	Pay slip
A13	:	Nil	:	Aadhaar Card copy of petitioner
A14	:	23/07/2021	:	Bank Pass book copy of petitioner
A15	:	Nil	:	Pan card copy of petitioner
A16	:	Nil	:	O.P Ticket from Valluvanad Hospital
A17	:	Series	:	Medical Bills
A18	:	12/07/2022	:	Copy of Wound Certificate
A19	:	Nil	:	School Certificate of petitioner
A20	:	05/12/2012	:	Bank Pass book copy of petitioner
A21	:	Nil	:	Aadhaar Card copy of petitioner

Respondent's Witness examined : Nil

Respondent's Exhibits Marked : Nil

MEMO OF COST

Petitioner's Cost : Allowed. Cost list filed

Sl No	Particular	Amount ₹ OP (MV) No. 702/2022	Amount ₹ OP (MV) No. 716/2022
1	Stamp on Vakkalath	5.00	5.00
2	Advocate Fee	56,894.00	6,700.00
3	Writing Fee	200.00	200.00
4	Stamp on document	16.00	4.00
5	Process Fee	50.00	40.00
6	Court Fee	10271.00	307.00
7	Stamp on petition	20.00	15.00
	Total	67,456.00	7,271.00

Respondents Cost : Not Allowed.

Motor Accidents Claims Tribunal

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

Typed by : Smeril Samuel

Compared by :

Fair/Copy of Award
in OP (MV)Nos.702/2022
& 716/2022
Dated: 06/02/2025
(1+3)