IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, OTTAPALAM
Present :- Smt. Gosha C.G., M.A.C. Tribunal

Saturday, the 19th day of July, 2025
(29th day of Ashadha,1947 S.E.)

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ORIGINAL PETITION (MV) No . 685/2022

Petitioner:

1. Ayyappan.K, aged 24 years, S/o Kurumban, residing at Pottikkal Oore, Kalkandi Post, Padavayal, Attapadi Tribal Taluk, Palakkad District, Pin-678582

By Advocates: Adv. M R Ajith Kumar

Vs

Respondents:

1. Shameer.T.S, aged 27 years, S/o Saleem, Thattur (HO) Kattutheruvu, Pudunagaram (Po), Chittur, Palakkad District-678503
2. Abdul Saleem.A, aged 40 years, S/o Abdul Khader, Parakkulayan, Nariyamkode, Pottasseri(PO), Mannarkkad, Palakkad District-678598
3. United India Insurance Company Ltd, P.B.No. 12, D Block 1st floor, Pazhery Plaza, Kodathipadi Mannarkkad-678582

R1 & R2 : Adv. P Sajeer Babu
R3 : Adv. M Radhika

This petition having been finally heard on 28/06/2025 and the Tribunal on 19/07/2025 passed the following.

AWARD

This is an application filed by the petitioner for compensation for the injuries sustained in a motor vehicle accident under section 166(1) (a) of the Motor Vehicles Act, 1988.

2. Case of the petitioner in brief is that on 19.04.2022 at about 1.30 p.m., while the petitioner was loading wood panels in a Coop near Pottikkal Ooru in Attapadi taluk, the 1st respondent suddenly turned hydraulic mobile crane bearing registration No.KL-50/G-8957 in a rash and negligent manner thereby the front tire of the crane climbed over the left foot of the petitioner and he was sustained serious injuries. Hence, the petition for a total compensation of ₹3,00,000/-.

3. The 1st and 2nd respondents filed written statement denying the petition averments. According to these respondents there was no negligence on the part of the 1st respondent as alleged in the petition. In fact negligence of the petitioner alone was the reason for the accident. At the time of accident, the 1st respondent was having valid driving licence and the vehicle was validly insured with the 3rd respondent. Even if the Tribunal finds that the petitioner is entitled to get any amount it has to be paid by the 3rd respondent. The age, occupation and income of the petitioner have to be proved by him. The amount claimed in the petition is highly excessive and exaggerated. Therefore, the petition has to be disposed accordingly.

4. The 3rd respondent insurance company filed written statement denying the petition averments. According to this respondent, the petition is not maintainable since it is not seen filed within six months. The date of accident was 19.04.2022. But the FIR is seen lodged on 01.05.2022. At the same time, this respondent admits that the vehicle bearing registration No.KL-50/G-8957 was validly insured with this respondent at the material time of accident. According to this respondent there was no negligence on the part of the 1st respondent as alleged in the petition. In fact negligence of the petitioner alone was the reason for the accident. The age, occupation and income of the petitioner have to be proved by him. The amount claimed in the petition is highly excessive and exaggerated. Therefore, the petition has to be disposed accordingly.

5. To prove the case of the petitioner Exts.A1 to A11 series were marked. No oral or documentary evidence has been adduced on the side of the respondents.

6. Heard both sides.

7. Now the issues that arise for consideration in the petition are:

1. Whether the 1st respondent who was the driver of the offending vehicle bearing registration No.KL-50/G-8957 was driving the vehicle in a rash and negligent manner with excessive speed and thereby caused the accident?

2. Whether the petitioner sustained injuries and is 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 petitioner?

8. Issue No.1:- It is the contention of the 3rd respondent that the claim petition is not maintainable since it was not filed within six months. A perusal of the documents would show that the accident in this happened on 19.04.2022. The petition is seen e-filed on 17.10.2022 ie., within six months. So the contention of the 3rd respondent is not sustainable.

It is the case of petitioner that on 19.04.2022 at about 1.30 p.m., while the petitioner was loading wood panels in a Coop near Pottikkal Ooru in Attapadi taluk, the 1st respondent suddenly turned hydraulic mobile crane bearing registration No.KL-50/G-8957 in a rash and negligent manner thereby the front tire of the crane climbed over the left foot of the petitioner and he was sustained serious injuries. To prove the negligence of the 1st respondent, copy of FIR with FIS was marked as Ext.A1, copy of scene mahazar was marked as Ext.A2, copy of final report was marked as Ext.A3 and copy of AMVI report was marked as Ext.A5.

Ext.A4 is the copy of wound certificate, Ext.A6 is the copy of discharge summary, Ext.A7 is the copy of Aadhar card of petitioner, Ext.A8 is the copy of bank passbook of petitioner, Ext.A8(a) is the attested copy of bank passbook of petitioner and Ext.A9 series are the medical bills.

A perusal of Ext.A3 shows that the then Sub Inspector of Police, Agali Police Station, conducted investigation of the case, completed the investigation and submitted the final report with finding that on 19.04.2022 at 1.30 p.m., the 1st respondent being the driver of the crane bearing registration No.KL-50/A-2401 suddenly took the vehicle towards front side in a rash and negligent manner and the front tire of the vehicle climbed over the left leg of the petitioner, thereby he was sustained serious injuries. Hence the 1st respondent had committed the offences punishable u/s. 338 of IPC. In the final report, the number of the offending vehicle was recorded as KL-50/A-2401. It is a mistake committed by the police while drafting the final report. A perusal of the registration certificate, copy of policy and AMVI report also would show that the vehicle involved in the accident is KL-50/G-8957. So it is a mistake occurred while drafting the final report. 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 petitioner has successfully proved his case that the accident was occurred solely due to the rash and negligent driving of the 1st respondent with the aid of Exts.A1 to A3 and A5. Issue is answered accordingly.

9. Issue Nos.2 & 3:- It is the case of petitioner that as a result of the accident he was sustained injuries, immediately taken to Mother Care Hospital,

Vattambalam and from there taken to KIMS Alshifa Hospital, Perinthalmanna, admitted and treated there as an inpatient from 20.04.2022 to 23.04.2022. To prove the injuries sustained and treatment given to the petitioner, copy of wound certificate was marked as Ext.A4 and discharge summary was marked as Ext.A6. As per the above documents, the petitioner was treated as stated above. As per Ext.A4 the petitioner was sustained degloving injury medial aspect of (L) ankle extending to foot

As per Ext.A6 the diagnosis and procedure done are as follows:-

diagnosis:-

type III B open choparts fracture dislocation (L) with contamination and degloving injury

procedure done:-

wound debridement followed by 2 percutaneous K wire fixation (L) and wound closure and antibiotic sponge application

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 1st 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.

10. Ext.A9 series are the medical bills produced and marked by the petitioner for ₹78,719/-. Out of which the 3rd respondent has admitted only the

bills of ₹9,057/-. With respect to the remaining bills the objection of the 3rd respondent is that sl.no. 13 is objected since it is a photocopy, sl.no.10 is the duplicate copy of sl.no.9 and sl.no.12 is not in the name of petitioner. In view of the objection raised by the 3rd respondent, this Tribunal is of the view that the petitioner is entitled to get ₹9,057/- towards medical expenses. According to the petitioner at the time of accident he was aged 24 years, working as loading worker and his monthly income was of ₹20,000/-. Ext.A7 is the copy of Aadhar card of the petitioner. As per Ext.A7 his date of birth is 30.01.1997. Therefore, I find that at the time of accident the petitioner was aged 25 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 he was not able to do for work for a long period. Considering the nature of the injuries, age of the petitioner and other medical records are concerned, I am of the view that he was not able to work for a period of five months. So he is entitled to get ₹67,500/- (13500x5) 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	120000	67500	13500x5 months
2	Partial loss of earning	10000	0	
3	Transportation expenses	10000	4000	Considering the distance between place of accident, hospitals and home.
4	Extra nourishment	5000	3000	
5	Damage to clothing and articles	3000	1000	Nominal amount
6	Bystander expenses	5000	2000	500x4 days
7	Medical expenses	80000	9057	As per Ext.A9 series
8	Future treatment expenses	25000	0	
9	Compensation for pain and suffering	30000	30000	Considering the nature of injuries
10	Compensation for loss of enjoyment and amenities of life	25000	25000	Considering the nature of injuries
11	Compensation for permanent disability	25000	0	No disability
12	Compensation for loss of earning power	25000	0	
	Total	3,63,000	1,41,557	
	Limited to	3,00,000		

Issues are answered accordingly.

11. Issue No.4:- It is stated in the written statement of the 3rd respondent that the vehicle bearing registration No.KL-50/G-8957 was validly insured with this respondent at the material time of accident. This Tribunal found that the accident occurred due to the negligence on the side of the 1st respondent. Therefore, I find that the 3rd respondent is liable to indemnify the other respondents. The issue is answered accordingly.

In the result, the application is allowed in part and an award is passed for ₹1,41,557/- (Rupees one lakh forty one thousand five hundred and fifty seven only) with interest @ 8% per annum from the date of filing of the petition ie. from 16.11.2022 till realisation with proportionate cost.

The 3rd respondent is directed to furnish cheque for ₹2,368/- being Court

Fee and ₹3,000/- being Legal Benefit Fund payable by the petitioner in the name of Motor Accidents Claims Tribunal, Ottapalam.

R3/insurer shall deposit the balance Award amount 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

(2) 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, 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.	

(3) 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.

(4) 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 claimants or their counsels.

(5) 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.

Name of petitioner	Name of Bank	Name of Branch	Account Number	IFSC Code
AYYAPPAN K	Kerala State Co-operative Bank Ltd	Mannarkkad Evening	154012001066244	KSBK0001540

(6) 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 and pronounced by me in open court, this the 19th day of July 2025.

Motor Accidents Claims Tribunal

APPENDIX

Petitioner's Witness Examined : Nil

Petitioner's Exhibits Marked :

A1	:	01.05.2022	:	Copy of FIR and FIS
A2	:	02.05.2022	:	Copy of scene Mahazar
A3	:	10.06.2022	:	Copy of charge sheet
A4	:	20.04.2022	:	Copy of wound certificate
A5	:	29.05.2022	:	Copy of AMVI Report.(KL 50G 8957)
A6	:	23.04.2022	:	Discharge Summary
A7	:	Nil	:	Aadhar card copy of petitioner
A8	:	10.10.2022	:	Copy of Bank passbook of petitioner
A8 (a)		10.10.2022		Attested copy of Bank passbook of petitioner
A9	:	Series	:	Medical Bills.

Respondent's Witness examined : Nil

Respondent's Exhibits Marked : Nil

Motor Accidents Claims Tribunal

MEMO OF COST

Petitioner's Cost : Allowed. Cost list filed

Sl No	Particular	Amount ₹
1.	Stamp on Vakkalath	5.00
2.	Advocate Fee	9478.00
3.	Writing Fee	200.00
4.	Stamp on petition	15.00
5.	Stamp on document	16.00
6.	Process Fee	105.00
7.	Court fee	788.00
	Total	**10,607.00**

<u>Respondents Cost</u> : Not Allowed.

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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 : Aswathy P
Compared by : Deepa K S

Fair/Copy of Award
in OP (MV) No. 685/2022
Dated: 19/07/2025
(1+3)