THE MOTOR ACCIDENTS CLAIMS TRIBUNAL/ADDITIONAL DISTRICT AND SESSIONS COURT, TALIPARAMBA.

Present:- Sri.**Prasanth.K.N**, Motor Accidents Claims Tribunal/ Additional District and Sessions Judge,

Monday the 14th day of July, 2025/ 23rd Ashada, 1947

O.P (MV) No. 597 OF 2022

1. P.P.Syamala, W/o.Bharathan.M.P, Aged 58 years, Melepurayil House, Vellur, Vellur (PO), Payyanur, Kannur District, PIN 670307. A/c.No. 0402053000008285, South Indian Bank, Payyanur Branch, IFSC SIBL0000402	Petitioner

Vs.

1. D.K.Mohammed Sakeer, S/o.D.K.Khalid, Aged 29 years, Bilugunda Village, Post Virajpet TQ Kodagu District, 571218. (Driver of the Motor Cycle No. KA-19-EF-4028) 2. Abdul Ameer, S/o.Muhammed Rafeeq, #4-401 Madyadka Kodimbala Post & VLG Kadaba TQ, Dhakshina Kannada KA 574221. Owner of the Motor Cycle No.KA-19-EF-4028. 3. The Manager, Cholamandalam MS General Insurance Company Ltd., Registered Office, 2nd floor, "Dare House" No.2, NSC Bose Road, Chennai – 600 001. Policy No. 3372/60166485/000/00	Respondents

This petition coming on the 10th day of June, 2025 for final hearing before me in the presence of S/Sri.T.V.Ajayakumar & Madhusoodhanan.V, Advocates for the petitioner; and of Sri.P.J.Antony, Advocate for the 3rd respondent; first and second respondents are being called absent set exparte and having stood over for consideration till this day, and the tribunal passed the following:-

AWARD

SUMMARY OF THE CASE

No	Heading	Description	Remarks
1	Details of parties	Petitioner - Injured, R1 - Driver, R2 - Owner, R3 - Insurer	
2	Accident details	A motorcycle hit a pedestrian, and she sustained injuries **Injury Case**	
3	Occurrence	23.04.2022	FIR 336/2022, Payyannur PS - Ext.A1
4	Final report	28.06.2022	U/s 279, 338 IPC - Ext.A9
5	Petition	07.10.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Age	58	Adhar card
9	Job	Construction worker	Not proved
10	Income	Claimed - ₹850/day	Notional income - ₹13,500
11	Injuries Ext.A2, A3	Tenderness left knee joint, Right foot, left elbow joint, right side of forehead, Fracture medial malleolus right ankle, ORIF spinal	
12	Hospitalization	Six days	23.04.2022 to 28.04.2022 - Ext.A3
13	Medical bill	₹33,206	Ext.A7 series
14	Evidence	No oral evidence	Exts.A1 to A9
15	Compensation	₹10,00,000 - Claimed	**₹3,39,500-** Allowed

1. This petition is filed under ***Section 166*** of the Motor Vehicles Act, 1988, to seek compensation for the injuries suffered by the petitioner in an accident.

Case of the petitioner

2. On 23.04.2022, at 9.30 am, the petitioner was crossing the road at Vellur, a motorcycle bearing No. KA.19.EF.4028, driven by the first respondent in a rash and negligent manner, hit the petitioner, and she sustained injuries. After

the accident, the petitioner was taken to the Co-operative Hospital, Payyannur, where she was treated as an inpatient. The first respondent was the driver, the second respondent was the owner, and the third respondent was the insurer of the offending vehicle. The petitioner avers that she was a 58-year-old construction worker and has claimed an amount of **₹10,00,000** as compensation for his injuries in the accident.

3. The first and second respondents did not appear in response to the summons and were set ex parte. The third respondent entered into an appearance and filed a written statement.

Case of the respondent

4. The respondent disputed the negligence, job, income, and vehicle involvement in the accident and stated that the compensation claimed in the petition under different heads is excessive and unreasonable. However, it is admitted that the motorcycle bearing No. KA.19.EF.4028 was insured with the third respondent and was involved in the alleged accident.

5. Based on the above pleadings, the following points are raised for consideration.

Points for consideration

1. ***Did the accident occur due to the first respondent's rash and negligent driving of the motorcycle bearing No. KA.19. EF.4028?***
2. ***Has the petitioner sustained any injuries in the***

accident?

3. ***Is the petitioner entitled to any compensation? If so, what is the quantum?***
4. ***Who is liable to pay the compensation?***
5. ***Reliefs and costs?***

6. Neither side has adduced any oral evidence. Exts.A1 to A9 documents were marked on the petitioner's side, and no documents were marked on the respondent's side.

7. Heard the counsel for the petitioner and the respondents.

Discussion on Point No.1

8. To prove the accident and negligence, the petitioner relies on Ext.A1 FIR and Ext.A9 final report. These records show that the police had registered a case regarding the incident as Crime No. 207/2022 of Payyannur Police Station and filed the final report under ***Section 173 (2)*** of Cr.P.C, inculpating the first respondent. As per the final report, the motorcycle rider has been charged under ***Sections 279 and 338*** of IPC for his rash and negligent driving, which caused this accident.

9. The Hon'ble High Court of Kerala has held in ***New India Assurance Company V. Pazhaniammal, 2011 (3) KHC 595*** and ***Kolavan V. Salim, 2018 KHC 77,*** that the production of a police charge sheet, as a general rule, is sufficient evidence of negligence for a claim under ***Section 166*** of the Motor Vehicles Act, unless the contrary is proved. Once the claimant produces the

charge sheet, the burden of proof shifts to the party who does not accept the charge sheet to adduce contra evidence. The respondents could not adduce rebuttal evidence to challenge the final report, so the petitioners' case concerning the cause of the accident, which appears believable and probable, must be accepted. Hence, in the light of Exts.A1 and A9 documents, I hold that the evidence adduced is sufficient to prove that the accident occurred due to the rash and negligent driving of the first respondent. Point No.1 is answered in favour of the petitioner accordingly.

Discussion on Point No.2

10. To prove the injuries suffered by the petitioner and the treatment details, he has produced the Ext.A2 wound certificate, A3 discharge cards, Ext.A4 prescriptions, Ext.A5 medicine chart, Ext.A6 lab report, Ext.A7 series medical bills and Ext.A8 X-ray report. The wound certificate shows that on 23.04.2022 at about 10.10 am, the petitioner was treated in Co-operative Hospital, Payyannur, for the injury sustained in a motor vehicle accident on the same day. The discharge summary shows that the petitioner was treated as an inpatient in the Co-operative Hospital, Payyannur, from 23.04.2022 to 28.04.2022. As per the wound certificate and discharge card, the petitioner had sustained the following injuries.

a. ***Tenderness left knee joint, Right foot, left elbow joint, right side of forehead***
b. ***Fracture medial malleolus right ankle***
c. ***ORIF spinal***

11. The petitioner had sustained injuries in the accident, as substantiated by the FIR, the final report, the wound certificate, and the discharge summary. The respondent does not challenge the factum of the accident, the final report, and the medical documents. Considering all these documents, it is sufficient to show that the petitioner had sustained the injuries in the accident. Hence, I hold that the petitioners proved that the injured sustained injuries in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

Discussion on Point No.3

12. The petitioner has produced Ext.A7 series medical bills to the tune of ₹33,206. Considering the nature of the injuries and the medical bills, I am inclined to award an amount of **₹33,206** under the head of medical expenses. The discharge summary shows that she was hospitalised as an inpatient for six days. Also, considering this fact, I am inclined to award an amount of **₹6,000** for six days, at ₹1,000 per day, under the head of bystander expenses. Considering the nature of injuries, fracture, and treatment, I am inclined to award an amount of **₹1,00,000** under the head of pain and suffering and **₹1,00,000** under the head of loss of amenities.

13. Considering the admission, discharge, and three reviews at Payyannur, I am inclined to award an amount of **₹10,000** under the heading of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing. Under the heading of extra nourishment, considering the hospitalization

of six days, I am inclined to grant an amount of **₹6,000.**

14. The petition states that the petitioner was a construction worker earning a monthly income of ₹850 per day, and due to the injuries sustained in the accident, she had lost her income. However, the petitioner has not adduced any evidence to prove his income. Therefore, notional income will be assessed based on the principles in ***Ramachandrappa V. Manager Royal Sundaram Alliance Insurance Company LTD, 2011 KHC 4675.*** Since the accident was in the year 2022, the notional income of the petitioner is assessed at **₹13,500** per month. The nature of the injuries suffered by the petitioner, along with the consideration of his age, I am of the view that he had not been in a position to attend to any work for six months. Therefore, the petitioner is entitled to an amount of **₹81,000 (6x13,500)** on account of loss of income. The claims under the other heads are rejected for want of evidence.

15. The compensation to which the petitioner is entitled under different heads is summarized as follows.

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of Earnings	3,00,000	81,000	13,500 X 6 months
2	Transport to hospital	15,000	10,000	Reasonable estimate
3	Damage to clothing	10,000	3,000	Reasonable estimate
4	Extra nourishment	10,000	6,000	6 days Hospitalization
5	Medical expenses	1,00,000	33,206	Ext.A7 series
6	Bystander expenses	60,000	6,000	6 days X 1000
7	Pain and Suffering	1,00,000	1,00,000	Reasonable estimate
8	Loss of amenities	50,000	1,00,000	Reasonable estimate
9	Disability	3,00,000	Nil	No evidence
10	Loss of earning power	3,00,000	Nil	No evidence
11	**Total**	**₹10,00,000**	**₹3,39,206**	**Just compensation**

Discussion on Point No.4

16. It has already been found that the driver of the motorcycle, the first respondent, is responsible for the accident of his rash and negligent driving. The second respondent, the vehicle's owner, is liable to compensate the petitioner. Admittedly, the vehicle was insured with the third respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. So, the third respondent, the insurer, is liable to indemnify the second respondent and compensate the petitioner.

Discussion on Point No.5

17. Thus, the petitioner is entitled to a compensation of **₹3,39,206,** rounded to **₹3,39,500.** Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, I hold that the petitioner

is entitled to recover the proportional costs of the proceedings from the third respondent.

As a result, the petition is allowed in part as follows.

1. The petitioner is entitled to realize an amount of **₹3,39,500 (Rupees Three Lakh Thirty-Nine Thousand Five Hundred only)** as compensation from the third respondent with interest @ **8%** per annum from **07.10.2022,** the date of application, till deposit/realization.
2. The third respondent/insurer is ordered to deposit a cheque for ₹9,368 (Rupees Nine Thousand Three Hundred and Sixty-Nine only), the balance of the court fee payable in the name of this Tribunal.
3. The third respondent/insurer shall also furnish another cheque for ₹10,000 (Rupees Ten Thousand only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.
4. The third respondent /insurer is directed to deposit the entire balance amount due to the petitioner ***within a period of one month*** in the following bank account of MACT, maintained at SBI, Taliparamba branch.

Name of Bank	State Bank of India, Taliparamba
Branch	Taliparamba
Account No.	42827267259, MACT, Taliparamba
IFSC No.	SBIN0001000

5. The third respondent /insurer shall instruct their bank to ensure the deposit of the amount by direct transfer to the account mentioned above of this Tribunal containing the following information in the prescribed format in compliance with 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	
6	Bank Transaction Reference No/Unique Transaction Reference (UTR) No	

6. The third respondent/insurer shall submit a letter to this Tribunal enclosing a copy of the bank advice after depositing the compensation amount in the format prescribed in circular No.1/24 dated 06.03.2024 of the Hon'ble High Court of Kerala ***and also serve its copy to the petitioner's counsel forthwith.***
7. The third respondent/insurer shall send this Tribunal a copy of the payment advice referred to in clause (6) above and serve a copy on the claimant or his counsel.
8. The third respondent/insurer is directed to furnish the claimant with form 16 A of the Income Tax Act if tax is deducted at the source.
9. The third respondent/insurer is directed to file a statement before this Tribunal specifying transfer details.
10. After depositing the amount in the court's bank account, it shall be credited to the petitioner's bank account through NEFT, RTGS, or any other electronic mode.

(Dictated to the Confidential Assistant, transcribed and prepared by her in computer, corrected, and pronounced by me in open court on the 14th of July 2025)

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA

Petitioner's Exhibits:

A1	23-04-2022	FIR No. 336/2022 of Payyanur Police Station.
A2	23-04-2022	Copy of Wound Certificate
A3	23-04-2022	Discharge Card
A4 series	--	Prescriptions
A5 series	--	Medicine Chart
A6 series	--	Lab report
A7 series	--	Medical Bills
A8	06-06-2022	X-ray report
A9	28-06-2022	Final report

Petitioner's Witness: Nil

Respondent's Exhibits & Witness : Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA