

**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,

Saturday the 2nd day of August, 2025/ 11th Sravana, 1947

O.P (MV) No. 622 OF 2022

1. Shivadasan.K.V, S/o.Kunhappa.T.P, Aged 50 years,
Kolliyan Valappil House, Karakkodi, Panniyoor,
Pallivayal, Kannur District, Kerala, 670142.

Petitioner

Vs.

1. Harilal Naduvath Kavumkal, S/o.Omanakuttan,
Aged 33 years, Naduvath Kavumkal House,
Thondikuzhi, Karthikapuram (PO), Alakode,
Taliparamba (Via), Kannur Dist. (Driver cum owner
of the Car bearing No.KL-13-Z-9336)
2. The Manager, New India Assurance Company Ltd.,
1st floor, Sakthi Arcade, Opp.Classic Theater,
Pookothnada, Taliparamba (PO), Kannur Dist.
Policy No. 76080931210100003457

Respondents

This petition coming on the 27th day of June, 2025 for final hearing before me in the presence of Sri.T.Dileep Kumar, Advocate for the petitioner; and of Sri.Manoj.P.B, Advocate for the 1st respondent; and of Sri.V.V.Sivaprakash, Advocate for the 2nd respondent 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/Owner, R2 - Insurer	
2	Accident details	A collision between two cars, and the passenger sustained injuries - Injury case	
3	Occurrence	12.06.2022	FIR 717/2022, Taliparamba PS - Ext.A1
4	Final report	23.06.2022	U/s 279, 337, 338 IPC - Ext.A2
5	Petition	18.10.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Age	50	Not proved
9	Job	Rubber tapper	Not proved
10	Income	Claimed - ₹30,000	Notional income - ₹13,500
11	Injuries Ext.A3, A4	Comminuted mildly displaced fracture of left femoral head, Displaced fracture of posterior wall of left acetabulum, Mild joint effusion of left hip, Pipkin type 4 left femoral head fracture, Left hip pain, Inability to bear weights on left lower limb, Hip joint dislocation left	
12	Hospitalization	10 days Ext.A4, A5	12.06.2022 to 14.06.2022 15.06.2022 to 21.06.2022
13	Medical bill	₹80,000	Ext.A5 series
14	Evidence	Exts.A1 to A6	No oral evidence
15	Compensation	₹7,65,000 - Claimed	₹5,08,500 - 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 12.06.2022, at about 3.30 pm, while the petitioner was travelling in a car bearing No. KL.59. B.8131 at Manakkadu, another car bearing No. KL.13. Z 9336, driven by the first respondent in a rash and negligent manner, collided with each other, and the petitioner sustained injuries. After the accident, the petitioner was taken to the Co-operative Hospital, Taliparamba, and the AKG Memorial Co-operative Hospital, Kannur, where he was treated as an inpatient. The first respondent was the owner-cum-driver, and the second respondent was the insurer of the offending vehicle. The petitioner avers that he was a 50-year-old rubber tapper and coolie worker and has claimed an amount of ₹7,65,000 as compensation for his injuries in the accident.

3. The first respondent appeared, but no written statement was filed. The second respondent entered an appearance and filed a written statement.

Case of the respondent

4. The respondent disputed the negligence, job, income, and vehicle's involvement in the accident, stating that the amount of compensation claimed in the petition under different heads is excessive and unreasonable. However, it is admitted that the car bearing No. KL.13. Z.9336 was insured with the second respondent.

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 car bearing No. KL.13. Z 9336?*
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 A6 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.A2 Final Report. These records show that the police had registered a case regarding the incident as Crime No. 717/2022 of Taliparamba Police Station and filed the final report under **Section 173(2)** of Cr.P.C, inculping the first respondent. As per the final report, the driver of the car 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 as a general rule, the production of a police charge sheet 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 petitioner's case concerning the cause of the accident, which appears believable and probable, must be accepted. Hence, in light of the FIR and final report, 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.A3 wound certificate, Ext.A4 discharge summaries and Ext.A5 series medical bills. The wound certificate shows that on 12.06.2022 at 5.45 pm, the petitioner was treated in Co-operative Hospital, Taliparamba, for the injuries sustained in a motor vehicle accident on the same day. The discharge bill shows that the petitioner was treated as an inpatient in AKG Memorial Co-operative Hospital, Kannur, from 12.06.2022 to 14.06.2022, and also treated as an inpatient in Father Muller Medical College Hospital, Mangalore, from 15.06.2022 to 21.06.2022. According to the wound certificate

and discharge summary, the petitioner sustained the following injuries.

- a. Comminuted mildly displaced fracture of left femoral head*
- b. Displaced fracture of posterior wall of left acetabulum*
- c. Mild joint effusion of left hip*
- d. Pipkin type 4 left femoral head fracture*
- e. Left hip pain*
- f. Inability to bear weights on left lower limb*
- g. Hip joint dislocation left*

11. The petitioner sustained injuries in the accident, as substantiated by the FIR, the final report, the wound certificate, and the discharge summaries. 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. Point No.2 is answered in favour of the petitioners accordingly.

Discussion on Point No.3

12. The petitioner has produced Ext.A5 series medical bills to the tune of ₹80,000. Considering the nature of the injuries and the medical bills, I am inclined to award an amount of **₹80,000** under the head of medical expenses. The discharge summaries show that the petitioner was hospitalized as an inpatient for ten days. Considering the said fact, I am inclined to award an amount of **₹10,000** for **ten days @ ₹1,000** each for a day under the head of bystander expenses. Considering the nature of injuries and treatment, I am inclined to award an amount of **₹2,00,000** under the head of pain and suffering

and **₹1,00,000** under the head of loss of amenities.

13. The petitioner has produced Ext.A6 series ambulance bills to the tune of ₹24,400. Considering the two admissions, discharges, and three reviews at Mangalore and Kannur, I am inclined to award an amount of **₹24,400** under the heading of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing and articles. Under the heading of extra nourishment, considering a ten-day hospitalization, I am inclined to grant an amount of **₹10,000**.

14. The petition states that he was a rubber tapper, earning a monthly income of ₹30,000, and due to the injuries sustained in the accident, he had lost his 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 occurred in 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	1,20,000	81,000	13,500 x 6 months
2	Transport to hospital	20,000	24,400	Ext. A6
3	Damage to clothing	5,000	3,000	Reasonable estimate
4	Extra nourishment	10,000	10,000	10 days Hospitalization
5	Medical expenses	1,00,000	80,000	Ext.A5 series
6	Bystander expenses	10,000	10,000	10 days X 1000
7	Pain and Suffering	2,00,000	2,00,000	Reasonable estimate
8	Loss of amenities	Nil	1,00,000	Reasonable estimate
9	Permanent disability	2,00,000	Nil	No evidence
10	Future treatment	1,00,000	Nil	No evidence
11	Total	₹7,65,000	₹5,08,400	Just compensation

Discussion on Point No. 4

16. It has already been established that the first respondent, the car driver, is responsible for the accident due to his rash and negligent driving, and as the vehicle's owner, he is vicariously liable. Admittedly, the said vehicle was insured with the second respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. So, the second respondent, the insurer, is liable to indemnify the first respondent and compensate the petitioner. Point No.4 is answered in favour of the petitioner accordingly.

Discussion on Point No.5

17. Thus, the petitioner is entitled to a compensation of ₹5,08,400 rounded to ₹5,08,500. 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 second respondent.

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

1. The petitioner is entitled to realize an amount of ₹5,08,500 (**Rupees Five Lakh Eight Thousand and Five Hundred only**) as compensation from the second respondent with interest @ 8% per annum from 18.10.2022, the date of application, until deposit/realization.
2. The second respondent/insurer is ordered to deposit a cheque for ₹7,019 (Rupees Seven Thousand Nineteen only), the balance of the court fee payable in the name of this Tribunal.
3. The second respondent/insurer shall also furnish an additional cheque for ₹7,650 (Rupees Seven Thousand Six Hundred and Fifty only) as the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.
4. The second 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 second 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 second 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 second 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 second 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 second 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 this 2nd day of August, 2025)

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA

Petitioner's Exhibits:

A1	12-06-2022	FIR No.717/2022 of Taliparamba Police Station
A2	23-06-2022	Certified copy of Final Report
A3	12-06-2022	Wound Certificate
A4	21-06-2022	Discharge Summory
A5 series	--	Medical Bills
A6 series	--	Ambulance Bills

Petitioner's Witness: Nil

Respondent's Exhibits and Witness : Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA