

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY

Present :- Smt. Nirmala T.K., Judge, Motor Accidents Claims Tribunal,

Thursday, 04th day of July, 2024

OP(MV)No.1360/2022

Rishidath Lal, S/o. Saneesh.M, aged 11 years,	]	
(Minor) Kizhakkechalil House, Kanalkara,	]	
Venduttayi, P.O.Pinarayi, Kannur rep. by his	]	
father, next friend and guardian Saneesh.M,	]	Petitioner
S/o. Janardhanan, aged 40 years,	]	
Kizhakkechalil House, Kanalkara, Venduttayi,	]	
P.O.Pinarayi, Kannur.	]	

V/s

Satheesh.V.K, S/o. Viswambaran,	]	
aged 43 years, Vattakkattil House,	]	
Pooparamba, Eruvessy, Chemperi,	]	Respondent
P.O.Nellikutty, Thaliparamba, Kannur	]	
(Driver cum Owner).	]	

This petition coming on 10th day of May 2024 for final hearing before me in the presence of Sri.N.R.Shanavas, Advocate for the petitioner; and of S/Sri. Jose Augustine and P.V.Rajesh, Advocates for the respondent; and having stood over for consideration till this day, the Tribunal passed the following:-

AWARD

This is an application filed u/s 166 of the Motor Vehicles Act, 1988.

2. The case of the petitioner is that on 30.03.2022 at about 04.30 pm, while the minor petitioner was walking through the road side, a pickup van bearing registration No.KL 60 R 5649 owned and driven by respondent in a rash and negligent manner and in excessive speed hit against the minor petitioner and thereby he sustained grievous injuries. The accident occurred solely due to the rash and negligent driving of the pickup van by the respondent and therefore he being the owner cum driver is liable to pay compensation to the petitioner for the injuries caused.

3. Though the respondent appeared through counsel, no written statement is filed.

4. Now the issues arise for consideration is as follows:-

1. What is the reason for the accident?
2. Whether the petitioner sustained injuries in the accident?
3. Whether the petitioner is entitled to get compensation and if so, who is liable to pay the same?
4. If issue Nos.1 to 3 are decided in favour of the petitioner, what should be the quantum?
5. Reliefs and costs?

5. No oral evidence is adduced on the side of petitioner. Exts.A1 to A7 documents were marked on the side of petitioner.

6. Heard the learned counsel for the petitioner.

7. **Issue No.1**:- According to petitioner, the accident occurred due to the rash and negligent driving of the pickup van by the respondent. To prove the negligence alleged against the respondent, petitioner produced copy of FIR in Crime No.98/2022 and certified copy of final report filed by the police in that crime and both these documents are marked as Exts.A1 and A3 respectively. The Exts.A1 and A3 shows that Sub Inspector of Pinarayi Police station registered crime No.98/2022 and police after investigation submitted a final report against the respondent herein, alleging commission of offences punishable under sections 279 and 338 IPC. It is settled principle of law that unless anything contrary is proved, the final report has to be taken as a prima facie evidence of negligence. No contra evidence is adduced by the respondent. Therefore the documents produced by the petitioner proves that, the accident occurred due to the negligence on the part of respondent. Therefore it is found that rash and negligent driving of the respondent is the reason for the accident. Hence this, issue is answered accordingly.

8. **Issue Nos.2 to 4:-** While discussing issue No.1, it is already found that the accident occurred due to the rash and negligent driving of the pickup van by the respondent, who is the owner of the vehicle also. The documents produced by the petitioner shows that he sustained injuries in the accident and therefore respondent is liable to pay compensation to the petitioner for the injuries sustained.

9. The documents produced by the petitioner shows that immediately after the accident minor petitioner was taken to Tellicherry Co-operative hospital, Thalassery and from there he was taken to Baby Memorial hospital, Kozhikode and treated there as an inpatient. Petitioner produced copy of wound certificate issued from Tellicherry Co-operative hospital, Thalassery and discharge summary issued from Baby Memorial hospital, Kozhikode and those documents are marked as Exts.A2 and A4 respectively. The medical documents shows that petitioner sustained following injuries in the accident.

- 1. Bilateral lung contusion**
- 2. Grade II liver injury - intra paracandchymal hemmarrhage periperted region of lover**
- 3. Abrasion on left elbow**
- 4. Abrasion on left glutecal region**
- 5. Abrasion on right and left face**
- 6. Abrasion on left lunkery pestercavity**
- 7. Grade II liver laceration**

10. Ext.A4 discharge summary shows that petitioner was admitted at Baby Memorial hospital, Kozhikode on 30.03.2022 and discharged on 05.04.2022. Therefore an amount of **Rs.8,400/-(7x1,200)** is awarded as expenses for bystander.

11. Considering the nature of injuries suffered by the petitioner an amount of **Rs.75,000/-** is awarded as compensation for pain and sufferings. Considering the fact that the injured was aged only 10 years at the time of accident, an amount of **Rs.35,000/-** is awarded as compensation for loss of amenities of life. Considering the nature of treatment underwent an amount of **Rs.10,000/-** is awarded as expenses for extra nourishment. An amount of **Rs.4,000/-** is awarded as damage to clothing and articles.

12. Considering the fact that the injured was treated at Baby Memorial hospital, Kozhikode an amount of **Rs.10,000/-** is awarded as transportation expenses.

13. To prove the medical expenses incurred, petitioner produced Ext.A5 series medical bills for a sum of **Rs.57,752/-** and therefore the said amount is ordered to be granted as medical expenses.

14. In view of the above inputs, following amounts are awarded:-

SUMMARY OF CLAIMS RAISED AND ALLOWED

Sl. No.	Head of claim	Amount Claimed ₹	Amount Awarded ₹	Basis-vital details in a nut shell
1	Loss of earning			
2	Transport to hospital	20,000/-	10,000/-	
3	Extra nourishment	20,000/-	10,000/-	
4	Damage to clothing and articles	5,000/-	4,000/-	
5	Bystander's expenses	20,000/-	8,400/-	(7x1,200)
6	Medical expenses	3,35,000/-	57,752/-	
7	Compensation for Pain and suffering.	2,00,000/-	75,000/-	
8	Compensation for loss of amenities of life	2,00,000/-	35,000/-	
9	Compensation for loss earning, capacity, earning power, loss of future prospects, facial disfiguration			
T O T A L		8,00,000/-	2,00,152/-	

Thus the petitioner is entitled to get an amount of **₹2,00,152/-** and the same is rounded to **₹2,00,500/- (Rupees two lakhs five hundred only)** as compensation. Issues answered accordingly.

15. **Issue No.5:-** In view of the above findings, this petition is allowed in part. Petitioner is entitled to get an amount of **₹2,00,500/- (Rupees two lakhs five hundred only)** with interest at the rate of 8% per annum (less the amount paid if any u/s.140 of M.V Act) from the date of petition (29.09.2022) till realization with proportionate costs. Petitioner is liable to pay ₹7,372/-(Rupees seven thousand three hundred and seventy two

only) being balance Court fee and ₹7,998/-(Rupees seven thousand nine hundred and ninety eight only) being the additional court fee towards legal benefit fund.

In the result, Respondent/owner is directed to make following payments within a period of one month.

1. Respondent/owner shall pay the above said amount to petitioner within a period of one month.

2. Respondent/owner shall furnish a cheque for ₹7,372/- (Rupees seven thousand three hundred and seventy two only) being the balance court fee in favour of MACT, Thalassery.

3. Respondent/owner shall also furnish another cheque for ₹7,998/-(Rupees seven thousand nine hundred and ninety eight only) being the additional court fee towards legal benefit fund in favour of MACT, Thalassery.

4. The respondent is directed to produce one cheque for the entire balance amount due to minor petitioner including interest and proportionate costs to be deposited in a Nationalized Bank till minor petitioner attains majority. On attainment of majority the amount shall be disbursed to the minor petitioner.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 4th day of July, 2024).

Petitioners' Exhibits:-

A1	01.04.2022	Copy of F.I.R in Crime No.98/2022, Pinarayi Police Station
A2	30.03.2022	Copy of Wound Certificate
A3	27.04.2022	Certified Copy of Final Report
A4	05.04.2022	Discharge Summary
A5	Series	Medical Bills
A6	Series	Medical Prescriptions
A7	30.03.2022	Ambulance Bill

Respondents Exhibits : Nil**Witness on both sides:-** Nil

MOTOR ACCIDENTS CLAIMS TRIBUNAL

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MOTOR ACCIDENTS CLAIMS
TRIBUNAL, THALASSERY

Fair/Copy/Free copy of

AWARD

in

OP(MV)No.1360/2022

Dated: 04.07.2024