

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR.

Present: Smt.Minimol.T.K, Motor Accidents Claims Tribunal

Saturday the 19th day of October, 2024/ 27th Aswina 1946 SE.

O.P.(MV) No.2384/2016

Petitioner:-

The Director General of Police, State of Kerala,
Thiruvananthapuram-1, 695 001 represented by district Police
Chief (City), Thrissur
By Adv.Mehaboob Ali P M

Respondents:-

1. Viswambaran, S/o Mohanan, Mannakkadan House,
Edakulam Desom, Mariyamankovil Road, P O
Irinjalakuda, Thrissur- 680 121
 2. M/s Universal Engineering College, P O Vallivattom,
Konathkunnu, Thrissur – 680 123
 3. The new India Assurance Company Ltd, Micro Office,
Sunny Building, Chalakudy, Thrissur- 680 307
- R1,R2 - Ex parte
R3 - By Adv.Mariamamma K Ittoop

This O.P is having been finally heard on 5.10.2024 and the Tribunal
passed the following:

AWARD

The above application has been filed by the Director General of
Police, State of Kerala, Thiruvananthapuram, represented by District Police Chief

(City), Thrissur u/s.166 of the M.V. Act claiming compensation on account of damage sustained to a vehicle in a motor vehicle accident.

2. The following case has been pleaded in the application :-On 13.05.2013 at about 06.25 a.m,while police driver was driving the petitioner's jeep bearing Reg. No. KL-01-AE-7090 through Oorakam road and when it reached near Oorakam centre, a stage carriage bearing Reg. No. KL-45-G-6214 driven by 1st respondent in a rash and negligent manner hit on the jeep. By the impact of the hit, the petitioner's jeep was totally damaged. The 2nd respondent is the owner and 3rd respondent is the insurer. Hence all the respondents are jointly and severally liable to pay compensation to the petitioner. On the above grounds the petitioner claiming an amount of Rs. 1,47,417/- as compensation.

3. Respondent no.1 and 2 remained absent and set them exparte.

4. The 3rd respondent filed written statement admitting that the stage carriage bearing Reg. No. KL-45-G-6214 was insured with this respondent and the policy was valid for a period from 02.11.2012 to 01.11.2013. According to them, the accident occurred not due to the negligence of the 1st respondent, but due to the negligence of the driver of the jeep. The 2nd respondent has not produced vehicle documents for verification. The 1st respondent was not having valid driving licence and badge at the time of the accident. The vehicle was not having valid fitness certificate and permit at the time of the accident. The

compensation claimed for labour charges, spare parts expenses are too excessive and without any basis. No damage was caused to the vehicle as alleged in the accident. On the above grounds, respondent No.3 prayed for dismissal of the application.

5. On the basis of the above pleadings and documents produced, the following issues were framed for trial:-

1. *Whether the accident occurred due to the negligent driving of the stage carriage by R1?*
2. *Whether the jeep of the petitioner sustained damage in the motor vehicle accident?*
3. *Whether the petitioner is entitled to recover any amount as compensation? If so, what is the quantum?*
4. *Who is liable to compensate the petitioner?*
5. *Reliefs and Costs?*

6. On the side of the petitioner Exts.A1 to A8 documents were marked. Ext.B1 was marked from the side of 3rd respondent. Ext.B2 to B5 were marked from the side of 1st and 2nd respondents.

7. Both sides were heard.

8. **Issue No.1 and 2** :In order to prove the accident, the petitioner has produced Ext. A1 copy of FIR and Ext.A2 copy of charge sheet. Ext.A1 and Ext.A2 would prove that Cherpu police had registered a case as Cr.

No.578/2013 regarding the incident and had filed final charge in this case inculcating the 1st respondent, who was the driver of the stage carriage u/s.279 of IPC for his rash and negligent driving and thereby causing the accident. No contra evidence was adduced by respondent to rebut the evidence adduced by the petitioners. So, in view of the above evidence, we can safely be concluded that the accident occurred due to the rash and negligent driving of the 1st respondent and due to his act, damage was caused to the petitioner's jeep. Issue no.1 and 2 are answered in favour of the petitioner.

9. **Issue No. 3 and 4** : Ext.A2, A3 AMVI report and A4 Survey report, would prove that the petitioner's jeep bearing Reg. No. KL-01-AE-7090 got damaged in the accident, that too due to the negligence on the part of the 1st respondent. Hence, he is certainly entitled to compensation under the provisions of the M V Act, 1988. In Ext.A4, survey report, the surveyor has assessed that the labour charges and the expense for the replacement of parts of the vehicle would be Rs.1,44,553/-. Further an amount of Rs.2,864/- was spent by the petitioner towards the surveyor fees. Even though the petitioner produced Ext.A5 bills showing the value of the spare parts it do not contain the 'cash received seal' or any endorsement to show that the amount was paid by the petitioner. The learned counsel for the 3rd respondent argued that the vehicle is a very old model and so the petitioner is not entitled to get the value of spare parts as shown by the surveyor. But it is settled position of the law that the

petitioner is entitled to get the actual value of spare parts purchased by him. Here the AMVI reports and the survey report go to show that the petitioner's vehicle is got damaged. The surveyor has assessed the value of the spare parts to be purchased by the petitioner. It is true that the petitioner has not examined the surveyor, who prepared Ext.A4. But considering the survey reports, Ext.A5 bills and other evidence in this case, I find that the amount of Rs.1,47,417/- can be allowed as compensation for damage sustained to petitioner's jeep.

10. The accident occurred due to negligence of the 1st respondent who is the driver of stage carriage bearing Reg. No. KL-45-G-6214. The 2nd respondent is the owner of the said vehicle. Ext.B1 is the policy. Ext.B2 is the contract carriage permit, Ext.B3 is the copy of RC, Ext.B4 is the copy of driving licence and Ext.B5 is the extract of driving licence of 1st respondent. No violation of policy condition has been proved by the 3rd respondent. Hence the petitioner is entitled to recover an amount of Rs.1,47,417/- from respondent No.3 as compensation together with interest at the rate of 7% interest from the date of application 09.11.2016 till realization. Issues 3 and 4 were answered in favour of the petitioner.

11. **Issue no.5:** With regard to cost, no circumstance has been brought out to depart from the normal rule that cost shall follow the event. Therefore, I hold that the petitioner is entitled to recover proportional cost of the proceeding

from respondent no.3. Issue no.5 is answered in favour of the applicant to the above extent.

In the result, award is passed as follows:-

- a) This application is allowed in part and a compensation of **₹.1,47,417/- (Rupees one lakhs forty seven thousand four hundred and seventeen only)** is awarded in favour of the petitioner along with 7% interest per annum from the date of filing of this application, i.e., 09.11.2016 till payment, and proportionate costs;
- b) The 3rd respondent shall produce account payee cheque for ₹.1,474/- in favour of MACT, Thrissur as fee towards KLBF ;
- c) The 3rd respondent shall pay the balance amount within 30 days along with interest and proportionate costs directly to the bank account of the MACT, Thrissur with State Bank of India, Civil Station Branch, Ayyanthole, Thrissur bearing No.00000042806741408 with IFS Code SBIN0070164;
- d) The 3rd respondent shall report transfer of the amount to the account of the MACT, Thrissur in the prescribed format as mentioned in Circular No.1/2024 dated 06.03.2024 of the Hon'ble High Court of Kerala;
- e) On receiving intimation regarding deposit of the amount and confirming the same the Office of this Tribunal shall take steps for fund transfer of the amount to the petitioner's bank account, the details of the same can be shown below in tabular form;

Bank Account details of the petitioner -

District Police Chief Thrissur City :-

<i>Bank Account Number</i>	<i>32164811164</i>
<i>Name of Bank and Branch</i>	<i>SBI, Kerala Police Academy, Thrissur, Ramavarmapuram</i>
<i>IFSC Code</i>	<i>SBIN0010566</i>

(Dictated to the Confidential Assistant, transcribed and prepared by him, in computer, corrected and pronounced by me in open court on this the 19th day of October, 2024.)

Sd/-

Minimol.T.K,

Motor Accidents Claims Tribunal, Thrissur

APPENDIX:

Petitioners' Exhibits :

- A1 Copy of FIR in Cr.No.578/2013 of Cherpu P S
- A2 Copy of charge sheet
- A3 Copy of AMVI report
- A4 Survey report
- A5 Bills
- A6 Copy of scene mahazar
- A7 Copy of seizure mahazar
- A8 Copy of statement of account

Petitioner's Witness: - Nil

Witness Exhibit :- Nil

Respondent's Exhibits

- B1 Copy of policy
- B2 Contract carriage permit
- B3 Copy of registration certificate
- B4 Copy of driving licence
- B5 Extract of driving licence

Respondent's Witness : Nil

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Memo of cost : Filed

Petitioner's Cost: ₹.11,465 /-Allowed.

Id/-

Sd/-

Shr

MACT

/True copy/

By Order

Sheristadar

Award in
O.P (MV) 2384/2016
Dated: 19.10.2024