IN THE ADDITIONAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOTTARAKKARA

Present:- Smt. Reena Das. T. R., Addl. Motor Accidents Claims Tribunal.

Wednesday, the 27th day of August, 2025/ 05th Bhadra, 1947.

OP (MV) No. 486/2021

Between

Petitioner:- Ajesh. A., aged 22 years, S/o Aji, Achu Bhavan, Thevalapuram East, Puthoor, Vendar, Kollam, Pin 691507.

By Adv. Sri. P. Venu.

AND

Respondents:-

1. Gopalakrishnakurup, S/o Ramakrishna Pillai, Ramakrishna Vihar, Varinjam, Kalluvathukkal P.O., Kollam, Pin 691578. (Owner of the vehicle KL 24 A 4334).

2. Manu Prasad, S/o Gopalakrishna Pillai, Vasudeva Mandiram, Pakalkuri P.O., Arayil, Pallikkal, Pin 695406. (Driver of the vehicle KL 24 A 4334).

3. The Manager, United India Insurance Company, Opp. Josco Jewelry, Pathanamthitta, Pin 689645.

R1 & R2- Exparte.
By Adv. Sri. B. Venugopal- For R3.

This OP(MV) is coming on for final hearing on 26.08.2025 and on 27.08.2025 the Tribunal delivered the following.

A W A R D

Petition for compensation filed under Secs. 165, 166 and 140 of the Motor Vehicles Act r/w Rule 371 and 397 of the Kerala Motor Vehicle Rules, 1989.

2. The case of the petitioner is as follows:- The petitioner, a 22-year-old self-employed catering worker earning ₹20,000/- per month, met with a serious road accident on 5/05/2018 at about 3:30 PM while walking along the Kottarakkara – Kollam public road. As the petitioner reached near Market Junction, Kottarakkara, a bus bearing Registration No. KL-24A 4334, driven by the 2nd respondent in a rash and negligent manner at a reckless speed from the opposite direction, hit the petitioner, causing him to fall and sustain grievous injuries. The petitioner was immediately taken to THQ Hospital, Kottarakkara, and subsequently referred to Government Medical College Hospital, Thiruvananthapuram, where he was treated as an inpatient. The accident is alleged to have occurred solely due to the negligent driving of the 2nd respondent. The 1st respondent is the registered owner of the offending bus, while the 3rd respondent is its insurer. The petitioner has filed this claim seeking a compensation of ₹5,00,000/- for the injuries, treatment expenses, pain and suffering, and loss of income arising from the said accident.

3. The 1st and 2nd respondents did not appear before the Tribunal and they were set ex-parte.

4. The 3rd respondent filed written statement contending as follows:- The 3rd respondent, in their written statement, denies all

allegations made by the petitioner except those explicitly admitted. They argue that the petition is not legally or factually maintainable. They specifically deny the claim that the accident was caused by the negligence of the 2nd respondent, asserting instead that the petitioner was at fault for walking on the tarred road instead of the margin, which led to the accident. They note that only minor injuries were sustained, supported by the wound certificate, and highlight a 10-day delay in lodging the FIR. The respondent also claims contributory negligence on the part of the petitioner. Furthermore, they challenge the genuineness of claims related to the petitioner's age, occupation, and income due to lack of documentary evidence. Lastly, the respondent argues that even if compensation is awarded, it should not exceed the bank's rate of interest as the claims are exaggerated and not fully substantiated. The 3rd respondent claims they are not liable to indemnify the 1st respondent due to violations of policy conditions. It is alleged that at the time of the accident, the 2nd respondent did not have a valid driving license, and the bus involved lacked a valid permit and fitness certificate. Furthermore, the 2nd respondent was unlicensed to drive a Heavy Passenger Motor Vehicle. Based on these grounds, the 3rd respondent argues no liability. The document also reserves the right to contest claims under section 170 of the Motor Vehicles Act and to submit further written statements if needed. The 3rd respondent requests the tribunal to dismiss the petition and award them the cost of proceedings

5. On the basis of the pleadings, the following issues were raised for consideration:-

1. Whether the accident occurred due to negligence on the part of the 2nd respondent?

2. Whether the petitioner is entitled to get the compensation as claimed for?

3. Reliefs and costs?

6. Both sides have not adduced any oral evidence. On the side of the petitioner Exts.A1 to A9 were marked and Ext.B1 to B3 were marked on the side of the 3rd respondent.

7. Heard both sides and perused the documents.

8. **Issue No.1:**- The claimant imputes the cause of the accident to the negligence of R2.

To prove the accident and negligence on the part of R2, the petitioner produced Ext.A1 to Ext.A5. FIR & FIS, Scene Mahazar, Vehicle Mahazar, AMVI Report and Final Report respectively marked as Exts.A1 to A5. Ext.A5 final report would show that the 2nd respondent was charged with offences punishable under sections 279, 337 and 338 of IPC .

9. The 3rd respondent, however, denies any negligence on the part of the 2nd respondent and attributes the cause of the accident to the petitioner's own negligence. But it is prima facie evident from Ext.A5, final report that the accident happened due to the rash and negligent driving of bus bearing Registration No. KL-24A 4334, driven by the 2nd respondent. In **New India Assurance Company Ltd. v. Pazhaniammal (2011 (3) KLT 648),** the Division Bench of the Hon'ble High Court held that as a general rule it can safely be accepted that production of the police charge sheet is prima facie sufficient evidence of negligence for the purpose of a claim under S.166 of the Motor Vehicle Act. In this case as per Ext.A5, final report the police concluded after investigation that the accident in which the petitioner sustained injuries was caused as a result of the rash and negligent driving of the offending vehicle by the 2nd respondent. The prima facie proof of negligence on the part of the 2nd respondent which is established by Ext.A5, final report is not rebutted by the respondent by adducing contra evidence. The Hon'ble High Court of Kerala held in **Balan.R v. Abhiraj.R and others** (2021 (4) KHC 380) that production of police charge sheet is prima facie sufficient evidence to find negligence. Deviation from police charge is possible only when evidence is adduced to disbelieve the charge sheet, but no evidence is adduced. Hence I find that the claimant succeeded in proving that the accident occurred due to the negligence of the offending vehicle by R1. Issue No. 1 is answered in favour of the claimant.

10. **Issue No.2:-** According to the petitioner, he sustained serious injuries, incurred substantial medical expenses for treatment, and became physically disabled as a result of the accident. Ext. A6 is the Accident Register-cum-Wound Certificate, Ext. A7 is the Treatment Certificate, and Ext. A8 is the Discharge Summary. It is seen that the petitioner was admitted to the hospital on 06/05/2018 and discharged on 08/05/2018. He was diagnosed with a fracture of the lamina of the T2 vertebra.

11. As per Ext. A9 is the Aadhar card of the claimant, he was aged 20 years at the time of accident. Therefore, the corresponding multiplier is '18' as held in **Sarla Verma and Others v. Delhi Transport Corporation and Others** – 2010 (2) KLT 802 SC.

12. The claimant has averred that 22-year-old self-employed catering worker earning ₹20,000/- per month. However, no documentary evidence has been produced to substantiate his

claimed income. In the decision reported in **Rajani and others v. Oriental Insurance Co. Ltd. [(2022) KHC 7149],** the Hon'ble Supreme Court held that the notional income of ₹11,500/- fixed by the Motor Accident Claims Tribunal for an accident that occurred in the year 2018 was neither disproportionate nor arbitrary in the case of an unskilled labourer. In the present case, the claimant has not produced any documentary evidence to establish his actual income from employment. Therefore, in the absence of proof, only a notional income can be adopted for the purpose of calculating compensation. Considering the nature of the claimant's work and the year of the accident (2018), a reasonable notional income of ₹13,500/- per month is taken for the computation of compensation.

13. The nature of injuries, period of treatment and medical records reveal that the claimant had been prevented from going for job for a minimum period of 4 months. Therefore, compensation for loss of earnings is granted and the amount is fixed at ₹54,000/- (13,500 x 4) and the same is awarded towards compensation for loss of earnings.

14. The medical records show that the claimant had made several outpatient reviews. Therefore, expenses for transport to

hospital is fixed at Rs.3,000/-. It is reasonable to award an amount of ₹4,000/- towards extra nourishment.

15. The nature of the accident suggests that claimant's clothing got damaged. Therefore, Compensation towards damage of clothing is fixed at ₹1,000/-.

16. The petitioner claims an amount of ₹30,000/- towards medical expenses. However, the claimant has not produced any documentary evidence to substantiate this claim. Altogether the petitioner was hospitalized for 2 days and the bystanders expenses are calculated as 500x2 =₹1,000/-

17. Considering the nature of injuries, duration of the treatment, mental and physical sufferings from the accident, this court finds that the claimant had sustained pain and sufferings. Compensation of ₹.70,000/- is awarded for pain and sufferings undergone by the claimant.

18.The petitioner has not produced any document to prove that he has suffered any permanent disability. Considering the nature of injuries and fracture discernible from the medical records, I do find that permanent disability of 5% can be taken for the purpose of calculation of compensation for permanent disability. Compensation towards disability is fixed at ₹1,45,800/- (₹13,500x12x18x5/100).

19. The claimant will undoubtedly suffer from loss of amenities due to the disability sustained in the accident. This disability has reduced the enjoyment of life and the ability to engage in daily avocations that the

claimant was previously capable of. Therefore, the claimant is entitled to receive an amount of ₹36,450/- (which is 1/4th of ₹1,45,800/-) as compensation under the head of loss of amenities. All other claims are disallowed, as there is no evidence on record to substantiate the same.

20. On overall analysis, the following compensation is awarded to the petitioner: -

Sl. No.	Head of Claim	Amount claimed (in rupees)	Amount awarded (in rupees)	**Basis-vital details in a nutshell**
1	Loss of earnings	₹1,20,000	₹54,000/-	(13,500 x 4)
2	Partial loss of earnings	—	—	Nil
3	Transportation	₹15,000	₹3,000	Reasonable estimation
4	Extra Nourishment	₹5,000	₹4,000	Reasonable estimation
5	Damages to clothing & articles.	₹5,000	₹1,000/-	Reasonable estimation
6	Medical expenses	₹30,000	—-	—
7	Bystander's expenses	₹25,000	₹1,000/-	(2 days x 500)
8	Pain and sufferings	₹1,00,000	₹70,000	Reasonable estimation
9	Compensation for permanent disability	₹2,00,000	₹1,45,800/-	Para 18
10	Compensation for loss of amenities in life and future treatment	₹1,00,000	₹36,450/-	Para 19
11	Compensation for future treatment	₹1,00,000	—-	—--
	Total	₹7,00,000 (Claim is limited to 5,00,000)	**₹3,15,250/-**	

(Rupees Three Lakh Fifteen Thousand Two Hundred and Fifty only)

21. The petitioner is entitled to get a total compensation of ₹ 3,15,250/-. He is also entitled to get 9% interest from the date of OP i.e., from 12/10/2021 till the date of deposit.

22. As per I.A. No. 2/2023, 3rd respondent (the insurance company), sought the original 1st and 2nd respondents to produce the fitness certificate, permit, and driving licence of the 2nd respondent. Accordingly, the 1st respondent produced Ext. B1, the Certificate of Fitness, which was valid from 01/01/2018 to 31/12/2018; Ext. B2, the Driving Licence of the 2nd respondent, which was issued on 20/11/2010 and is valid for non-transport vehicles until 19/11/2030 and for transport vehicles until 15/02/2027; and Ext. B3, the Permit Certificate. It is seen that the permit was originally valid from 12/09/2011 to 11/09/2016. Permit No. 2/90016/1991 was renewed for the period from 12/09/2016 to 11/09/2021.

23. It is evident from the documents produced that the vehicle involved in the accident possessed a valid fitness certificate (Ext.B1) covering the period during which the accident occurred. The 2nd respondent, who was driving the vehicle, held a valid driving licence (Ext.B2), authorizing him to drive both transport and non-transport

vehicles, with the relevant validity period extending beyond the date of the accident. With respect to the permit, Ext.B3 shows that the original permit was valid from 12/09/2011 to 11/09/2016, and the same was renewed from 12/09/2016 to 11/09/2021. Therefore, the permit was also valid at the time of the accident.

24. In light of the above, it can be concluded that the 2nd respondent was legally authorized to drive the vehicle, and the vehicle itself was roadworthy and had a valid permit at the relevant time. As such, there appears to be no violation of policy conditions relating to the validity of the driving licence, fitness certificate, or permit, and the insurer cannot escape liability on that ground.

25. While answering Issue No.1, it has already been found that the accident occurred due to the negligence of the 2nd respondent, who was the driver of the offending vehicle. The 3rd respondent is the insurer of the said vehicle, and it is admitted that the insurance policy was in force on the date of the accident. Therefore, the 3rd respondent is liable to pay the compensation to the petitioner, as the negligence on the part of the 2nd respondent has been duly proved. This issue is accordingly found in favour of the petitioner.

26. **Issue No.3:-** In the result,

(a) The application is allowed for an amount of ₹ **₹3,15,250/-(Rupees Three Lakh Fifteen Thousand Two Hundred and Fifty only**) with 9% interest from the date of the original petition till the date of deposit with proportionate costs.

(b) The 3rd respondent is directed to pay ₹4,373/- towards Court fee and ₹5,000/- towards Legal Benefit Fund by using e-payment facility available in e-filing 3.0 portal as per the direction in OM No. KCKL/4892/2023-ECC4 dated 16/04/2024 and to deposit the entire balance award amount with interest and proportionate cost to the bank account of the MACT, Punalur A/c No. 42808558658, IFSC Code SBIN0070059, within 30 days from the date of this award.

(c) The deposited amount in the MACT, Punalur account shall be transferred directly to the credit of the bank account of the petitioner through NEFT or RTGS or any electronic mode as per the direction in the Official Memorandum No. D1-1/62475/2016 dated 06.03.2024 read with circular No. 01/2024 of the Hon’ble High Court of Kerala.

1	Name of the claimant(s) with address	Ajesh.A Achus Bhavanam Thevalapuram East, Puthur, Kollam
2	Name of the Bank & Branch	Kerala State Co-Operative Bank, Kottarakkara
3	Bank IFSC Code	KSBK0001135
4	Account number(s) of the claimant (s)	113512301204416

Issue free copies of this award to the petitioner and the respondents.

As per Rule 7(2) of destruction of records Rules 2004, the parties shall apply as soon as possible for the return of all documents which they may wish to preserve, as the records are liable to be destroyed after twelve years from this date.

Dictated to the Confidential Assistant typed by her corrected by me and pronounced in open court on the 27th day of August, 2025.

Sd/-
Reena Das T. R.
Additional Motor Accidents Claims Tribunal

APPENDIX: –

Exhibits For the Petitioner:-

A1 - 15.05.2018: Copy of FIR and FIS in Cr.No.1170/2018 of Kottarakkara Police Station.

A2- 20.05.2018: Copy of Scene Mahazar in Cr.No. 1170/2018 of Kottarakkara Police Station.

A3- 26.06.2018: Copy of Vehicle Mahazar in Cr.No. 1170/2018 of Kottarakkara Police Station.

A4-	26.06.2018:	Copy of AMVI Report in Cr.No. 1170/2018 of Kottarakkara Police Station.
A5-	09.08.2018:	Copy of Final Report in Cr.No. 1170/2018 of Kottarakkara Police Station.
A6-	27.07.2018:	Copy of Accident Register Cum Wound Certificate issued from Taluk Head Quarters Hospital, Kottarakkara.
A7-	--------------:	Copy of Treatment Certificate issued from Medical College Hospital, Thiruvananthapuram.
A8 -	08.05.2018:	Copy of Discharge Summary issued from Medical College Hospital, Thiruvananthapuram.
A9-	17.04.2013:	Copy of Aadhaar Card.

Exhibits For the Respondents:-

B1-	01.01.2018:	Copy of Certificate of Fitness.
B2-	---------------:	Copy of Driving Licence.
B3-	30.05.2016:	Copy of Stage Carriage Permit issued from Regional Transport Office, Kollam.

Court Exhibits:- Nil

Witness Examined For Both Sides:- Nil.

Sd/-
Addl. Motor Accidents Claims Tribunal.

Typed by: Ullas. B.
Compared by: Aswathi. P.