

**IN THE ADDITIONAL MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOTTARAKKARA**

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

Tuesday, the 21st day of October, 2025/ 29th Aswina, 1947.

OP (MV) No. 513/2021

Between

Petitioners:-

1. Anilkumar, aged 38, S/o Sasidharan, Anil Bhavan, Laksham Veedu, Erumpamangadu, Ezhukone, PIN 691505.
2. Abhilash, aged 12 years, S/o. Anilkumar, Anil Bhavan, Laksham Veedu, Erumpamangadu, Ezhukone, PIN 691505.
(Represented by the 1st petitioner.)
By Adv. Sri. P. Venu.

AND

Respondents:-

1. Deepu, S/o Karunakaran Pillai, Rohini, Chooru Poika, Kuzhimathikkadu P.O., Kottarakkara, PIN 691509.
Owner cum driver of the vehicle- KL02 L 2110.
2. The Manager, Oriental Insurance- Company, Ulloor Junction, Medical College P. O., Thiruvananthapuram, PIN 695011.

R1 - Exparte.

By Adv. Smt. G. Sarojini Amma- For R2.

This OP(MV) is coming on for final hearing on 17.10.2025 and on 21.10.2025 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, 1988 r/w Rule 371 and 397 of the Kerala Motor Vehicle Rules, 1989.

2. The case of the petitioner is as follows:- The 2nd petitioner is a minor, aged 12 years, and is represented by the 1st petitioner, who is his natural guardian. The case arises from a motor vehicle accident that occurred on 26/02/2021 at approximately 9:00 A.M. At the time of the accident, the 2nd petitioner was standing with his bicycle near Cheerankavu Junction. A motorcycle bearing Registration No. KL-02L-2110, owned and driven by the 1st respondent, came from the west to east direction along the Kollam-Kottarakkara public road. It is alleged that the motorcycle was driven in a rash and negligent manner, at a high and dangerous speed, endangering human life. The vehicle hit the 2nd petitioner, causing him to fall and sustain serious injuries. Following the accident, the 2nd petitioner was taken to ESI Hospital, Cheerankavu, where he was treated as an inpatient. The 1st respondent is the registered

owner-cum-driver of the motorcycle, and the 2nd respondent is the insurer of the said vehicle. The petitioners have claimed a total compensation of ₹3,00,000/- for the injuries, treatment expenses, and other related losses suffered by the 2nd petitioner as a result of the accident.

3. The first respondent remained absent and unrepresented. Hence, he was set ex parte.

4. The 2nd respondent, has filed a written statement denying all the averments and allegations in the petition, except those specifically admitted. It is contended that the allegation of rash and negligent driving on the part of the 1st respondent is false, and that the accident occurred due to the carelessness of the minor 2nd petitioner while cycling. The 2nd respondent further submits that the minor petitioner is required to prove his age, the nature of injuries sustained, the duration of treatment, and the medical expenses incurred, through proper documentary evidence. It is admitted that the insurance policy covering vehicle No. KL-02-L-2110 was valid and in force on the date of the accident, i.e., 26/02/2021. However, the compensation amounts claimed are stated to be exaggerated

and without basis. It is also submitted that since the mother of the minor petitioner is employed at the ESI Hospital, Ezhukone, and is an ESI cardholder, medical expenses, if any, could have been reimbursed under the ESI scheme. Alleging collusion between the petitioner and the 1st respondent, who has chosen not to contest the case, the 2nd respondent seeks leave to invoke Section 170 of the Motor Vehicles Act, 1988, to contest the claim on all grounds, including negligence and quantum. The 2nd respondent also prays for liberty to file an additional written statement, if necessary, and to be exonerated from all liabilities

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 1st 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 A7 were marked and no evidence was adduced on the side of the 2nd 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 R1.

To prove the accident and negligence on the part of R1, the petitioner produced Exts.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 1st respondent was charged with offences punishable under sections 279, 337 and 338 of IPC.

9. The 2nd respondent has specifically denied any negligence on the part of the 1st respondent and has contended that the accident was solely attributable to the negligence of the 2nd petitioner. But it is prima facie evident from Ext.A5, final report that the accident happened due to the rash and negligent driving of the vehicle, bearing Reg No.KL-02-L-2110, driven by the 1st 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 1st respondent. The prima facie proof of negligence on the part of the 1st 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:-** The 2nd petitioner sustained serious injuries, incurred substantial expenses for treatment, and was rendered physically disabled as a result of the accident. Ext.A6 is the treatment certificate, which shows that the 2nd petitioner sustained a fracture of both bones of the right forearm and was

advised complete rest for a period of four weeks. Ext.A7 is the copy of the relevant documents.

11. There is no evidence to prove the occupation and income of the 2nd petitioner. The 2nd petitioner was a minor child. So he is not entitled to get any amount as compensation for loss of earnings. The medical records show that the 1st petitioner sustained a fracture. Therefore, expenses for transport to hospital is fixed at Rs.3,000/-. It is reasonable to award an amount of ₹3,000/- towards extra nourishment.

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

13. The petitioner claims an amount of ₹30,000/- towards medical expenses and an amount of Rs.15,000/- towards bystanders expenses. But no evidence was produced by the first petitioner to substantiate the claim.

14. Ext.A7, the copy of the aadhar card of the minor petitioner would show that his date of birth is 04/01/2009. Thus the child has not attained the majority. Though the petitioner has not produced any disability certificate, it is evident from Ext.A6 that

the 2nd petitioner, a minor aged 12 years, sustained a fracture of both bones of the right forearm and was advised complete rest for four weeks. Considering the nature of the injury and the age of the petitioner, the court is of the view that compensation must be awarded for the permanent impact and pain suffered by the minor child.

15. In **Mallikarjun v. Divisional Manager, National Insurance Co. Ltd. [(AIR 2014 SC 736)]**, the Hon'ble Supreme Court held that in the case of minors sustaining grievous injuries such as fractures without permanent disability being assessed, a just and reasonable compensation can be awarded even in the absence of a disability certificate. The Court therein fixed **₹1,00,000/-** as appropriate compensation for pain, suffering, and loss of amenities in cases involving simple fracture injuries to minors. In view of the above, and applying the law laid down in Mallikarjun (supra), I find it just and reasonable to award ₹1,00,000/- as compensation under the head of pain, suffering, and loss of amenities, even in the absence of a disability certificate. All other claims are disallowed as there is no evidence to prove the same.

16. Upon thorough analysis, the following compensation is awarded to the petitioner, as detailed in the table below:-

Sl. No.	Head of Claim	Amount claimed (in rupees)	Amount awarded (in rupees)	Basis-vital details in a nutshell
1	Loss of earnings	—	—	—
2	Partial loss of earnings	—	—	—
3	Transportation	₹5,000	₹3,000/-	Reasonable estimation
4	Extra Nourishment	₹5,000	₹3,000/-	Reasonable estimation
5	Damages to clothing & articles.	₹5,000	₹1,000/-	Reasonable estimation
6	Medical expenses	₹30,000	---	---
7	Bystander's expenses	₹15,000	---	----
8	Pain and sufferings	₹1,00,000	₹1,00,000/-	As per Mallikarjun v. Divisional Manager, National Insurance Co. Ltd. (AIR 2014 SC 736) - fracture injury in a minor
9	Compensation for permanent disability	₹3,00,000	----	----
10	Compensation for amenities in life	₹1,00,000	-----	----
11	Compensation for future treatment	₹1,00,000	---	
	Total	₹6,60,000 (Claim amount is ₹3,00,000)	₹1,07,000/-	

(Rupees One Lakh Seven Thousand only)

17. So, the 2nd petitioner is entitled to get a total compensation of ₹ 1,07,000/- . He is also entitled to get 9% interest from the date of OP i.e., from 27/10/2021 till the date of deposit.

18. While answering Issue No.1, I have already found that the accident occurred due to the negligence of the 1st respondent who is the driver and owner of the offending vehicle. The 2nd respondent is the insurer of the offending vehicle. Admittedly the offending vehicle was insured with the 2nd respondent covering the date of accident. Therefore, the 2nd respondent is liable to pay the compensation to the 2nd petitioner, since the negligence of the part of the 1st respondent/driver of the offending vehicle is proved. The point is found in favour of the petitioner.

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

(a) The application is allowed for an amount of ₹1,07,000/- (Rupees One Lakh Seven Thousand only) with 9% interest from the date of the original petition till the date of deposit with proportionate costs.

(b) The 2nd respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹2, 373/- and ₹3,000/- towards

court fee and legal benefit fund and to deposit the balance award amount with interest and proportionate costs within 30 days from the date of this award through NEFT or RTGS or any Electronic mode as per the direction in the official memorandum No. D1-1/62475/2016 dated 19-09-2025 read with Circular No. 1/25 of the Hon'ble High Court of Kerala.

(c) The awarded amount of ₹1,07,000/- shall be kept in the fixed deposit in the name of the minor claimant (2nd petitioner) in a nationalized bank, until he attains the age of majority (18 years).

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 transcribed and typed by her corrected by me and pronounced in open court on the 21st day of October, 2025.

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

APPENDIX: -Exhibits For the Petitioner:-

- A1 - 01.03.2021: Copy of FIR and FIS in Cr.No.229/2021 of Ezhukone Police Station.
- A2- 02.03.2021: Copy of Scene Mahazar in Cr.No. 229/2021 of Ezhukone Police Station.
- A3- 07.03.2021: Copy of Mahazar in Cr.No.229/2021 of Ezhukone Police Station.
- A4- 08.03.2021: Copy of AMVI Report in Cr.No. 229/2021 of Ezhukone Police Station.
- A5- 14.04.2021: Copy of Final Report in Cr.No. 229/2021 of Ezhukone Police Station.
- A6- 30.03.2021: Certified Copy of Treatment Certificate issued from ESI Corporation Hospital, Ezhukone.
- A7- -----: Copy of Aadhaar Card.

Exhibits For the Respondents:- Nil.Court Exhibits:- Nil.Witness Examined For Both sides:- Nil.

Sd/-

Addl. Motor Accidents Claims Tribunal.

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