

**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,

Monday the 9th day of June, 2025/ 19th Jyaishta, 1947

O.P (MV) No. 626 OF 2022

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|--|--|-------------|
| <p>1. Liyana Alvin, D/o.Alvin Mathew, Aged 04 years, (Minor) (DOB 17-06-2018), Maliyekkal House, Therthally, Thimiri, Kannur District 670571. Aadhar No. 952922350071 through her next friend guardian and mother Neethu Varghese, D/o.Varghese, Aged 33 years, Thadetheel House, Therthally, Thimiri, Kannur District, 670571. A/c.No. 067305300000729, South Indian Bank, Karuvanchal, IFSC SIBL0000673.</p> | | Petitioner |
| Vs. | | |
| <p>1. Reji Joseph, S/o.Joseph, Puthiyath House, Therthally (PO), Kannur Dt. 670571 (Owner cum Driver of KL-59-Q-5794 Motor Cycle)</p> <p>2. The Manager, The Oriental Insurance Co.Ltd., 16/20 WEA, First Floor, Near Shastri Park, Padam Singh Road, Karol Gagh, New Delhi 110005. (Policy No. 211200/31/2022/116351)</p> | | Respondents |

This petition coming on the 16th day of May, 2025 of final hearing before me in the presence of Sri.Denny George, Advocate for the petitioner; and of Sri.Martin Thomas, Advocate for the 1st respondent; 2nd respondent is being called absent set exparte 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 motorcycle hit a minor pedestrian, and she sustained injuries Injury case	
3	Occurrence	21.06.2022	FIR 556/2022, Alakode PS - Ext.A1
4	Final Report	01.07.2022	U/s 279, 337 IPC - Ext.A3
5	Petition	01.10.2022	U/s 166 MV Act
6	Licence	DL	Admitted
7	Insurance	Insured	Admitted
8	Age	4	Aadhar card
9	Job	Nil	Minor
10	Income	Nil	Minor
11	Injuries Ext.A2, A4	Deep lacerated wound over left eyebrow and forehead, left side 8x3x1 cm, Abrasions over right and left cheeks.	
12	Hospitalization	Two days	21.06.2022 to 22.06.2022 - Ext.A4
13	Medical bill	₹38,810	Ext.A6
14	Evidence	No oral evidence	Exts.A1 to A7, B1 to B3
15	Compensation	₹4,00,000 - Claimed	₹2,13,500 - 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 21.06.2022 at about 16.00 hrs., while the petitioner was crossing the road at Therthally, a motorcycle bearing Regn. No. KL.59. Q.5794, driven by the first respondent in a rash and negligent manner, hit the petitioner, and she sustained grievous injuries. After the accident, the petitioner was taken to the Therthally PHC, referred to Aster MIMS Hospital, Kannur, and treated there as

an inpatient. The first respondent was the driver cum owner, and the second respondent was the insurer of the offending vehicle. The petitioner avers that she was a 4-year-old student and has claimed an amount of ₹4,00,000 as compensation for his injuries in the accident.

3. The first respondent entered into an appearance and filed a written statement. The second respondent did not appear on the summons and was set ex-parte.

Case of the respondent

4. The second respondent admitted that the motorcycle bearing Regn. No. KL.59. Q.5794 was insured with the second respondent, and they are liable to compensate the petitioner. Apart from that, the first respondent denied negligence by the driver.

5. Based on the above pleadings, the following points were framed for consideration.

Points for consideration

- 1. Did the accident occur due to the first respondent's rash and negligent driving of the motorcycle bearing Regn. No. KL.59. Q.5794?*
- 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. On the side of the petitioner, Exts.A1 to A7 documents were marked, and Exts.B1 to B3 documents were marked on the respondents' side.

Discussion on Point No.1

7. To prove the accident and negligence, the petitioner relies on Ext.A1 FIR and Ext.A3 Final Report. These records show that the Police had registered a case regarding the incident as Crime No. 656/2022 of Alakode Police Station and filed the final report under ***Section 173(2) of Cr.P.C***, inculcating the first respondent. As per the final report, the rider of the motorcycle has been charged under ***Sections 279 and 337 of IPC*** for his rash and negligent driving, which caused this accident.

8. 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 the production of a police charge sheet, as a general rule, 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 the light of Exts.A1 and A3 documents, 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

9. To prove the injuries suffered by the petitioner and the treatment details, he produced an Ext.A2 wound certificate, Ext.A4 discharge summary, Ext.A5 OP records and Ext.A6 series medical bills. The wound certificate would show that on 21.06.2022 at about 6.10 p.m., the petitioner was treated in Aster MIMS Hospital, Kannur, for the injuries sustained in a motor vehicle accident on the same day. The discharge summary shows that the petitioner was treated as an inpatient in Aster MIMS Hospital, Kannur, from 21.06.2022 to 22.06.2022. The petitioner sustained the following injuries as per the wound certificate and discharge summaries.

a. Lacerated wound of size (8x3x1 cm)

b. Abrasion over right and left cheeks

c. Deep lacerated wound over left eyebrow and forehead, left side

10. The petitioner had sustained injuries in the accident, substantiated with an FIR, wound certificate, final report, and discharge summary. 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. Hence, I hold that the petitioner proved the injuries sustained in the motor vehicle accident. Point No.2

is answered in favour of the petitioners accordingly.

Discussion on Point No.3

11. The petitioner has produced undisputed Ext.A6 series medical bills to the tune of ₹38,810. Considering the nature of the injuries and the medical bills, I am inclined to award an amount of **₹38,810** under the head of medical expenses. Ext.A4 discharge summary shows that he had been hospitalized as an inpatient for two days. Also, considering the said fact, I am inclined to award an amount of **₹2,000** for **two days @ ₹1,000** each for a day under the head of bystander expenses. Under the heading of extra nourishment, considering the hospitalization of two days, I am inclined to grant an amount of **₹2,000**.

12. Considering the nature of injuries, age of the minor, hospitalization, I am inclined to award an amount of **₹80,000** under the head of pain and suffering and **₹70,000** under the head of loss of amenities. The petitioner has produced undisputed Ext.A7 series transport bills to the tune of ₹17,500. Considering the admission, discharge and two reviews at Kannur, I am inclined to award an amount of **₹17,500** under the heading of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing and articles. Point No. 3 is answered in favour of the petitioner accordingly. The claims under the other heads are rejected for want of evidence.

13. The compensation under the 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	Nil	Nil	Student
2	Transport to hospital	20,000	17,500	Ext.A7
3	Damage to clothing	1,000	3,000	Reasonable estimate
4	Extra nourishment	1,00,000	2,000	2 days hospitalization
	Loss of amenities		70,000	Reasonable estimate
5	Medical expenses	75,000	38,810	Ext.A6 Medical Bills
6	Bystander expenses	Nil	2,000	2 days x 1000
7	Pain and Suffering	1,00,000	80,000	Reasonable estimate
8	Disfiguration	1,00,000	Nil	No evidence
	Total	₹4,00,000	₹2,13,310	Just compensation

Discussion on Point No.4

14. It has already been established that the first respondent, the scooter 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

15. Thus, the petitioner is entitled to a compensation of **₹2,13,310**, rounded to **₹2,13,500**. 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 as follows: -

1. The petitioner is entitled to realize an amount **of ₹2,13,500 (Rupees Two Lakh Thirteen Thousand Five Hundred only)** as **compensation from the second respondent with interest @8% per annum from 10.2022**, the date of application, until deposit/realization.
2. The second respondent/insurer is ordered to deposit a cheque for ₹3,369 (Rupees Three Thousand Three Hundred and Sixty-Nine only), the balance court fee payable in the name of this Tribunal.
3. The second respondent/insurer shall also furnish another cheque for ₹4,000 (Rupees Four Thousand only), 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 by way of 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.
11. **After depositing the compensation, ₹1,00,000 shall only be transferred to the account of the minor's guardian from the total amount, and the remaining, along with the entire interest and cost, shall not be withdrawn by the guardian without recording the majority of the minor by the court or complying with the provisions of the Guardian and Wards Act 1890.**

(Dictated to the Confidential Assistant, transcribed and prepared by her, in computer, corrected and pronounced by me in open court on the 9th day of June 2025)

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA

Petitioner's Exhibits:

A1	01-07-2022	FIR No. 556/2022 of Alakode Police Station.
A2	21-06-2022	Carbon copy of Wound Certificate
A3	01-07-2022	Certified copy of Final report.
A4	--	Discharge Summaries
A5 series	--	Medical Prescriptions
A6 series	--	Medical Bills
A7 series	--	Ambulance bills

Respondent's Exhibits:

B1	--	Copy of Driving License
B2	--	Copy of RC book
B3	--	Policy Certificate

Petitioner's Witness: Nil**Respondents Witness:** Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA

