

**THE MOTOR ACCIDENTS CLAIMS TRIBUNAL/ADDITIONAL
DISTRICT AND SESSIONS COURT, TALIPARAMBA.**

Present:- Sri.**Prasanth.K.N**, Motor Accidents Claims Tribunal/
Addl.District and Sessions Judge,

Tuesday the 11th day of March, 2025/ 20th Phalguna, 1946

OP(MV) Nos. 103/2021, 104/2021, 105/2021, 106/2021 & 633/2022

OP(MV) 103/2021

1) P.K.Radhakrishnan, S/o.Gopi.P, aged 64 years,
residing at “Sreeja Nivas”, Mavicherry,
(PO) Payyanur, Payyanur Municipality,
Payyanur Taluk, Kannur District, 670307
Aadhar No. 3531 4594 9782.

Petitioner

Vs.

- 1) Muhammed Shammas.E.K, aged 21 years,
S/o.Muhammed Ashraf.E.K, Shishiram, Perumba,
Payyanur (PO), Payyanur Taluk, Kannur District,
(Driver of the Maruthi Car No. KL-13-AC-8951)
- 2) Sharafudheen.V, S/o.Moideen.V.V, Fathima Manzil,
Cheruthazham Grama Panchayath, (PO) Mandoor,
Payyanur Taluk, Kannur District, 670501,
(RC Owner of the Maruthi Car No. KL-13-AC-8951)
- 3) New India Assurance Co.Ltd., Payyanur Branch,
South Bazar, Temple Road, Payyanur, (PO) Payyanur
Payyanur Taluk, Kannur District, 670307.
(Insurer of the Maruthi Car No. KL-13-AC-8951)
Policy No. 76080531190100007648

Respondents

OP(MV) 104/2021

- 1) Shijith Raj.K. aged 27 years, S/o. Rajan.K,
residing at Kannu Veedu, Kadappuram,
Udinoor Village, Valiyapramba, Hosdurg Taluk,
Kasargod District, PIN – 671 312.
(Aadhar No. 9571 7799 2870)

Petitioner

Vs.

- 1) Muhammed Shammas.E.K, aged 21 years,
S/o.Muhammed Ashraf.E.K, Shishiram, Perumba,
Payyanur (PO), Payyanur Taluk, Kannur District,
(Driver of the Maruthi Car No. KL-13-AC-8951)
- 2) Sharafudheen.V, S/o.Moideen.V.V, Fathima Manzil,
Cheruthazham Grama Panchayath, (PO) Mandoor,
Payyanur Taluk, Kannur District, 670501,
(RC Owner of the Maruthi Car No. KL-13-AC-8951)
- 3) New India Assurance Co.Ltd., Payyanur Branch,
South Bazar, Temple Road, Payyanur, (PO) Payyanur
Payyanur Taluk, Kannur District, 670307.
(Insurer of the Maruthi Car No. KL-13-AC-8951)
Policy No. 76080531190100007648

Respondents

OP(MV) 105/2021

- 1) Kadiyan Rajan, aged 57 years, S/o.P.P. Damodaran,
residing at Kadiyan House, Udinur Kadappuram,
Udinur Village, Valiyapramba, Hosdurg Taluk,
Kasargod Dt, 671312. (Aadhar No. 6944 9805 1973)

Petitioner

Vs.

- 1) Muhammed Shammas.E.K, aged 21 years,
S/o.Muhammed Ashraf.E.K, Shishiram, Perumba,
Payyanur (PO), Payyanur Taluk, Kannur District,
(Driver of the Maruthi Car No. KL-13-AC-8951)
- 2) Sharafudheen.V, S/o.Moideen.V.V, Fathima Manzil,
Cheruthazham Grama Panchayath, (PO) Mandoor,
Payyanur Taluk, Kannur District, 670501,
(RC Owner of the Maruthi Car No. KL-13-AC-8951)
- 3) New India Assurance Co.Ltd., Payyanur Branch,
South Bazar, Temple Road, Payyanur, (PO) Payyanur
Payyanur Taluk, Kannur District, 670307.
(Insurer of the Maruthi Car No. KL-13-AC-8951)
Policy No. 76080531190100007648

Respondents

OP(MV) 106/2021

1) Umadevi.K, W/o.Rajan.K, aged 52 years,
residing at Koonachi House, Kannu Veedu,
Kadappuram, Udinoor Village, Valiyapramba,
Hosdurg Taluk, Kasargod District, PIN – 671 312.
Aadhar No. 7560 2914 1256

Petitioner

Vs.

- 1) Muhammed Shammas.E.K, aged 21 years,
S/o.Muhammed Ashraf.E.K, Shishiram, Perumba,
Payyanur (PO), Payyanur Taluk, Kannur District,
(Driver of the Maruthi Car No. KL-13-AC-8951)
- 2) Sharafudheen.V, S/o.Moideen.V.V, Fathima Manzil,
Cheruthazham Grama Panchayath, (PO) Mandoor,
Payyanur Taluk, Kannur District, 670501,
(RC Owner of the Maruthi Car No. KL-13-AC-8951)
- 3) New India Assurance Co.Ltd., Payyanur Branch,
South Bazar, Temple Road, Payyanur, (PO) Payyanur
Payyanur Taluk, Kannur District, 670307.
(Insurer of the Maruthi Car No. KL-13-AC-8951)
Policy No. 76080531190100007648

Respondents

OP(MV) 633/2022

1) Shijith Raj.K. aged 28 years, S/o. Rajan.K,
residing at Kannu Veedu, Kadappuram,
Udinoor Village, Valiyapramba Padne, Hosdurg
Taluk, Kasargod District, PIN – 671 312.
(Aadhar No. 9571 7799 2870)

Petitioner

Vs.

- 1) Muhammed Shammas.E.K, aged 21 years,
S/o.Muhammed Ashraf.E.K, Shishiram, Perumba,
Payyanur (PO), Payyanur Taluk, Kannur District,
(Driver of the Maruthi Car No. KL-13-AC-8951)
- 2) Sharafudheen.V, S/o.Moideen.V.V, Fathima Manzil,
Cheruthazham Grama Panchayath, (PO) Mandoor,
Payyanur Taluk, Kannur District, 670501,
(RC Owner of the Maruthi Car No. KL-13-AC-8951)

Respondents

3) New India Assurance Co.Ltd., Payyanur Branch,
 South Bazar, Temple Road, Payyanur, (PO) Payyanur
 Payyanur Taluk, Kannur District, 670307.
 (Insurer of the Maruthi Car No. KL-13-AC-8951)
 Policy No. 76080531190100007648

Respondents

These petitions are coming on the 4th day of February, 2025 for final hearing before me in the presence of Sri.M.V.Amaresan & Smt.Renjana.S, Advocates for the petitioner; and of Sri. Pramod Krishnan, Advocate for the 3rd respondent; 1st and 2nd respondents are being called absent set exparte in all petitions and having stood over for consideration till this day, and the tribunal passed the following:-

COMMON AWARD

These petitions are filed under **Section 166** of the Motor Vehicles Act, 1988, to seek compensation for the injuries suffered by the petitioners in an accident.

SUMMARY OF THE CASE IN OP(MV) 103/2021

No	Heading	Description	Remarks
1	Details of parties	Petitioner - Injured, R1 - Driver, R2 - Owner, R3 - Insurer	
2	Accident details	A collision between two cars, and the passengers' sustained injuries - Injury case	
3	Occurrence	23.08.2020	FIR 671/2020, Pariyaram MC. PS - Ext.A1
4	Final Report	25.09.2020	U/s 279, 337, 338 IPC - Ext.A2
5	Petition	23.02.2021	U/s 166 MV Act
6	Licence	DL	Admitted
7	insurance	Insured	No insurance
8	Age	63	Aadhar card
9	Job	Postal department worker	Not proved
10	Income	Claimed - ₹15,000	Notional income - ₹12,500
11	Injuries Ext.A3	Right hip – acetabular (posterior wall) fracture – ORIF, Lacerated wound on the left frontal region with flap 3x2 cm, Lacerated wound infraorbital region and scalp 5x2x1 cm, Fracture right Ace tabular and femoral head and posterior dislocation right hip	
12	Hospitalization	Eight days Ext.A4, A5	24.08.2015 to 26.08.2020 26.08.2015 to 30.08.2020
13	Medical bill	₹84,642	Ext.A10
14	Evidence	No oral evidence	Exts.A1 to A7
15	Compensation	₹6,00,000 - Claimed	₹5,48,000 - Allowed

SUMMARY OF THE CASE IN OP(MV) 104/2021

1	Petition	23.02.2021	U/s 166 MV Act
2	Age	26	Aadhar card
3	Job	Painter	Not proved
4	Income	Claimed - ₹30,000	Notional income - ₹12,500
5	Injuries-Ext.A11	Right side chest pain, contusion on the right chest wall	
6	Hospitalization	Four days	22.08.2020 to 26.08.2020
7	Medical bill	₹9,440	Ext.A13
8	Evidence	No oral evidence	Exts.A11 to A13
9	Compensation	₹2,00,000 - Claimed	₹ 1,21,000 - Allowed

SUMMARY OF THE CASE IN OP(MV) 105/2021

1	Petition	23.02.2021	U/s 166 MV Act
2	Age	56	Ext.A15
3	Job	fisherman	Not proved
4	Income	Claimed - ₹18,000	Allowed - ₹17,820
5	Injuries	Tenderness on right forearm - Ext.A14	
6	Hospitalization	Nil	Treated as OP
7	Medical bill	₹250	Ext.A17
8	Evidence	No oral evidence	Exts.A14 to A17
9	Compensation	₹2,00,000 - Claimed	₹44,000 - Allowed

SUMMARY OF THE CASE IN OP(MV) 106/2021

1	Petition	23.02.2021	U/s 166 MV Act
2	Age	52	Aadhar card
3	Job	NREGS worker	Ext.A20
4	Income	Claimed - ₹18,000	Allowed - ₹17,820
5	Injuries- Ext.A18	Comminuted fracture left humerus, Implant - ORIF	
6	Hospitalization	Five days	24.08.2020 to 26.08.2020
7	Medical bill	₹72,133	Ext.A23
8	Evidence	No oral evidence	Exts.A18 to A24
9	Compensation	₹4,00,000 - Claimed	₹ 5,12,000 - Allowed

SUMMARY OF THE CASE IN OP(MV) 633/2022

No	Heading	Description	Remarks
1	Details of parties	R1 - Driver, R2 - Owner, R3 - Insurer Petitioner - Owner of the Car	
2	Accident details	A collision between two cars - Vehicle damage case	
3	Occurrence	23.08.2020	FIR 671/2020, Pariyaram MC PS - Ext.A1
4	Final Report	25.09.2020	U/s 279, 337, 338 IPC - Ext.A2
5	Petition	01.10.2022	U/s 166 MV Act
6	Licence	DL	Complied
7	Insurance	Insured	Complied
8	Vehicle Details	LMV Motor Car	KL.13. G.9368
9	Total bill	Ext. A25	₹50,000 + 2,500
10	Evidence	Ext.A25 to A29	No oral evidence
11	Compensation	₹2,30,000 - Claimed	₹53,000 - Allowed

Case of the petitioners

2. On 23.08.2020 at about 17.20 hrs., while the petitioners were travelling in a car bearing Regn. No. KL.13. G. 9368, at Pilathara, another car bearing Regn. No. KL.13. AC. 8951, driven by the first respondent in a rash and negligent manner, hit the petitioner's car and sustained injuries. After the accident, the petitioners were hospitalized at Anamaya Hospital, Payyannur, and were referred to AKG Memorial Co-operative Hospital, Kannur, and treated there as inpatients. The first respondent was the driver, the second respondent was the owner, and the third respondent was the insurer of the offending vehicle. The petitioner in OP(MV) 103/2021 has claimed an amount of **₹6,00,000**, the petitioner in OP(MV) 104/2021 has claimed an amount of **₹2,00,000**, the petitioner in OP(MV) 105/2021 has claimed an amount of **₹2,00,000**, the petitioner in OP(MV) 106/2021 has claimed an amount of **₹4,00,000** and the petitioner in OP(MV) 633/2021 has claimed an amount of **₹2,30,000**

3. Since all cases arose from the same occurrence, a joint trial was ordered for all cases per the order in IA 05/2024. In all cases, the first and second respondents did not appear on summons and were set ex-parte. The third respondent appeared and filed the written statements in all cases.

Case of the respondent

4. The third respondent contended that the motorcycle did not have insurance coverage at the time of the accident. The insurance certificate Ext.B1 shows the policy period from 24.07.2019 to 23.07.2020, and the accident occurred on 23.08.2020. Therefore, the respondent prayed for the dismissal of the petition against them.

5. Based on the above pleadings, the following common points are raised for consideration in all cases: -

Points for consideration

1. *Was the accident due to the first respondent's rash and negligent driving of the car bearing Regn. No. KL.13. AC. 8951?*
2. *Have the petitioners sustained any injuries in the accident?*
3. *Are the petitioners entitled to any compensation? If so, what is the quantum?*
4. *Did the petitioner's car sustained any damage in the motor vehicle accident?*
5. *Who is liable to pay the compensation?*
6. *Reliefs and costs?*

6. Neither side has adduced any oral evidence. Exts.A1 to A29 documents were marked, and Ext.B1 and B2 documents were marked from the respondent's side.

7. Heard the counsel for the petitioners and the respondent.

8. **Point No.1:** - To prove the accident and negligence in all cases, the petitioners rely on Ext.A1 FIR and Ext.A2 Final Report. These records show that the police had registered a case regarding the incident as Crime No. 671/2020 of Pariyaram Medical College Police Station and, after the investigation, filed the final report under **Section 173 (2) of Cr.P.C**, inculcating the first respondent. As per the final report, the driver of the car has been charged under **Sections 279, 337 and 338 IPC** for his rash and negligent driving, which caused this accident.

9. 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 petitioners' case concerning the cause of the accident, which appears believable and probable, must be accepted. Hence, in the light of Exts.A1 and A2 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.

10. **Point No.2 in OP(MV) 103/2021: -** To prove the injuries suffered by the petitioner and the treatment details, he has produced Exts.A3 wound certificate, Ext.A4 and A5 discharge summaries, Ext.A9 OP ticket and Ext.A10 series medical bills. Ext.A3 wound certificate would show that on 23.08.2020, the petitioner was treated at Anamaya Medical Institute, Payyannur, for the injuries sustained in a motor vehicle accident on the same day. Ext.A4 discharge summary shows that the petitioner was treated as an inpatient in AKG Memorial Co-operative Hospital, Kannur, from 24.08.2020 till 26.08.2020. Ext.A5 discharge summary shows that the petitioner was treated as an inpatient in Gimcare Hospital, Kannur, from 26.08.2020 till 30.08.2020. The Ext.A3 wound certificate and Ext.A4 and A5 discharge summaries show that the petitioner had sustained the following injuries.

a. Right hip – acetabular (posterior wall) fracture - ORIF

b. Lacerated wound on the left frontal region with flap 3x2 cm

c. Lacerated wound infraorbital region and scalp 5x2x1 cm

d. Fracture of right Acetabular and femoral head and posterior dislocation right hip

11. The injured sustained injuries in the accident, substantiated with Ext.A1 FIR, Ext.A2 Final report, Ext.A3 wound certificate, Ext.A4 and A5 discharge summaries. The factum of the accident and the medical records are not disputed by the respondents. Considering all these documents, it is sufficient to

show that the petitioner had sustained the injuries in the accident. Hence, I hold that the petitioners proved that the injured sustained injuries in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

12. **Point No.3 in OP(MV) 103/2021: -** The petitioner has produced undisputed Ext.A10 series medical bills to the tune of ₹84,642. Considering the nature of the injury and the medical bills, I am inclined to award an amount of **₹84,642** under the head of medical expenses. Ext.A4 and A5 discharge summaries show that he had been hospitalized as an inpatient for eight days. Also, considering the said fact, I am inclined to award an amount of **₹7,200** for **8 days @ ₹900** under the head of bystander expenses. Taking into account the nature of injuries and hospitalization, I am inclined to award an amount of **₹1,50,000** under the head of pain and suffering and **₹1,50,000** under the head of loss of amenities.

13. Moreover, considering the two admissions, discharge and twelve reviews at Kannur, I am inclined to grant an amount of **₹20,000** under the head of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing. Under the heading of extra nourishment, considering the hospitalization of eight days, I am inclined to grant an amount of **₹8,000**.

14. The petition states that he was working in the postal department, earning a monthly income of ₹15,000. Due to the injuries sustained in the accident, he lost his income. The petitioner has produced the Ext.A7

certificate to prove his salary, issued by Inspector Posts Payyannur Sub division Payyannur, which shows that he was an employee at the Postal department. The document is a mere photocopy and does not contain any whisper regarding the salary. A mere production of a photocopy without any corroborative evidence would not amount to proof and would be discarded at the threshold. So, I hold that the petitioner has failed to adduce any credible oral or documentary evidence to prove his income. Therefore, notional income will be assessed based on the principles in *Ramachandrappa V. Manager Royal Sundaram Alliance Insurance Company LTD, 2011 KHC 4675*. Since the accident was in the year 2020, the notional income of the petitioner is assessed at ₹12,500 per month. The nature of the injuries suffered by the petitioner, along with the consideration of his age, I am of the view that he had not been in a position to attend to any work for ten months. Therefore, the petitioner is entitled to an amount of **₹1,25,000 (10x12,500)** on account of loss of income.

15. The compensation to which the petitioner is entitled under different heads is summarized in OP(MV) 103/2021 as follows: -

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of Earnings	90,000	1,25,000	12,500 x 10 months
2	Transport to hospital	20,000	20,000	Admission at Kannur
3	Damage to clothing	1,000	3,000	Reasonable estimate
4	Extra nourishment	25,000	8,000	8 days hospitalization
5	Medical expenses	2,00,000	84,642	Ext.A10
6	Bystander expenses	Nil	7,200	900 x 8 days
7	Pain and Sufferings	3,00,000	1,50,000	Reasonable estimate
8	Disability	3,00,000	Nil	No evidence
9	Loss of amenities	2,00,000	1,50,000	Reasonable estimate
10	Claim limited to	₹6,00,000	₹5,47,842	Just compensation

16. **Point No.2 in OP(MV) 104/2021: -** To prove the injuries suffered by the petitioner and the treatment details, he has produced Ext.A11 wound certificate, Ext.A12 discharge summary and Ext.A13 series medical bills. Ext.A11 wound certificate would show that on 23.08.2020, the petitioner was treated at Anamaya Medical Institute, Payyannur, for the injuries sustained in a motor vehicle accident on the same day. Ext.A4 discharge summary shows that the petitioner was treated as an inpatient in AKG Memorial Co-operative Hospital, Kannur, from 23.08.2020 till 26.08.2020. The Ext.A11 wound certificate and Ext.A12 discharge summary show that the petitioner had sustained the following injuries.

a. Right side chest pain

b. Contusion on right chest wall

17. The injured sustained injuries in the accident, substantiated with Ext.A1 FIR, Ext.A2 Final report, Ext.A11 wound certificate, Ext.A12 discharge summary. The factum of the accident and the medical records are not disputed by the respondents. Considering all these documents, it is sufficient to show that the petitioner had sustained the injuries in the accident. Hence, I hold that the petitioners proved that the injured sustained injuries in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

18. **Point No.3 in OP(MV) 104/2021: -** The petitioner has produced undisputed Ext.A13 series medical bills to the tune of ₹9,440. Considering the nature of the injury and the medical bills, I am inclined to award an amount of **₹ 9,440** under the head of medical expenses. Ext.A12 discharge summary shows that he had been hospitalized as an inpatient for four days. Also, considering the said fact, I am inclined to award an amount of **₹3,600** for **4 days @ ₹900** under the head of bystander expenses. Taking into account the nature of injuries and hospitalization, I am inclined to award an amount of **₹40,000** under the head of pain and suffering and **₹30,000** under the head of loss of amenities.

19. Moreover, considering the admission, discharge and reviews at Kannur, I am inclined to grant an amount of **₹6,000** under the head of transport to the hospital and an amount of **₹2,000** under the heading of damage to clothing. Under the heading of extra nourishment, considering the hospitalization of four days, I am inclined to grant an amount of **₹4,000**.

20. The petition states that the injured was a painter earning a monthly income of ₹30,000, and due to the injuries sustained in the accident, he had lost his income. However, the petitioners have not adduced any evidence to prove his income. Therefore, notional income will be assessed based on the principles in *Ramachandrappa case (Supra)*. Since the accident was in the year 2020, the notional income of the petitioner is assessed at ₹12,500 per month. The nature of the injuries suffered by the petitioner, along with the consideration of his age, I am of the view that he had not been in a position to attend to any work for two months. Therefore, the petitioner is entitled to an amount of **₹25,000 (2x12,500)** on account of loss of income.

21. The compensation to which the petitioner is entitled under different heads is summarized in OP(MV) 104/2021 as follows: -

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of Earnings	72,000	25,000	12,500 x 2 months
2	Transport to hospital	10,000	6,000	Admission at Kannur
3	Damage to clothing	1,000	2,000	Reasonable estimate
4	Extra nourishment	15,000	4,000	4 days hospitalization
5	Medical expenses	35,000	9,440	Ext.A13
6	Bystander expenses	Nil	3,600	900 x 4 days
7	Pain and Sufferings	1,00,000	40,000	Reasonable estimate
8	Loss of amenities	1,00,000	30,000	Reasonable estimate
9	Claim limited to	₹2,00,000	₹1,20,040	Just compensation

22. **Point No.2 in OP(MV) 105/2021: -** To prove the injuries suffered by the petitioner and the treatment details, he has produced Exts.A14 wound certificate and Ext.A17 series medical bills. Ext.A14 wound certificate would show that on 23.08.2020, the petitioner was treated at Anamaya Medical Institute, Payyannur, for the injuries sustained in a motor vehicle accident on the same day. Ext.A14 wound certificate shows that the petitioner was treated as an outpatient. The Ext.A14 wound certificate show that the petitioner had sustained the following injuries.

a. Tenderness on right forearm

23. The petitioner sustained injuries in the accident, substantiated with Ext.A1 FIR, Ext.A2 Final report and Ext.A14 wound certificate. The factum of the accident and the medical records are not disputed by the respondents. Considering all these documents, it is sufficient to show that the petitioner had sustained the injuries in the accident. Hence, I hold that the petitioners proved that the injured sustained injuries in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

24. **Point No.3 in OP(MV) 105/2021: -** The petitioner has produced undisputed Ext.A17 series medical bills to the tune of ₹250. Considering the nature of the injury and the medical bills, I am inclined to award an amount of **₹250** under the head of medical expenses. Taking into account the nature of injuries and hospitalization, I am inclined to award an amount of **₹10,000** under

the head of pain and suffering and **₹10,000** under the head of loss of amenities.

25. Moreover, considering the admission, discharge and reviews at Payyannur, I am inclined to grant an amount of **₹3,000** under the head of transport to the hospital and an amount of **₹2,000** under the heading of damage to clothing.

26. The petition states that the injured was a fisherman earning a monthly income of ₹18,000, and due to the injuries sustained in the accident, he had lost his income. The petitioner has produced the Ext.A16 passbook issued by the Kerala Fisherman Welfare Board, which shows that the petitioner has been working as a fisherman. So, it is proved that the petitioner was a fisherman and an unskilled worker at the time of the accident. Therefore, income will be assessed based on the principles in *Gurpreet Kaur V. United Insurance Co. Ltd, 2022 (6) KHC 601* and *Jithendra V. Sadiya, 2025 KHC Online 7101*.

27. As far as the State of Kerala is concerned, the Government has brought the minimum wage rates in *G.O.(P). No. 81/2019/Fin dated 09.07.2019*. The Government of Kerala had revised the minimum wages for unskilled workers w.e.f. 09.07.2019, and the same is fixed at ₹17,820 per month. Therefore, this court is of the considered view that the notional income of the petitioner can be fixed as **₹17,820**. The nature of the injuries suffered by the petitioner, along with the consideration of his age, I am of the view that he had not been in a position to attend to any work for one month. Therefore, the petitioner is entitled to an

amount of **₹17,820** (1x17,820) on account of loss of income.

28. The compensation to which the petitioner is entitled under different heads is summarized in OP(MV) 105/2021 as follows: -

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of Earnings	90,000	17,820	17,820 x 1 month
2	Transport to hospital	10,000	3,000	Admission at Payyannur
3	Damage to clothing	1,000	2,000	Reasonable estimate
4	Extra nourishment	10,000	Nil	No evidence
5	Medical expenses	35,000	2,50	Ext.A17
6	Pain and Sufferings	50,000	10,000	Reasonable estimate
7	Loss of amenities	50,000	10,000	Reasonable estimate
8	Claim limited to	₹2,00,000	₹43,070	Just compensation

29. **Point No.2 in OP(MV) 106/2021: -** To prove the injuries suffered by the petitioner and the treatment details, she has produced Exts.A18 wound certificate, Ext.A19 discharge summary, Ext.A22 prescriptions and Ext.A23 series medical bills and Ext.A24 treatment card. Ext.A18 wound certificate would show that on 23.08.2020, the petitioner was treated at Anamaya Medical Institute, Payyannur, for the injuries sustained in a motor vehicle accident on the same day. Ext.A19 discharge summary shows that the petitioner was treated as an inpatient in AKG Memorial Co-operative Hospital, Kannur, from 24.08.2020 till 28.08.2020. The Ext.A18 wound certificate and Ext.A19 discharge summary show that the petitioner had sustained the following injuries.

a. Comminuted fracture left humerus

b. Implant - ORIF

30. The injured sustained injuries in the accident, substantiated with Ext.A1 FIR, Ext.A2 Final report, Ext.A18 wound certificate, Ext.A19 discharge summary. The factum of the accident and the medical records are not disputed by the respondents. Considering all these documents, it is sufficient to show that the petitioner had sustained the injuries in the accident. Hence, I hold that the petitioners proved that the injured sustained injuries in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

31. **Point No.3 in OP(MV) 106/2021: -** The petitioner has produced undisputed Ext.A23 series medical bills to the tune of ₹72,133. Considering the nature of the injury and the medical bills, I am inclined to award an amount of **₹72,133** under the head of medical expenses. Ext.A19 discharge summary shows that he had been hospitalized as an inpatient for four days. Also, considering the said fact, I am inclined to award an amount of **₹4500** for **5 days @ ₹900** under the head of bystander expenses. Taking into account the nature of injuries and hospitalization, I am inclined to award an amount of **₹1,50,000** under the head of pain and suffering and **₹1,00,000** under the head of loss of amenities.

32. Moreover, considering the admission, discharge and seven reviews at Kannur, I am inclined to grant an amount of **₹20,000** under the head of transport to the hospital and an amount of **₹3,000** under the heading of damage

to clothing. Under the heading of extra nourishment, considering the hospitalization of five days, I am inclined to grant an amount of **₹5,000**. The petitioner also needs future treatment and to undergo surgery for the removal of her implants, as seen in Ext.A19 discharge summary (ORIF – Plate). Therefore, under a reasonable estimation, an amount of **₹50,000** is awarded as the cost of implant removal.

33. The petition states that the injured was a fisherman earning a monthly income of ₹18,000, and due to the injuries sustained in the accident, he had lost his income. The petitioner produced the Ext.A21 thozhil card, which shows that the petitioner has been working as a Kudumbashree farming worker/NREGS worker. So, it is proved that the petitioner was an unskilled worker at the time of the accident. Therefore, income will be assessed based on the principles in *the Gurpreet Kaur case and the Jithendra case (Supra)*.

34. As far as the State of Kerala is concerned, the Government has brought the minimum wage rates in *G.O.(P). No. 81/2019/Fin dated 09.07.2019*. The Government of Kerala had revised the minimum wages for unskilled workers fixed at ₹17,820 per month. Therefore, this court is of the considered view that the notional income of the petitioner can be fixed as **₹17,820**. The nature of the injuries suffered by the petitioner, along with the consideration of her age, I am of the view that he had not been in a position to attend to any work for six months. Therefore, the petitioner is entitled to an

amount of **₹1,06,920 (6x17,820)** on account of loss of income.

35. The compensation to which the petitioner is entitled under different heads is summarized in OP(MV) 106/2021 as follows: -

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of Earnings	90,000	1,06,920	17,820 x 6 months
2	Transport to hospital	20,000	20,000	Reasonable estimate
3	Damage to clothing	1,000	3,000	Reasonable estimate
4	Extra nourishment	20,000	5,000	5 days hospitalization
5	Medical expenses	80,000	72,133	Ext.A23
6	Bystander expenses	Nil	4,500	900 x 5 days
7	Pain and Sufferings	1,00,000	1,50,000	Reasonable estimate
8	Disability	2,00,000	Nil	No evidence
9	Loss of amenities	1,00,000	1,00,000	Reasonable estimate
10	Future treatment	Nil	50,000	ORIF
	Claim limited to	₹4,00,000	₹5,11,553	Just compensation

36. **Point No.4 in OP(MV) 633/2021: -** It has already been found that the accident was occurred due to the negligent driving by the first respondent, and it is shown in the FIR and final report that the petitioner's car was damaged in the accident. So, he is entitled to compensation under the provisions of the MV Act, 1988. The petitioner has produced the Ext.A25 survey report, Ext.A26 series photographs, and Ext.27 photocopy of the registration certificate, Ext.28 registration order and Ext.29 surveyor bill. The factum of the accident and the records are not disputed by the respondents. Considering all

these documents, it is sufficient to prove the accident and damage of the car.

37. Ext.A25 survey report would show that *“As per the estimate given and considering dealer’s price list assessed total amount for repairing the Santro LS MET EURO 2/2001 (KL-13G/9368) is about Rs.1,02,900. But the maximum possible market value for purchasing that type of a second-hand car is ₹50,000 for towards repairing value for the car. Recommending an amount of ₹50,000 towards maximum recondition amount/purchasing amount for a second-hand car in place of damaged.”* The Ext.A29 receipt shows that the survey charge is an amount of **₹2,500**. The respondent did not dispute these documents, and they seem reasonable, coupled with the surveyor's report. So, I found that petitioner had sustained a loss of **₹52,500** for the car due to the accident. Hence, the petitioner is entitled to recover a total amount of **₹52,500** rounded to **₹53,000 (Rupees Fifty-Three Thousand only)**. Point no.4 is answered accordingly. Other claims are rejected in the absence of evidence.

38. The compensation to which the petitioner is entitled under different heads is summarized in OP(MV) 633/2021 as follows as follows: -

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of Claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Transport workshop	10,000	NIL	No evidence
2	Extra nourishment	30,000	NIL	No evidence
3	Cost of spare parts and repairing charges painting including labour charges	1,60,110	50,000	No evidence
4	Price for depreciation	60,000	NIL	No evidence
5	Survey charge		2,500	
6	Claim limited to	₹2,30,000	₹52,500	
7	Rounded to		₹53,000	Just Compensation

39. **Point No.5: -** It has been found that the accident was caused by the rash and negligent driving of the first respondent, and being the owner of the vehicle, the second respondent is liable to compensate the petitioner. The third respondent contended that the offending vehicle did not have insurance coverage during the accident. The insurance certificate Ext.B1 shows that the policy was from 24.07.2019 to 23.07.2020, and the accident occurred on 23.08.2020. Moreover, the respondent paid fine for the absence of insurance as shown in Ext.B2. Hence, I hold that there was no valid policy for the offending vehicle at the time of the accident. **So, being the driver and owner, the first and second respondents are vicariously liable to compensate the petitioner.** Point No.5 is answered in favour of the petitioner accordingly.

40. **Point No.6: -** Thus, the petitioner is entitled to a compensation of **₹5,47,842** rounded to **₹5,48,000** in OP(MV) 103/2021, the

petitioner is entitled to a compensation of ₹1,20,040 rounded to **₹1,21,000** in OP(MV) 104/2021, the petitioner is entitled to a compensation of **₹43,070** rounded to **₹44,000** in OP(MV) 105/2021, the petitioner is entitled to a compensation of **₹5,11,553** rounded to **₹5,12,000** in OP(MV) 106/2021 and the petitioner is entitled to a compensation of **₹52,500** rounded to **₹53,000** in OP(MV) 633/2021. Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, I hold that the petitioners are entitled to recover the proportional costs of the proceedings from the first and second respondents in all cases.

41. The petitioner has claimed compensation of ₹5,00,000 only in OP(MV)106/2021. The Hon'ble High Court held in *Sreekumar V. Divisional Manager, National Insurance Company, 2022 (3) KHC 467* and *Kavitha Balothiya V. Santhosh Kumar, 2024 LiveLaw (SC) 546*, “Once it is found that compensation to which claimant is entitled, be it under any particular head or aggregate, is more than what is claimed, its denial after assessment would result in denial of just compensation.” Hence, there is no restriction on compensation being awarded only up to the amount claimed by the claimant. In this case, the evidence adduced by the petitioner proves that he is entitled to more than the amount claimed in the petition and that it is necessary to fulfill the concept of *just compensation*.

42. **Point No.6 in OP(MV) 103/2021: -**

As a result, the petition is allowed as follows: -

1. The petitioner is allowed to realize an amount of **₹5,48,000 (Rupees Five Lakh Forty-Eight Thousand only)** as compensation from the first and second respondents with interest @8% per annum from **23.02.2021**, the date of application till deposit/realization.
2. The first and second respondents are ordered to deposit a cheque for ₹6,000 (Rupees Six Thousand only), the balance of the court fee payable in the name of this Tribunal.
3. The first and second respondents shall also furnish another cheque for ₹5,368 (Rupees Five Thousand Three Hundred and Sixty-Eight only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

43. **Point No.6 in OP(MV) 104/2021: -**

As a result, the petition is allowed in part as follows: -

1. The petitioner is allowed to realize an amount of **₹1,21,000 (Rupees One Lakh Twenty-One Thousand only)** as compensation from the first and second respondents are with interest @8% per annum from **23.02.2021**, the date of application, until deposit/realization.
2. The first and second respondents are ordered to deposit a cheque for ₹1,369 (Rupees Thousand Three Hundred and Sixty-Nine only), the balance of the court fee payable in the name of this Tribunal.
3. The first and second respondents are shall also furnish another cheque for ₹2,000 (Rupees Two Thousand only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

44. **Point No.6 in OP(MV) 105/2021: -**

As a result, the petition is allowed in part as follows: -

1. The petitioner is allowed to realize an amount of **₹44,000 (Rupees Forty-Four Thousand only)** as compensation from the first and second respondents are with interest @8% per annum from **23.02.2021**, the date of application, until deposit/realization.
2. The first and second respondents are ordered to deposit a cheque for ₹1,373 (Rupees One Thousand Three Hundred and Seventy-Three only), the balance of the court fee payable in the name of this Tribunal.
3. The first and second respondents shall also furnish another cheque for ₹2,000 (Rupees Two Thousand only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

45. **Point No.6 in OP(MV) 106/2021: -**

As a result, the petition is allowed in part as follows: -

1. The petitioner is allowed to realize an amount of **₹5,12,000 (Rupees Five Lakh Twelve Thousand only)** as compensation from the first and second respondents are with interest @8% per annum from **23.02.2021**, the date of application, until deposit/realization.
2. The first and second respondents are ordered to deposit a cheque for ₹4,568 (Rupees Four Thousand Five Hundred and Sixty-Eight only), the balance of the court fee payable in the name of this Tribunal.
3. The first and second respondents shall also furnish another cheque for ₹5,120 (Rupees Five Thousand One Hundred and Twenty only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

46. **Point No.6 in OP(MV) 633/2022: -**

As a result, the petition is allowed in part as follows: -

1. The petitioner is allowed to realize an amount of **₹53,000** (Rupees Fifty-Three Thousand only) as compensation from the first and second respondents with interest @8% per annum from **01.10.2022**, the date of application, till deposit/realization.
2. The first and second respondents are ordered to deposit a cheque for ₹1,669 (Rupees One Thousand Six Hundred and Sixty Ninety only), the balance court fee payable in the name of this Tribunal.
3. The first and second respondents shall also furnish another cheque for ₹2,300 (Rupees Two Thousand Three Hundred only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

47. **Common directions in all petitions**

1. The first and second respondents are directed to deposit the entire balance amount due to the petitioners ***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

2. The first and second respondents are 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.	

3. The first and second respondents 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.***
4. The first and second respondents shall send this Tribunal a copy of the payment advice referred to in clause (3) above and serve a copy on the claimant or his counsel.
5. The first and second respondents are directed to furnish the claimant with form 16 A of the Income Tax Act if tax is deducted at the source.
6. The s first and second respondents are directed to file a statement before this Tribunal specifying transfer details.
7. After depositing the amount in the court's bank account, it shall be credited to the petitioners' bank account through NEFT, RTGS, or any other electronic mode.

(Dictated to the Confidential Assistant, transcribed and prepared by her, in computer, corrected and pronounced by me in open court on the 4th day of March 2025.)

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA

Petitioner's Exhibits:

A1	27-08-2020	Copy of FIR No. 671/2020 of Pariyaram Medical College Police Station.
A2	25-09-2020	Copy of Final Report
A3	23-08-2020	Carbon copy of wound certificate
A4	--	Discharge Summory (Radhakrishnan)
A5	--	Discharge Summory (Radhakrishnan)
A6	--	Photocopy of Aadhar Card (Radhakrishnan)
A7	12-12-2022	Certificate issued by Inspector Posts.
A8	01-01-2025	Certificate issued by Ayush Primary Health Center (Homeo) Kunhimangalam.
A9 series	--	Medical Prescriptions.
A10 series	--	Medical Bills
A11	28-08-2020	Photocopy of Wound Certificate
A12	--	Discharge Summory (Shijith Raj)
A13 series	--	Medical Bills
A14	23-08-2020	Photocopy of Wound Certificate
A15	--	Copy of Aadhar Card (Kadiyan Rajan)
A16	--	Copy of Passbook of Kerala Malsyathozhilali Khemanithi Board
A17	25-08-2020	X-ray Bill
A18	23-08-2020	Copy of Wound Certificate

A19	--	Discharge Summory (Umadevi)
A20	--	Copy of Aadhar Card (Umadevi)
A21	--	Photocopy of Employ Card. (Kadiyan Rajan)
A22 series	--	Medical Prescriptions
A23 series	--	Medical Bills
A24	--	Treatment Card. (Umadevi)
A25	10-06-2022	Survey report issued by Manojkumar.K.T Insurance Surveyor
A26 series	--	Photographs
A27	23-10-2021	Photocopy of Registration Certificate
A28	15-07-2022	Order of Kanhangad SRTTO
A29	--	Bill issued by Insurance Surveyor

Respondent's Exhibit

B1	--	Policy Certificate
B2	--	Copy of receipt.

Petitioner's Witness: Nil

Respondent's Witness : Nil

**Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA**

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