

**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

Tuesday, the 17th day of March, 2026/ 26th Phalguna, 1947

O.P.(MV) No. 636 OF 2022

1. A.Balakrishnan, S/o.Chathu.P, aged 61 years,
Athilattu House, Koonam, Panniyoor (PO),
Kannur Dist. 670142.
A/c.No. 40508100003418, IFSC. KLGB0040508,
Kerala Gramin Bank, Chorkala Branch.

Petitioner

Vs.

1. Ranjith.C, S/o.Raju, aged 32 years,
Chenakallu House, Allamkulam, Karimbam,
Kannur Dist. 670142. (Driver of KL 59 M
4510 number School Bus.)
2. The Manager, Poomangalam U.P.School,
Poomangalam, Panniyoor (PO), Kannur Dt.
RC Owner of KL 59 M 4510 School Bus
3. The Manager, Reliance General Insurance
Company Ltd., 1st Floor, Adithya Tower,
Thavakkara Road, Opp. RT Office/
Collectorate, Kannur, Kannur Dist. 670 002.
Policy No. 220522023400000158
4. A.Aneesh, S/o.Balan, aged 34 years,
Athilattu House, Koonam, Chuzhali (PO),
Kannur Dist. 670142.
Driver of KL 59 S 1049 Motor Cycle
5. The Manager, Oriental Insurance Com.Ltd.,
Marina Shopping Complex, NH Taliparamba
Kannur Dist. 670141.
Policy No. 98000031180350003121

Respondents

This petition coming on the 2nd day of March, 2026 for final hearing before me in the presence of Sri.K.J.Chacko, Advocate for the petitioner; of Sri.S.Mammu, Advocate for the 3rd respondent; of Smt.E.V.Suja, Advocate for the 4th respondent; and of Sri.K.Venugopalan, Advocate for the 5th respondent; Respondent Nos.1 & 2 are 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, R2 - Owner, R3 – Insurer/Bus, R4 - Driver, R5 - Insurer/Motorcycle	
2	Accident details	A school bus hit a motorcycle, and the pillion rider sustained grievous injuries - Injury case	
3	Occurrence	03.11.2018 - Ext.A1	FIR 72/2019 of Taliparamba PS
4	Final Report	Protest complaint	U/s 279, 337, 338 IPC – Ext.A4, A5
5	Petition	29.09.2022	U/s 166 MV Act
6	Licence	DL	Admitted
7	Insurance	Nil	No insurance
8	Age	56	Adhaar card
9	Job	Coolie	Not proved
10	Income	₹30,000 - Claimed	MW Act - ₹17,025
11	Injuries Ext.A2, A3	Schatzkar's type II tibial condyle fracture with fibula head fracture, left-sided left knee ACL tear, swelling over the left knee, and tenderness over the left proximal tibia.	
12	Treatment	Implant INSITU on proximal tibia (implant removed), bone grafting, ACL reconstruction	
13	Hospitalization	33 days Ext.A3	03.11.2018 to 20.11.2018 23.10.2019 to 06.11.2019
14	Medical bill	₹12,784	Ext.A9
15	Evidence	Ext.A1 to A10	PW1 examined
16	Compensation	₹20,00,000 - Claimed	₹4,84,000 - 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 03.11.2018 at about 2.45 pm, the petitioner was a pillion rider in a motorcycle bearing Regn. No. KL.59. S.1049 at Kurumathur, a bus bearing Regn. No. KL.59. M.4510, driven by the first respondent in a rash and negligent

manner, hit the motorcycle, and the petitioner sustained grievous injuries. After the accident, the petitioner was taken to the Co-operative Hospital, Taliparamba, and Yenepoya Medical College Hospital, where he was treated as an inpatient. The first respondent was the driver, the second respondent was the owner, and the third respondent was the insurer of the offending bus. The fourth respondent was the rider, and the fifth respondent was the insurer of the motorcycle. The petitioner avers that he was a 56-year-old and has claimed an amount of **₹20,00,000** as compensation for his injuries in the accident.

3. The first and second respondents did not appear on summons and were set exparte. The third, fourth, and fifth respondents entered an appearance and filed written statements.

Case of the respondents

4. The third respondent disputed the negligence, job, income, and vehicle's involvement in the accident, stating that the amount of compensation claimed in the petition under different heads is excessive and unreasonable. This respondent contended that the car was uninsured at the time of the accident. It is also contended that the fourth and fifth respondents are unnecessary parties to the petition, and the petition is bad for misjoinder of parties. The fourth respondent contended that the police have laid a charge sheet against the first respondent.

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 bus bearing Regn. No. KL.59. M.4510?*
- 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. On the petitioner, PW1 was examined, Exts.A1 to A10 documents were marked on the petitioner's side, and no document was marked from the respondents' side.

7. Heard the counsel for the petitioner and the respondents.

Point No.1/ Negligence

8. To prove the accident and negligence, the petitioner relied on Ext.A1 FIR, Ext.A4 protest complaint, Ext.A5 docket sheet, and Ext.A7 judgment of the crime. These records show that the police had registered a case regarding the incident as Crime No. 72/2019 of Taliparamba police station, and based on the Ext.A4 protest complaint, the court took cognizance of the case by Ext.A5, inculcating the first respondent. As per the cognizance order, the driver of the school bus has been charged under **Sections 279, 337, and 338** of the **IPC** for rash and negligent driving. Moreover, the first respondent pleaded guilty to the same, which was proved in accordance with the Ext.A7 judgment.

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 contrary evidence. The same principle is applied to an order of cognizance by the magistrates' court. The first respondent could not adduce rebuttal evidence to challenge the order of cognizance and pleaded guilty to the same. 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 A5 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.

Point No.2/ Cause of injuries

10. To prove the injuries suffered by the petitioner and the treatment details, he has produced the Ext.A2 wound certificate and the Ext.A3 discharge summary, Ext.A6 prescription and Ext.A9 medical bills. The wound certificate would show that on 03.11.2018, at 3:50 pm, the petitioner was treated at Co-operative Hospital, Taliparamba, for the injuries sustained in a motor vehicle accident on the same day. The discharge summary indicates that the petitioner was treated as an inpatient at Yenepoya Medical College Hospital, Mangalore,

from 03.11.2018 to 20.11.2018 and from 23.10.2019 to 06.11.2019. The following are the injuries and treatment of the petitioner, as per the wound certificate and the discharge summary.

- a. **Schatzkar's type II tibial condyle fracture with fibula head fracture**
- b. **Left-sided left knee ACL tear**
- c. **Swelling over the left knee**
- d. **Tenderness over the left proximal tibia**

Treatment - Implant INSITU on proximal tibia, bone grafting, ACL reconstruction

11. The petitioner had sustained injuries in the accident, as substantiated by the FIR, the wound certificate, and the discharge summary. The respondent does not challenge the factum of the accident and the medical documents. Considering all these documents, it is sufficient to show that the petitioner sustained the injuries in the accident. Hence, I hold that the petitioners have proved that the injured sustained injuries in the motor vehicle accident. Point No.2 is answered in favour of the petitioner accordingly.

Discussion on Point No.3

Medical & bystander expenses

12. The petitioner has produced Ext.A9 series medical bills to the tune of ₹12,784. Considering the nature of the injuries and the medical bills, I am inclined to award **₹12,784** for medical expenses. The discharge summary indicates that he was hospitalized as an inpatient for thirty -three days. Also, considering the said fact, I am inclined to award **₹33,000** for **33 days @ ₹1,000**

per day under the head of bystander expenses.

Pain and suffering & loss of amenities

13. Considering the nature of injuries, 33 days of hospitalization, fractures and a long period of treatment, 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.

Transportation, Clothing, & nourishment

14. The petitioner has produced Ext.A10 series taxi bills to the tune of ₹16,000. Considering the admissions, discharge and four reviews at Taliparamba, Mangalore, I am inclined to grant an amount of **₹16,000** under the head of transport to the hospital and an amount of **₹3,000** under the heading of damage to clothing and articles. Under the heading of extra nourishment, considering a 33-day hospitalization, I am inclined to grant **₹33,000**.

Calculation of Income

15. The petition states that the petitioner was a coolie worker earning a monthly income of ₹30,000, and due to the injuries sustained in the accident, he had lost his income. Therefore, the notional income of the petitioner will be assessed in accordance with judicial precedents and statutory obligations. This court holds that the commonly cited judgment in *Ramachandrappa V. Manager, Royal Sundaram Alliance Insurance Company Ltd., 2011 (13) SCC 236*, is not a binding precedent in the present scenario. The ratio decidendi applies only to the factual scenario of that case, and there was no discussion regarding the long-standing principles for evaluating income. It is a 2004 case

from Karnataka, and the Hon'ble Apex Court delivered its judgment in 2011. The standard of living and the cost of living vary widely across states; for this reason, notifications under the Minimum Wages Act are issued by the State Government after analysing various factors.

16. The concept of right to work and living wages was enshrined by **Article 43** of the Indian Constitution, which states that the wages of a worker shall ensure a decent standard of living and social justice. Therefore, the Minimum Wages Act was introduced to prevent the exploitation of labourers by securing minimum wages, ensuring a basic standard of living, and promoting social justice in conformity with constitutional directives. **Article 39(d)** ensured equal pay for men and women in its directive principles. It is held by the Hon'ble Supreme Court in *Gurpreet Kaur V. United Insurance Co. Ltd, 2022 (6) KHC 601*, and *Jithendra V. Sadiya, 2025 KHC 7101*, that the notifications under the Minimum Wages Act can be a guiding factor in cases where there is no evidence available to evaluate monthly income.

17. As far as the State of Kerala is concerned, the Government has brought the minimum wage rates in **G.O.(P). No. 56/2017/Fin, w.e.f 28.04.2017**, for unskilled workers at ₹17,025 per month. Therefore, this court is of the considered view that, as beneficial legislation, the minimum wages can be taken into account in accident claims, and the petitioner's notional monthly income can be fixed at **₹17,025**. The nature of the injuries suffered by the petitioner, along with the consideration of his age, leads me to the view that he

had not been in a position to attend to any work for eight months. Therefore, the petitioner is entitled to an amount of **₹1,36,200 (8x17,025)** on account of loss of income.

18. 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	2,40,000	1,36,200	17,025x 8 months
2	Transport to hospital	30,000	16,000	Ext.A10
3	Damage to clothing	5,000	3,000	Reasonable estimate
4	Extra nourishment	75,000	33,000	33 days hospitalization
5	Loss of amenities		1,00,000	Reasonable estimate
6	Medical expenses	4,00,000	12,784	Ext.A9
7	Bystander expenses		33,000	33 days x 1000
8	Pain and Sufferings	3,00,000	1,50,000	Reasonable estimate
9	Permanent disability	6,50,000	Nil	No evidence
10	Loss of earning power	3,00,000	Nil	No evidence
	Total	₹20,00,000	₹4,83,984	Just Compensation

Point No.4/ Liability

19. It has been found that the accident was caused by the rash and negligent driving of the first respondent. The second respondent was the vehicle's owner, who is liable to compensate the petitioner. The third respondent contended that the offending vehicle was uninsured at the time of the accident. Therefore, both respondents are liable to compensate the petitioner for the injuries sustained in the accident. **So, being the driver and owner, the first and second respondents are vicariously liable to compensate the petitioner.**

Point No.4 is answered in favour of the petitioner accordingly.

Point No.5/ Interest and Cost

20. According to **Section 171** of the Motor Vehicle Act, the tribunal can direct a simple interest in addition to the compensation in motor vehicle accident cases. However, the rate of interest is not fixed by the statute. Therefore, relying on the Judgment rendered by a three-bench of the Hon'ble Supreme Court in *Supre Dei V. National Insurance Co. Ltd, 2009 KHC 4551* and *Kaushnuma Begum V. New India Assurance Co. Ltd, 2001 (2) SCC 9*, it is reiterated that **9%** is the appropriate rate of interest in Motor Vehicle accident compensation cases. Upshot to the above discussion, the rate of interest is fixed accordingly.

21. Thus, the petitioner is entitled to a compensation of ₹4,83,984. rounded to **₹4,84,000**. 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 first and second respondents.

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

1. The petitioner is entitled to realize an amount of **₹ 4,84,000 (Rupees Four Lakh Eighty-Four Thousand only)** as compensation from the first and second respondents with interest **@9%** per annum from **29.09.2022**, the date of application until deposit/realization.
2. The first and second respondents are ordered to deposit a cheque for **₹19,369 (Rupees Nineteen 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 shall also furnish an additional cheque for ₹20,000 (Rupees Twenty Thousand only), as the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.
4. The first and second respondents are directed to deposit the entire balance amount due to the petitioner ***within one month*** into the petitioner's bank account listed below.

Name of the person	Balakrishnan A
Name of the Bank & Branch	Kerala Gramin Bank, Chorkkala
Account Number	40508100003418
IFSC Number	KLGB0040508

5. The first and second respondents shall instruct their bank to ensure the deposit of the amount by direct transfer to the account of the petitioner mentioned above, containing the following information in the prescribed format in compliance with the award.

1	OP(MV)Number	
2	On the file of MACT	
3	Date of award	
4	Amount deposited	
5	Amount of FD/No	
6	Name of the minor	
7	Income Tax Deduction at Source	
8	Bank Transaction Reference No/UTR	

6. After depositing the compensation amount, the first and second respondents shall submit a statement of transfer details to this Tribunal, enclosing a copy of the bank advice, in the format prescribed in Circular No. 1/25 dated 19.09.2025 of the Hon'ble High Court of Kerala, and also serve a copy on ***the petitioner and their counsel forthwith.***
7. The first and second respondents are directed to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at the source.

(Dictated to the Confidential Assistant, transcribed and prepared by her, in computer, corrected and pronounced by me in open court on the 17th day of March 2026.)

Sd/
JUDGE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits

A1	18-01-2019	Copy of FIR No. 72/2019 of Taliparamba Police Station
A2	03-11-2018	Carbon copy of Wound Certificate
A3	06-11-2018	Discharge Summary
A4	--	Certified copy of Protest Complaint
A5	29-11-2021	Certified Copy of Docket Sheet
A6 series	--	Prescriptions
A7	21-02-2023	Certified copy of Judgment in CC 815/2021 of Judicial First Class Magistrate, Taliparamba
A8	--	Attested copy of School Certificate
A9 series	--	Medical Bills
A10 series	--	Taxi receipts

Petitioner's Witness - Balakrishnan.A (PW1)

Respondent's Exhibits & Witness - Nil

Third Party Exhibits - Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA