

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR

Present:- Sri.Sreejith.S., B.A., L.L.B.(Hons), M.A.C.Tribunal

Friday, the 04th day of April, 2025

OP(MV) No. 530 OF 2022

Between :-

Aboobaker Sidhik. K, 30 years,
S/o. Kunji Muhammed, Kalarikkal (H),
Vattathani, Tanalur, Tanalur P.O, Tirur Taluk,
Malappuram (Dist), Pin : 676 307

} Petitioner

And :-

1. Shaji. K, 51 years, S/o. Narayanan
Thazhe Chembrath (H), Idimoozhikkal,
Chelembra P.O, Malappuram (Dist),
Pin : 673 634 (Driver)
2. The Managing Director KSRTC Transport
Bhavan, Fort, Thiruvananthapuram (Dist),
Pin : 695 001 (RC Owner)

} Respondents

Petition filed on : 04.08.2022
Amount Claimed : ₹10,00,000/-
Court Fee Paid : ₹5/-

This petition coming on the 03rd day of December, 2024 for final hearing before me in the presence of Sri. Yoonus Ali Chatheri, Advocate for the petitioner and 1st and 2nd respondents were called absent and set exparte and having stood over for consideration to this day, this Tribunal passed the following:-

A W A R D

This is an application filed U/s.166 of the Motor Vehicles Act, 1988 claiming compensation on account of the injury sustained by the petitioner as a result of an accident.

2. The case of the petitioner in a nutshell, is as follows:- On 23.02.2022, at about 4.10 p.m, while the petitioner was riding his motorcycle bearing Reg. No.KL-55-AE-7735 along with his wife as pillion rider, and when he reached near Manazhi bus stand at Perinthalmanna, a KSRTC Bus bearing registration No.KL-15-A-1581, driven by 1st respondent in a rash and negligent manner, hit the petitioner's motorcycle and as a result of the hit, the petitioner fell down and sustained serious injuries. Without any delay, the petitioner was taken to EMS Hospital, Perinthalmanna and was admitted there till 28.02.2022. The petitioner alleges that the accident happened due to the rashness and negligence on the part of the 1st respondent. The 1st respondent is the driver and 2nd respondent is the owner of the offending vehicle. The petitioner contends that the respondents are jointly liable to pay compensation to the petitioner. At the time of the accident the petitioner was aged 30 years and he was a Coolie (painting works) by profession and according to him, he earns ₹24,000/- per month (₹800/- per day). The petitioner is claiming ₹10,00,000/- as compensation.

3. Respondent Nos.1 and 2 did not turn up despite service of notice and they were set *ex parte*.

4. On the basis of the pleadings and evidence, the following issues arose for consideration:-

1. Whether the accident occurred due to the negligent driving of the KSRTC Bus bearing Reg. No.KL-15-A-1581, by the 1st respondent?
2. Whether the petitioner had sustained bodily injuries in the accident as alleged in the petition?
3. Whether the petitioner is entitled to get compensation? If so, what is the quantum?

4. Who is liable to pay compensation?

5. Relief and cost?

5. From the side of the petitioner, no oral evidence was tendered, but Exts.A1 to A11 documents were marked. No evidence adduced from the side of the respondents.

6. The learned Counsel for the petitioner was heard in detail and this Tribunal perused the records.

7. **Issue No.1:-** It is the case of the petitioner that the accident in question had occurred due to the rashness and negligence on the part of the 1st respondent in driving the Bus bearing Reg. No.KL-15-A-1581. In order to prove the same Ext.A1 FIR, Ext.A2 scene mahazar, Ext.A3 AMVI report and Ext.A4 final report were produced from the side of the petitioner. Ext.A4 is the final report in Crime No.208/22 of Perinthalmanna Police Station registered U/s.279, 337, 338 of IPC and 146 r/w 196, 134 r/w 187 MV Act. As per the final report, the accident occurred as a result of the rash and negligent driving of the Bus by the 1st respondent. Ext.A3 report from AMVI would show that the Bus involved in the accident did not have any mechanical defects. There is absolutely no evidence before this Tribunal to attribute any negligence on the part of the petitioner. On this aspect, this Tribunal is guided by the dictum laid down by the Hon'ble High Court of Kerala in **New India Assurance Company Vs. Pazhaniammal and Others**, reported in **ILR 2011 (3) Kerala 677**. In para 7 of the judgment in **Pazhaniammal (Supra)** the Hon'ble High Court held,

“We would certainly not want the Tribunals to be prisoners of the conclusions of the Police Officers. If the Tribunals find it suspicious, then it can insist for better evidence. But, 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 Vehicles Act. A system cannot feed itself on a regular

diet of distrust of the police. Prima facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the indictee. If any one of the parties do not accept such charge sheet, the burden must be on such party to adduce oral evidence.”

8. Placing reliance on the above dictum, it can be held that in the absence of contrary evidence, Ext.A4 final report can be taken as a prima facie proof for the act of negligence committed by the 1st respondent against whom the charges are laid. The said dictum laid down in ***Pazhaniammal (Supra)*** was reiterated by Hon’ble High Court of Kerala in ***Samad. M.P. and Others Vs. Binu and Others, 2020 KHC 444***. So, this Tribunal holds that the evidence adduced by the petitioner is sufficient to prove that the accident occurred due to the negligence of the bus driven by the 1st respondent. Issue No.1 is answered in favour of the petitioner.

9. **Issue Nos.2 and 3:-** Both these issues are considered together for the sake of convenience. The case of the petitioner is that, the accident occurred on 23.02.2022, near Manazhi Bus stand, Perinthalmanna, and he was immediately taken to the EMS Hospital, Perinthalmanna and was admitted there for 6 days. In order to prove his case, treatment records i.e., Ext.A5 wound certificate, Ext.A6 discharge summary and Ext.A8 & A11 medical bills were produced from his side. Ext.A5 wound certificate & Ext.A6 discharge summary sets out the following injuries: “1. *Comminuted fracture shaft of femur left* (2). *Fracture shaft of humerus right* (3) *multiple abrasions over arm right, thigh left* (4) *Externally rotated left leg* (5) *swelling of right arm and left thigh* (6) *Echymosis over periumbilical region.*” From the above stated treatment document, it can be seen that the petitioner was treated as inpatient for 6 days in hospital. Though the Counsel for the petitioner had argued that the petitioner’s day to day activities are affected by the accident, no evidence

of disability is produced from the side of the petitioner. However, on an over all consideration of the evidence produced before this Tribunal, without any doubt, it can be held that, petitioner sustained serious injuries as a result of the accident.

10. Now, this Tribunal will consider the pivotal aspect in this case, which is the assessment of quantum of compensation. After calculating the bodily injuries sustained by the petitioner, his physical condition, disability, period of treatment undergone and other relevant aspects, this Tribunal is of the opinion that loss of earning can be taken for a period of 3 months. The next task before this Tribunal is to assess the income of the petitioner. Even though the petitioner has stated in the petition that he is a Coolie (painting works) by profession and getting a monthly income of ₹24,000/-, but no evidence has been adduced from his side to prove the same. So, this Tribunal has no other option, but to fix a notional income for the petitioner and for that purpose, much reliance is placed on the decision of the Hon'ble Apex Court in ***Ramachandrappa Vs. Manager, Royal Sunderam Alliance Insurance Company Limited*** reported in ***2011 (3) SCC 236*** and also the decision in ***Syed Sadik Vs. Divisional Manager, United India Insurance Company Limited (2014 (2) SCC 735)***. So, considering the year of the accident, i.e., **2022** and the social and economic conditions prevalent at that point of time, the notional income of the petitioner is fixed as ₹13,500/- per month. So, the petitioner is entitled to get an amount of ₹40,500/- (13,500x3) towards loss of earnings for a period of 3 months.

11. The medical records produced by the petitioner i.e., Ext.A5 wound certificate, Ext.A6 discharge summary and Ext.A8 & A11 medical bills would show that the petitioner was admitted and treated as inpatient for a period of 6 days (23.02.2022 to 28.02.2022 at EMS Hospital). Considering that fact, the

petitioner is entitled to get ₹3,000/- (500x6) towards extra nourishment. He is entitled to get ₹1,000/- for damages to clothing. The petitioner was taken to the hospital 4 times for review, so, the petitioner is entitled to get ₹3,500/- (1500+4x500) towards transport to hospital.

12. In order to prove the medical expenses incurred by the petitioner, he has produced Exts.A8 & A11 series of medical bills for an amount of ₹1,10,308/-. No evidence has been adduced by the respondents to challenge the authenticity of Exts.A8 & A11. Based on Exts.A8 & A11 series medical bills, the petitioner is entitled to get medical expenses to the tune of ₹1,10,308/-. As already stated, the petitioner was treated as inpatient for 6 days. So, he is entitled to get expense towards bystander as ₹3,000/- (6x500). Considering the nature of bodily injuries suffered by the petitioner, this Tribunal is of the view that petitioner is entitled to get an amount of ₹60,000/- towards pain and suffering and ₹30,000/- on account of loss of amenities.

13. The next point to be considered is the compensation for continuing permanent disability, as claimed by the petitioner. The petitioner has sought ₹4,00,000/- for continuing permanent disability. In the instant case, surprisingly, the petitioner has not adduced any evidence to throw light on the amount of disability suffered by him as a result of the accident. The Counsel for the petitioner vehemently argued that the petitioner's day to day activities are affected by the accident. But said contention is not supported by any material evidence. So, this Tribunal is of the opinion that the petitioner is not entitled to compensation on account of permanent disability. Compensation claimed in all other heads are denied for want of evidence.

14. The details of the compensation can be set out in tabular form below:-

Sl. No.	Head of Claim	Amt. Claimed (In Rupees)	Amt. Awarded (In Rupees)	Basic Vital details in a nut shell	Remarks
	Monthly income of the petitioner	24,000 (Amount claimed)	13,500 (Amount fixed)		
1	Loss of earnings for one year	1,92,000	40,500	13500x3	
2	Partial loss of earning	-	-		
3	Transport to hospital	20,000	3,500	1500+4x500	
4	Extra nourishment	18,000	3,000	500x6	
5	Damage to clothing and articles	2,000	1,000		
6	Others:1)Medical expenses 2)Bystanders expense 3)Future treatment etc.	1,68,000 - 25,000	1,10,308 3,000 -	Ext.A8 &A11 6x500	
7	Compensation for pain and suffering.	1,00,000	60,000		
8	Compensation for continuing or permanent disability, if any	4,00,000	-		
9	Compensation for loss of amenities of life	50,000	30,000		
10	Compensation for disfigurement	25,000	-		
	Total ₹	10,00,000/-	2,51,308/- rounded to 2,52,000/-		

So, the issues are answered accordingly in favour of the petitioner.

15. **Issue No.4:-** This Tribunal has already found that the petitioner is entitled to get a compensation to the tune of **₹2,52,000/- (Rupees Two Lakhs and Fifty Two Thousand only)**. Also, this Tribunal has concluded that the petitioner had sustained the above-mentioned bodily injuries as a result of an accident which was caused due to the negligence attributed on the side of the

1st respondent. Since 1st respondent is the driver and 2nd respondent is the owner of the offending vehicle, they are primarily liable to pay the compensation to the petitioner. Admittedly, Bus bearing Reg.KL-15-A-1581 which is the offending vehicle did not have a valid insurance coverage at the time of the accident. So, the 1st and 2nd respondents are jointly responsible to pay compensation to the petitioner. Concerning the interest which is to be granted in favour of the petitioner, this Tribunal is of the view that rate of interest can be reasonably fixed as 7% on the amount of compensation.

16. **Issue No.5:-** In the result, the application stands allowed awarding compensation of **₹2,52,000/- (Rupees Two Lakhs and Fifty Two Thousand only)** with interest @ 7% per annum, from the date of institution of the petition till the date of deposit of the amount, with proportionate costs. The respondents jointly shall pay the said amount within 30 days by depositing the amount in the bank account of MACT, Tirur in the following manner:

1. The respondents shall deposit the entire compensation amount as awarded in the S.B account No. 42816630241, IFSC : SBIN0000262 of this Tribunal maintained in the State Bank Of India, Tirur within 30 days on receipt of the award copy or from the date which the award copy is ready for delivery in this Tribunal.
2. The respondents shall furnish a detailed statement with full particulars regarding the case number, name of court, date of award, total compensation amount awarded, whether any deductions are made towards the income tax and the details of apportioned amount deposited in accordance with the award before State Bank Of India, Tirur .
3. Simultaneously, a copy of the statement shall be furnished to this Tribunal too along with payment advice for remittance of compensation issued by the bank making remittance to the account of this Tribunal on

behalf of the respondents in the format prescribed in Circular No. 01/2024 of the Honourable High Court of Kerala for proper accounting and to take further actions.

4. On receipt of the statement of deposit in the office, office shall take steps for the remittance of **₹9,373/- (Rupees Nine Thousand Three Hundred and Seventy Three only)** towards the Court fee and **₹10,000/- (Rupees Ten Thousand only)** towards Legal Benefit Fund.

5. On receipt of the deposit the State Bank of India, Tirur shall transfer **₹2,52,000/- (Rupees Two Lakhs and Fifty Two Thousand only)** (after deducting court fee and LBF) with interest to the **A/C No.50100490311601** of the petitioner maintained in the **HDFC Bank at Tirur Branch**. Copy of the pass book duly attested by the bank concerned furnished by the petitioner shall form part of the award for the conformation of details.

6. For confirmation of the receipt and remittance of the award amount, the State Bank of India Shall furnish a detailed statement with full particulars to this Tribunal for cross checking and making entries in the registers maintained in the Tribunal.

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

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

Appendix:-

Petitioner's Witness :- NIL

Petitioner's Exhibits :-

- | | | |
|-----|------------|--|
| A1- | 24.02.2022 | : Certified copy of F.I.R in crime No.208/2022 of Perinthalmanna Police Station. |
| A2- | 25.02.2022 | : Certified copy of Scene Mahazar |
| A3- | 03.03.2022 | : Certified copy of AMVI's Report |

- A4- 24.03.2022 : Certified of Final Report
A5- 23.02.2022 : Certified copy of Wound Certificate
A6- 28.02.2022 : Discharge summary
A7- --- : True copy of Passbook
A8- series : Medical bills
A9- --- : True copy of vehicular documents
A10- --- : True copy of Aadhar card & Passport.
A11- --- : Medical Bills

Respondents' Witness :- NIL

Respondents' Exhibits :-

Court Exhibits :- NIL

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

PETITIONER'S COSTS ALLOWED

Sl. No.	Items	Amount allowed
1	Court fee	1892
2	Stamp on Vakalath	3
3	Stamp on document	28
4	Stamp on petition	15
5	Postal stamp	60
6	Writing Charge	250
7	Typing Charge	250
8	Batta	---
9	Advocate Fee Senior	15000
10	Advocate Fee Junior	---
	Total ₹	17498
(Rupees seventeen thousand four hundred and ninety eight only)		

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

//True copy//

SHERISTADAR

Typed by: Aneesa M. K

Compared by:- 1) 2)

Foot Note:- "The parties should apply as soon as possible for the return of all documents which they may wish to preserve as the records will be liable to be destroyed after twelve years from this date".

