

2. The averments in the application is as follows:-

At about 9.30 a.m on 10-02-2022, while the applicant was crossing the zebra line on the northern side of the Anchal-Alenchery public road near Anchal R.O Junction, the Honda Activa bearing Reg. No. KL-24N/8577 ridden by the 1st respondent, along the said road from east to west, in a rash and negligent manner so as to endanger human life had hit behind the applicant. Due to the impact of the hit, the applicant fell down and sustained serious injuries. Immediately, the applicant was taken to St. Joseph's Mission Hospital, Anchal and given first aid and the applicant is under treatment. The applicant aged 60 years is self employed with monthly income of Rs. 25,000. The accident had caused physical disability to the applicant and had adversely affected his life. The 2nd respondent is the registered owner and the 3rd respondent is the insurer of Honda Activa bearing Reg., No. KL-24N/8577. The said vehicle was having valid insurance at the time of accident. The applicant claims Rs. 5,00,000/- as compensation from the respondents. The respondents are jointly and severally liable to compensate the applicant.

3. The 1st and 2nd respondents were set ex-parte.

4. The 3rd respondent had filed written statement stating that the application is not maintainable since the application was filed on 19-10-2022 which is after a period of about eight months after the date of accident on

10-02-2022. The 1st respondent had not ridden motor cycle bearing Reg. No. KL-24N/8577 in a rash and negligent manner. The accident occurred as the applicant tried to cross the road negligently. The applicant had suffered only minor injuries and he does not have any disability. The compensation claimed by the applicant is exorbitant. The 3rd respondent admits that scooter bearing Reg. No. KL-24N/8577 was insured at the time of accident. The application is to be dismissed with costs.

5. The following issues are framed:-

1. Whether the applicant sustained injuries in the accident?
2. Whether the rash and negligent riding of scooter bearing Reg. No. KL-24N/8577 by the 1st respondent is the direct and proximate cause of the injuries sustained by the applicant ?
3. Whether the applicant is entitled to get compensation ? If so, what is the quantum?
4. Who is liable to pay the compensation to the applicant?
5. Reliefs and costs?
6. On the side of the applicant, Exts.A1 to A8 were marked. The

3rd respondent had not adduced evidence.

7. Heard both sides.

8. **Issue No. 1 :-**

The injuries sustained by the applicant in the accident are as follows :

1. Anterior wedge compression fracture of lumbar level 1 (L1) vertebra
2. Abrasion right ankle
3. Pain and tenderness all over body

Ext. A6 is the accident register cum wound certificate issued from St. Joseph's Mission Hospital, Anchal. Ext.A7 is the discharge summary issued from St. Joseph's Mission Hospital, Anchal. Ext.A6 and A7 medical records shows that the applicant sustained the injuries stated by him in the accident. Issue No. 1 is found in favour of the applicant.

9. **Issue No. 2 :-**

Exts. A1 to A5 are certified copies. Ext.A1 is FIR No. 185/22 registered at Anchal Police Station u/s 279, 337 and 338 of IPC against the rider of scooter bearing Reg. No. KL-24N/8577 and Ext.A1(a) is the first information statement given by the applicant. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle mahazar prepared for scooter bearing Reg. No. KL-24N/8577, Ext.A4 is the motor vehicle inspection report of the offending vehicle bearing Reg. No. KL-24N/8577 and Ext.A5 is the final report forwarded before the Judicial First Class Magistrate Court-I, Punalur in FIR No.185/2022 registered at Anchal Police Station alleging commission of offences punishable u/s 279, 337 and 338 of IPC by the 1st respondent. The Hon'ble High Court of Kerala had held in **New India Assurance Co. Ltd. v.**

Pazhaniammal and Others (2011(3) KHC 595) as follows: “As a general rule, production of the police charge sheet is prima facie sufficient evidence of negligence for the purpose of a claim u/s 166 of the Motor Vehicles Act. If any one of the parties do not accept such charge sheet, the burden must be on such party to adduce oral evidence.” The 3rd respondent states that the accident had not occurred due to the rash and negligent riding of scooter bearing Reg. No. KL-24N/8577 by the 1st respondent. The 3rd respondent had not adduced evidence in support of this contention. Therefore, from Ext.A1 to A5 documents, I find that the rash and negligent riding of scooter bearing Reg. No. KL-24N/8577 by the 1st respondent is the direct and proximate cause of the injuries sustained by the applicant. Issue No. 2 is found in favour of the applicant.

10. **Issue Nos. 3 and 4 :-**

In view of the finding on Issue Nos. 1 and 2, the applicant is entitled for compensation. The applicant claims that he is a mason with monthly income of Rs. 25,000/-. There is no document to show the income of the applicant. In view of the dictum in **Ramchandruppa v. Manager, Royal Sundaram Alliance Insurance Company Limited (2011 KHC 4675)**, the notional income of the applicant in the year 2022 is reckoned as ₹ 13,500 per month. The applicant has claimed Rs. 75,000 towards loss of earning for a period of

3 months. Taking into consideration the fact that the applicant could have taken rest for a period of 3 months after hospitalization due to the accident, the applicant is awarded ₹ 40,500 towards loss of earning for a period of 3 months (13,500 x 3 months). The applicant is awarded ₹ 3,000 towards transportation charges, ₹ 3,000 towards extra nourishment and ₹ 2,000 towards damages to clothing, The applicant had not produced any medical bills to show his medical expenses. The applicant is awarded ₹ 10,000 towards bystander's expenses.

11. The applicant is awarded ₹ 75,000 towards compensation for pain and suffering. The applicant has claimed ₹ 1,00,000 towards compensation for permanent disability. The applicant has not produced any disability certificate from the medical board showing his disability. The Hon'ble High Court of Kerala had held in **Akhil @ Akhil Anand.P vs The Managing Director, KSRTC (2015(1) KLT 291)** as follows :-

“As already observed, the Motor Accidents Claims Tribunal, will always have some limits and limitations. Of course, if the Trial Judge finds the absolute necessity of such physical examination before ordering examination by a Medical Officer or Medical Board, the Tribunal can direct the party to be present in court for such examination. When there is no such absolute necessity, the Tribunal can go through the available documents

including medical documents, showing the nature and consequence of the injury sustained by the claimant and also the possible degree and extent of the disability sustained by the claimant; physical or occupational. When the Tribunal finds the necessity of such examination by a Medical Board or Medical Officer on examination of the documents, the Tribunal can straight away direct such examination.”

Ext.A8 is the copy of the Aadhar Card of the applicant which shows that his year of birth is 1965. The accident occurred in the year 2022 So, the age of the applicant at the time of accident is 57 years. The multiplier applicable in this case is '9'. Taking in to consideration the submission made by the counsel for the applicant and the 3rd respondent, the functional disability of the applicant is fixed at 6%. Hence, the applicant is entitled to ₹ 87,480 towards compensation for disability (13,500 x 12 x 9 x 6/100). The applicant is awarded ₹ 40,000 towards compensation for loss of amenities in life. All other claims are disallowed.

12. Compensation awarded to the applicant under different heads are given below :-

Sl. No.	Heads	Amount claimed (Rs.)	Amount awarded (Rs.)	Basis-vital details in a nut shell
Pecuniary Damages				
1	Loss of earning	75,000	40,500	(13,500 x 3 months)
3	Transport to hospital	10,000	3,000	Reasonable estimation

4	Extra nourishment	10,000	3,000	„
5	Damage to clothing and articles	5,000	2,000	„
6	Medical expenses	50,000		Disallowed
	Bystander’s expense		10,000	Reasonable estimation
Non-pecuniary Damages				
7	Compensation for pain and sufferings	1,00,000	75,000	Reasonable estimation
8	Compensation for continuing or permanent disability and compensation for loss of earning power	1,00,000 1,50,000	87,480	$\frac{(13,500 \times 12 \times 9 \times 6)}{100}$
9	Compensation for loss of amenities in life		40,000	Reasonable estimation
	Total	5,00,000	2,60,980	

13. Therefore, the applicant is entitled to get total compensation of **₹ 2,60,980(Rupees Two Lakhs Sixty Thousand Nine Hundred and Eighty only)** as shown in the schedule.

14. The 3rd respondent admits that the offending Honda Activa Scooter bearing Reg. No. KL-24N/8577 was having valid insurance coverage at the time of accident. The rash and negligent riding of scooter bearing Reg. No. KL-24N/8577 by the 1st respondent is the direct and proximate cause of the injuries sustained by the applicant. So, the 3rd respondent being the

insurer is under a statutory obligation to indemnify the 2nd respondent who is the owner of the offending vehicle for the compensation to be paid to the applicant. So, the applicant is entitled to get the compensation from the 3rd respondent. Issue Nos. 3 and 4 are found in favour of the applicant.

15. **Issue No. 5 :-**

In the result, the application is allowed and award is passed on the following terms:-

(1) The applicant is entitled to recover an amount of **₹ 2,60,980(Rupees Two Lakhs Sixty Thousand Nine Hundred and Eighty only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 19-10-2022 till realization with proportionate costs from the 3rd respondent.

(2) The 3rd respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹ 4,373 and ₹ 5,000 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 and amount due to the applicant shall be transferred directly to the credit of the bank account of the applicant (B.Jayakumar), SBI, Kanjiramkulam Branch, Account No. 32791972896 IFSC : SBIN0010704 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.

16. Issue free copies of this award to the applicant and 3rd respondent.

17. 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.

Dictated to the Confidential Assistant, transcribed and typed by her, revised and corrected by me, and pronounced in open Tribunal, on this the day of 20th February, 2026.

Sd/-

Baiju T. D.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioner:-

A1	12.02.2022	Certified Copy of FIR in Cr. No. 185/2022 of Anchal Police Station.
A1(a)	12.02.2022	Certified Copy of FIS in Cr. No. 185/2022 of Anchal Police Station.
A2	13.02.2022	Certified Copy of Scene Mahazar in Cr. No. 185/2022 of Anchal Police Station.
A3	14.02.2022	Certified Copy of Vehicle Mahazar in Cr. No. 185/2022 of Anchal Police Station.
A4	16.02.2022	Certified copy of AMVI Report with respect to the vehicle bearing Reg. No. KL 24 N 8577 in Cr. No. 185/2022 of Anchal Police Station.
A5	23.02.2022	Certified Copy of Final Report in Cr. No. 185/2022 of Anchal Police Station.

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|----|------------|---|
| A6 | 17.02.2022 | Certified copy of Accident Register cum Wound Certificate issued by St. Joseph's Mission Hospital, Anchal in Cr. No. 185/2022 of Anchal Police Station. |
| A7 | 12.02.2022 | Discharge Summary issued by St. Joseph's Mission Hospital, Anchal. |
| A8 | | Adhaar Card in respect of B. Jayakumar |

Exhibits for the Respondents:- Nil.

Witness for both sides:- Nil.

Id/-

Motor Accidents Claims Tribunal.

//True Copy//

Typed by : Anas.K

Compd. by : Jayasree.S

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

MOTOR ACCIDENTS CLAIMS TRIBUNAL
MEMO OF COSTS
OP(MV) 480/2022

Costs for the Petitioner

1	Court Fee	4,373/-
2	LBF Fee	5,000/-
3	Vakalath Fee	5/-
4	Petition Fee	10/-
5	Stamp for exhibits	70/-
6	Process fee	90/-
7	Advocate Fee (Senior)	15,449/-
8	Advocate Fee (Junior)	Not allowed
9	Others	-

TOTAL

Rs. 24,997/-

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Proportionate Cost = 24997 x 260980

500000/-

= 13,047/-

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(Rupees Thirteen Thousand and Forty Seven Only)

Proportionate costs allowed. Cost memo filed.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.