

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.

Present:- Sri. Baiju. T. D, Motor Accidents Claims Tribunal

Tuesday the 28th day of April, 2026/8th Vaisakha, 1948.

OP(M.V) 9/2023

Between

Petitioner:-

Sreekandan. V Aged 21 years

S/o. Velraj

Devi Vilasam, Neduvannoor,

Avaneeswaram RSPO -691508

Pidavoor Village, Pathanapuram Taluk.

Rep. by Adv. Sri. V. Manoj and Adv. Sri. K.P. Ajith.

And

Respondents:-

1. Shamnadh Aged 42 years

S/o. Shahul Hameed

Shamnadh Manzil, Vazhavilla,

Komalamkunnu, Punalur P.O., 691305

Punalur Village, Punalur Taluk

2. IFFCO TOKIO General Insurance Co. Ltd.,

IFFKO Bhavanam, 40/90

Near Kalyan Jewelers, Thottakkadu Road,

Cochin 686681

R1 – Ex-parte,

R2 rep. by Adv. Sri. K.M. Thomaskutty

This OP(MV) have been finally heard on 08.04.2026 and on 28.04.2026 the Tribunal passed the following:-

AWARD

This application is filed u/s 166 of the Motor Vehicles Act, 1988.

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

While the applicant was riding motor cycle bearing Reg. No. KL-25K/3133 through Kunnicode-Pathanapuram public road from south to north and when the motor cycle reached near Kurisummoodu Junction at Pananmpatta, the motor cycle bearing Reg. No. KL-25Q/3922 ridden by the 1st respondent in a rash and negligent manner through the same road from the western side had hit the motor cycle ridden by the applicant causing serious injuries to him. Immediately, the applicant was taken to Taluk Headquarters Hospital, Punalur and referred to Medical College Hospital, Thiruvananthapuram where he underwent treatment as an inpatient. The accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25Q/3922 by the 1st respondent who is also the registered owner of the motor cycle. The 2nd respondent is the insurer of the motor cycle bearing Reg. No. KL-25Q/3922. The applicant claims compensation of ₹ 10,00,000. The respondents are jointly and severally liable to compensate the applicant.

3. The 1st respondent was set ex-parte.

4. The 2nd respondent had filed written statement with the following contentions:-

The accident had not occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25Q/3922 and the accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25K/3133 by

the applicant. The injuries sustained by the applicant does not cause any disability. The compensation amount claimed is exorbitant. The 3rd respondent had issued insurance policy for motor cycle bearing Reg. No. KL-25Q/3922 covering the date of accident. The 3rd respondent is not liable to indemnify the 1st respondent, since the 1st respondent had not reported the accident nor had produced the vehicle particulars and driving licence for verification. So, the application is to be dismissed with costs.

5. The following issues are raised:-

1. Whether the applicant sustained injuries in the accident?
2. Whether the rash and negligent riding of motor cycle bearing Reg. No. KL-25Q/3922 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 compensation to the applicant?
5. Reliefs and costs?
6. On the side of the applicant, Exts.A1 to A15 series were marked.

The 2nd respondent had not adduced evidence.

7. Heard both sides.

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

The applicant states that he had sustained the following injuries in the accident :

1. Fracture shaft of femur (L)
2. Fracture posterior wall of acetabulum (L)

3. Fracture hip (L)
4. Fracture mandible (L)
5. Fracture facial bones (L)
6. Avulsion 2 teeth upper jaw
7. Fracture tooth lower jaw
8. Lacerated injury both leg and hand

Ext. A6 is the accident register cum wound certificate issued from Taluk Headquarters Hospital, Punalur. Ext.A7 is the treatment certificate issued from Govt. Medical College, Thiruvananthapuram, Ext.A8 is the treatment certificate issued from Dental College, Thiruvananthapuram. Ext.A9 series are outpatient records issued from Medical College Hospital, Thiruvananthapuram. Ext.A10 is the discharge summary issued from Medical College Hospital, Thiruvananthapuram which shows that the applicant was admitted to the hospital on 10-09-2022 and discharged on 16-09-2022. Ext.A11 is the case record issued from Dental College, Thiruvananthapuram. Ext.A12 is the casualty ticket issued from Regional Institute of Ophthalmology, Thiruvananthapuram. Ext.A13 series are scan reports issued from Medical College Hospital, Thiruvananthapuram. Ext.A14 series are lab reports issued from Govt. Medical College, Thiruvananthapuram. Exts.A6 to A14 series shows that the applicant had sustained the injuries stated by him in the accident and he underwent treatment for the injuries sustained by him. Issue No. 1 is found in favour of the applicant.

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

Ext. A1 series to Ext.A5 are certified copies. Ext.A1 is FIR No. 1383/2022 registered at Kunnikode Police Station u/s 279, 337 and 338 of IPC against the rider of motor cycle bearing Reg. No. KL-25Q/3922 and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle mahazar, Ext.A4 series are motor vehicle inspection reports and Ext.A5 is the final report forwarded to the Judicial First Class Magistrate Court, Pathanapuram in FIR No.1383/2022 of Kunnikode 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 2nd respondent had not adduced evidence in support of the contention that the accident had not occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25Q/3922 by the 1st respondent and the accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25K/3133 by the applicant. Therefore, from Ext.A1 series to Ext.A5 documents, I find that the rash and negligent riding of motor cycle bearing Reg. No. KL-25Q/3922 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 my finding on Issue Nos. 1 and 2, the applicant is entitled to get compensation. The applicant states that he is an A/C Mechanic student having monthly income of ₹ 20,000. 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 is awarded ₹ 20,000 towards transport to hospital, ₹ 5,000 towards extra nourishment and ₹ 2,500 towards damages to clothing and articles. The applicant has produced Ext.A15 series medical bills showing payment of ₹ 26,389 and he is entitled to get this amount towards medical expenses. The applicant is awarded ₹ 15,000 towards bystander's expenses.

11. The applicant is awarded ₹ 1,00,000 towards compensation for pain and suffering. The applicant has claimed ₹ 2,00,000 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.”

The date of birth of the applicant in the application is 21-11-2001. The accident occurred on 09-09-2022. So, the age of the applicant at the time of accident was 20 years. The multiplier applicable in this case is ‘18’. Taking in to consideration the submission made by the counsel for the applicant and the 2nd respondent, the functional disability of the applicant is fixed at 15%. Hence, the applicant is awarded ₹ 4,37,400 towards compensation for functional disability (13,500 x 12 x 18 x 15/100). The applicant is awarded ₹ 50,000 towards compensation for loss of amenities in life. All other claims are disallowed.

12. The 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 earnings	1,50,000		Disallowed
2	Transport to hospital	30,000	20,000	Reasonable estimation
3	Extra nourishment	25,000	5,000	„
4	Damage to clothing and articles	75,000	2,500	„

5	Medical expenses	1,00,000	26,389	Ext.A15 series medical bills
	Bystander's expense		15,000	Reasonable estimation
Non-pecuniary Damages				
6	Compensation for pain and sufferings	2,00,000	1,00,000	Reasonable estimation
7	Compensation for permanent disability and compensation for loss of earning power	2,00,000 1,50,000	4,37,400	$\frac{(13,500 \times 12 \times 18 \times 15)}{100}$
8	Compensation for loss of amenities in life		50,000	Reasonable estimation
9	Future treatment	70,000		Disallowed
	Total Rounded to	10,00,000	6,56,289 6,56,290	

13. Therefore, the applicant is entitled to get total compensation of **₹ 6,56,290 (Rupees Six Lakhs Fifty Six Thousand Two Hundred and Ninety only)** as shown in the schedule.

14. The rash and negligent riding of motor cycle bearing Reg. No. KL-25Q/3922 by the 1st respondent is the direct and proximate cause of the injuries sustained by the applicant. The 1st respondent is also the registered owner of the motor cycle bearing Reg. No. KL-25Q/3922 which was insured with the 2nd respondent. It is admitted by the 2nd respondent that the insurance policy was issued for motor cycle bearing Reg. No. KL-25Q/3922 covering the date of accident. So, the 2nd respondent has a statutory liability to indemnify the 1st respondent for the compensation to be paid to the applicant. Therefore, the applicant is entitled to get compensation from the 2nd 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 **₹ 6,56,290 (Rupees Six Lakhs Fifty Six Thousand Two Hundred and Ninety only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 07-01-2023 till realization with proportionate costs from the 2nd respondent.

(2) The 2nd respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹ 9,373 and ₹ 10,000 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 (Sreekandan.V), SBI, Kunnicode Branch, Account No. 35307316178 IFSC : SBIN0013315 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 the 2nd 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 28th April, 2026

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	02.10.2022	:	Certified Copy of FIR in Cr.No.1383/2022 of Kunnikode Police Station.
A1(a)	:	02.10.2022	:	Certified Copy of FIS in Cr.No. 1383/2022 of Kunnikode Police Station.
A2	:	02.10.2022	:	Certified Copy of Scene Mahazar in Cr.No. 1383/2022 of Kunnikode Police Station.
A3	:	07.10.2022	:	Certified Copy of Vehicle Mahazar in Cr.No. 1383/2022 of Kunnikode Police Station.
A4	:	15.10.2022	:	Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-25Q- 3922 in Cr.No. 1383/2022 of Kunnikode Police Station.
A4(a)	:	02.10.2022	:	Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-25K-3133 in Cr.No. 1383/2022 of Kunnikode Police Station.
A5	:	25.10.2022	:	Certified Copy of Final Report in Cr.No. 1383/2022 Kunnikode Police Station.
A6	:	09.09.2022	:	Certified Copy of Accident Register Cum Wound Certificate issued from Taluk Headquarters Hospital, Punalur.
A7	:	01.11.2022	:	Treatment Certificate issued from Medical College Hospital, Thiruvananthapuram.

A8 : 29.10.2022 : Treatment Certificate issued from Govt. Dental College, Thiruvananthapuram.
 A9 Series: Nil : Medical Records.
 A10 : 16.09.2022 : Discharge Card issued from Medical College, Hospital, Thiruvananthapuram.
 A11 : 03.10.2022 : Case Records issued from Govt. Dental College, Thiruvananthapuram.
 A12 : 11.09.2022 : Causality Ticket issued from Regional Institute of Ophthalmology, Thiruvananthapuram.
 A13 Series: Nil : Medical Records
 A14 Series: Nil : Lab Reports
 A15 Series: Nil : Medical Bills.

Exhibits for the Respondents:- NIL

Witness for both sides:- NIL

Id/-

Motor Accidents Claims Tribunal.

//True Copy//

Typed by : Praseetha. P

Compd. by : Jayasree. S

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MOTOR ACCIDENTS CLAIMS TRIBUNAL**MEMO OF COSTS****OP(MV) 9/2023****Costs for the Petitioner**

1	Court Fee	9,373/-
2	L B F	10,000/-
3	Vakalath Fee	5/-
4	Stamp for exhibits	12/-
5	Process Fee	60/-
6	Advocate Fee (Senior)	35,214/-
7	Advocate Fee (Junior)	17,607/-

TOTAL**Rs. 72,271/-**

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Proportionate Cost = $\frac{72271 \times 656290}{1000000}$

= 47,431/-

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(Rupees Forty Seven thousand four hundred and thirty one only)

Proportionate costs allowed. Cost memo filed.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.