

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.

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

Friday the 13th day of March, 2026/22nd Phalguna, 1947.

OP(M.V) 81/2021

Between

Petitioner:-

Bindhu. T Aged 39 years,
D/o. Pathmashi,
Pulimoottil Veedu, Muthalattu,
Yeroor P.O., Anchal, Kollam 691312
Represented by Adv. Sri. Ansar. T.

And

Respondents:-

1. Ajayakumar aged 59 years,
S/o. Sahadevan, Vilakkupara P.O.,
Ayiranalloor, Kollam.
2. Maruthi Insurance Broking Pvt. Ltd.,
Divisional Office, Kollam.

Addl. R3: United India Insurance Co. Ltd.,
T. P Hub, CWC Building, Floor No. 3
LMS Compound, Palayam, Trivandrum.
Pin - 695033.

Addl. R3 was impleaded as per order in IA No. 2/2023 dated 03.06.2025.

R1– Ex-Parte,

R2 rep. by Adv. Sri. Sreedharan Thampi and

Addl. R3 rep. by Adv. Sri. P. Nataraja Pillai.

This OP(MV) have been finally heard on 04.03.2026 and on
13.03.2026 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 his motor cycle bearing Reg. No. KL-25G/9636 through Panachavila-Anchal road from west to east and when she reached near Anna Handloom Shop at about 12.30 p.m on 14-08-2018, the Car bearing Reg. No. KL-25B/6150 driven by the 1st respondent in a rash and negligent manner through the same road in the same direction had hit the motor cycle of the applicant. Due to the impact of the hit, the applicant fell down and sustained serious injuries. Immediately, the applicant was taken to Parakattu Hospital, Anchal and treated as an inpatient. The accident occurred due to the rash and negligent driving of car bearing Reg. No. KL-25B/6150 by the 1st respondent who is also the owner of the car which was insured with the 2nd respondent. The applicant claims compensation of ₹ 4,32,000. 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 offending car bearing Reg. No.KL-25B/6150 was not insured with the 2nd respondent at the time of accident. The insurer of the offending car at the time of accident is United India Insurance Company. The application is bad

for misjoinder of parties. The applicant does not have any disability. The applicant is not entitled to get compensation. So, the application is to be dismissed with costs.

5. The addl. 3rd respondent had filed written statement with the following contentions:-

The accident occurred due to the negligence of the applicant. The police had filed final report without conducting proper investigation. The car bearing Reg. No. KL-25B/6150 was insured with the addl. 3rd respondent at the time of accident. The applicant had not sustained any serious injuries and he does not have any disability so as to affect her earning capacity. The compensation claimed by the applicant is exorbitant. So, the application is to be dismissed with costs.

6. The following issues are framed:-

1. Whether the applicant sustained injuries in the accident?
2. Whether the rash and negligent driving of car bearing Reg. No. KL-25B/6150 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?
7. On the side of the applicant, Exts.A1 to A7 were marked. The

respondents have not adduced evidence.

8. Heard both sides.

9. **Issue No. 1 :-**

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

1. Fracture on right shoulder bone
2. Wound on knee (right leg)
3. Wound on right foot

Ext. A6 is the accident register cum wound certificate issued from Parackattu Hospital, Anchal. Ext.A6 shows that the applicant had sustained the injuries stated by her in the accident. Issue No. 1 is found in favour of the applicant.

10. **Issue No. 2 :-**

Exts. A1 to A5 are certified copies. Ext.A1 is FIR No.1489/2018 registered at Anchal Police Station u/s 279, 337 and 338 of IPC against the driver of car bearing Reg. No.KL-25B/6150 and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle mahazar, Ext.A4 is the motor vehicle inspection report and Ext.A5 is the final report forwarded to the Judicial First Class Magistrate Court-I, Punalur in FIR No.1489/2018 of 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 addl.3rd respondent had not adduced evidence in support of the contention that accident had not occurred due to the rash and negligent driving of car bearing Reg. No. KL-25B/6150 by the 1st respondent and the accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25G/9636 by the applicant. Therefore, from Ext.A1 to A5 documents, I find that the rash and negligent driving of car bearing Reg. No. KL-25B/6150 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.

11. **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 claims that she is a worker in a cashew factory with monthly income of ₹ 10,000. There is no document to show the income of the applicant. In view of the dictum in **Ramchandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited (2011 KHC 4675)**, the notional income of the applicant in the year 2018 is reckoned as ₹ 11,500 per month. Taking into consideration the fact that the applicant could have taken rest for a period of 4 months after hospitalization due to the accident, the

applicant is awarded ₹ 46,000 towards loss of earning for a period of 4 months (11,500 x 4 months). The applicant is awarded ₹ 5,000 towards transport to hospital, ₹ 2,000 towards extra nourishment and ₹ 2,000 towards damages to clothing, The applicant is awarded ₹ 10,000 towards bystander's expenses.

12. The applicant is awarded ₹ 30,000 towards compensation for pain and suffering. The applicant has claimed ₹ 1,50,000 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.A7 is the copy of the Aadhar Card of the applicant which shows that her year of birth is 1981. The accident occurred in the year 2018. The age of the applicant at the time of accident was 37 years. The multiplier applicable in this

case is '15'. Taking in to consideration the submission made by the counsel for the applicant and the addl. 3rd respondent, the functional disability of the applicant is fixed at 4%. Hence, the applicant is entitled to ₹ 82,800 towards compensation for functional disability ($11,500 \times 12 \times 15 \times 4/100$). The applicant is awarded ₹ 25,000 towards compensation for loss of amenities in life. All other claims are disallowed.

13. 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 earning	80,000	46,000	(11,500 x 4 months)
2	Partial loss of earning	40,000	Disallowed
3	Transport to hospital	10,000	5,000	Reasonable estimation
4	Extra nourishment	5,000	2,000	„
5	Damage to clothing and articles	2,000	2,000	„
6	Medical expenses	75,000	Disallowed
	Bystander's expense		10,000	Reasonable estimation
Non-pecuniary Damages				
7	Compensation for pain and sufferings	30,000	30,000	Reasonable estimation
8	Compensation for continuing or permanent disability and compensation for loss of earning power	1,50,000	82,800	$(11,500 \times 12 \times 15 \times 4) / 100$
9	Compensation for disfigurement	10,000	Disallowed

10	Compensation for loss of amenities in life	30,000	25,000	Reasonable estimation
	Total	4,32,000	2,02,800	

14. Therefore, the applicant is entitled to get total compensation of **₹ 2,02,800 (Rupees Two Lakhs Two Thousand Eight Hundred only)** as shown in the schedule.

15. The rash and negligent driving of Car bearing Reg. No. KL-25B/6150 by the 1st respondent is the direct and proximate cause of the injuries sustained by the applicant. The offending car was insured with the addl. 3rd respondent and it is admitted that the offending car was having insurance coverage at the time of accident. Therefore, the addl. 3rd respondent has a statutory liability to indemnify the 1st respondent who is the owner as well as the driver of the offending vehicle for the compensation to be paid to the applicant. Issue Nos. 3 and 4 are found in favour of the applicant.

16. **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 **₹ 2,02,800 (Rupees Two Lakhs Two Thousand Eight Hundred only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 08-03-2021 till realization with proportionate costs from the addl.3rd respondent.

(2) The addl. 3rd respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹ 3,693 and ₹ 4,320 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 (Bindhu.T), SBI, Panachavila Branch, Account No. 31499365860 IFSC : SBIN0012880 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.

17. Issue free copies of this award to the applicant and respondents.

185. 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 13th March, 2026.

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	17.08.2018	:	Certified Copy of FIR in Cr.No. 1489/2018 of Anchal Police Station.
A1(a)	:	17.08.2018	:	Certified Copy of FIS in Cr.No. 1489/2018 of Anchal Police Station.

- A2 : 18.08.2018 : Certified Copy of Scene Mahazar in Cr.No. 1489/2018 of Anchal Police Station.
- A3 : 20.08.2018 : Certified Copy of Vehicle Record Mahazar in Cr.No. 1489/2018 of Anchal Police Station.
- A4 : 23.08.2018 : Certified Copy of AMVI Report in Cr.No. 1489/2018 of Anchal Police Station.
- A5 : 20.09.2018 : Certified Copy of Final Report in Cr.No. 1489/2018 of Anchal Police Station.
- A6 : 14.08.2018 : Certified Copy of Accident Register Cum Wound Certificate issued from Parackattu Hospital, Anchal.
- A7 : Nil : Copy of Aadhar Card in respect of Bindhu. T.

Exhibits for the Respondents:- NIL

Witness for both sides :- NIL

Id/-

Motor Accidents Claims Tribunal.

//True Copy//

Typed by : Praseetha. P
Compd. by : Geethamma. T

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MOTOR ACCIDENTS CLAIMS TRIBUNAL**MEMO OF COSTS****OP(MV) 81/2021****Costs for the Petitioner**

1	Court Fee	3692.5/-
2	LBF	4320/-
3	Vakalath Fee	5/-
4	Petition Fee	17/-
5	Stamp for exhibits	14/-
6	Other Charges	500/-
7	Advocate Fee	12,540/-

TOTAL**Rs. 21,089/-**

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$$\text{Proportionate Cost} = \frac{21089 \times 202800}{432000}$$

$$= 9900/-$$

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(Rupees Nine thousand and nine hundred only)**Proportionate costs allowed. Cost memo filed.****MOTOR ACCIDENTS CLAIMS TRIBUNAL.**