

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.**Present:- Sri. Baiju. T. D, Motor Accidents Claims Tribunal****Tuesday the 21st day of April, 2026/1st Vaisakha, 1948.****OP(M.V) 152/2010****Between****Petitioner:-**

1. Neethu Varghese (Minor Aged 12)
D/o. Geevarghese, Inchakkattu Veedu,
Kizhakketheruvu P.O., Kottarakkara
2. Geevarghese
S/o. Kunjumon, Inchakkattu Veedu,
Kizhakketheruvu P.O., Kottarakkara

(1st petitioner being the minor, filing this application through the 2nd petitioner, father and guardian of 1st petitioner)

Rep. by Adv. Sri. T. Y. Lukose.

And**Respondents:-**

1. Jayalal
S/o. Gopinathan
Kochuthundil Kizhakkethil,
A. M. Jn, Edakkadam P.O.,
Ezhukone.
2. M/s. National Insurance Co.Ltd.,
Joseph 5 Press Building,
Vazhuthakkadu, Thiruvananthapuram.
R1 rep. by Adv. Sri. S. Jain and
R2 rep. by Adv. Sri. Sunil.K

This OP(MV) have been finally heard on 26.03.2026 and on 21.04.2026 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:-

The 1st applicant is a minor represented by her father, the 2nd applicant. While the 1st applicant was standing on the southern untarred portion of the road in front of St.Mary's School, Kizhakketheruve on the Kollam-Chenkotta NH 208 road at about 3 p.m on 22-01-2009, the motor cycle bearing Reg. No. KL-24A/4227 ridden by the 1st respondent in a rash and negligent manner along the same road from east to west had overtaken a KSRTC bus and hit the 1st applicant causing serious injuries on her head and other parts of the body. Immediately, the 1st applicant was taken to Vijaya Hospital, Kottarakara and treated as an inpatient. The accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-24A/4227 by the 1st respondent who is also the owner of the offending motor cycle. The 2nd respondent is the insurer of the offending motor cycle. The 1st applicant claims compensation of ₹50,000. The respondents are jointly and severally liable to compensate the 1st applicant.

3. The 1st respondents had filed written statement with the following contentions:-

The accident had not occurred due to the rash and negligent riding of the 1st respondent and the accident occurred due to the negligence of the 1st applicant. The 1st respondent had valid driving licence. The motor cycle of the 1st respondent was insured with National Insurance Company Ltd. The 2nd respondent is liable to compensate the 1st applicant being the insurer of the

motor cycle owned by the 1st respondent. The 1st applicant had sustained only minor injuries and she does not have any disability. The compensation amount claimed is exorbitant. So, the application is to be dismissed with costs.

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

The 2nd respondent was impleaded in the party array alleging that 2nd respondent was the insurer of vehicle bearing Reg. No. KL-24A/4227 at the time of accident. The policy issued by the 2nd respondent was for vehicle bearing Reg. No. KL-01N/2134 Hero Honda CD 100 in the name of S. Padma Kumar. The 2nd respondent was not the insurer of vehicle bearing Reg. No. KL-24A/4227. So, the 2nd respondent is not liable to pay compensation to the 1st applicant. The application is to be dismissed with costs.

5. The 2nd respondent had filed additional written statement with the following conditions:-

The application was awarded on merit on 18-05-2015 fixing the liability on the 1st respondent since the 2nd respondent had denied the policy of insurance for the offending motor cycle. The policy number of the offending motor cycle stated in the application belonged to another motor cycle with registration number KL-01N/2134. On perusal of the records, it is revealed that the offending motor cycle with Reg. No. KL-24A/4227 was having valid policy of insurance at the time of accident. The 2nd respondent is to be exonerated from

liability to pay interest for the award since the 1st respondent had not produced the vehicle particulars to the 2nd respondent after the accident.

6. The following issues are raised:-

1. Whether the 1st applicant sustained injuries in the accident?
2. Whether the rash and negligent riding of motor cycle bearing Reg. No. KL-24A/4227 by the 1st respondent is the direct and proximate cause of the injuries sustained by the 1st applicant?
3. Whether the 1st applicant is entitled to get compensation? If so, what is the quantum?
4. Who is liable to pay compensation to the 1st applicant?
5. Reliefs and costs?

7. On the side of the applicant, Exts.A1 to A9 were marked. On the side of the 2nd respondent, Ext.B1 was marked.

8. Heard both sides.

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

The 1st applicant states that she had sustained the following injuries in the accident:

1. Injury on (L) parieto temporal region of scalp
2. Injury on the medial malleolus of out leg (L)
3. Bruise on left elbow

Ext. A6 is the certified copy of accident register cum wound certificate issued from Vijaya Hospital, Kottarakara. Ext.A7 is the report of CT scan of the brain issued from Muthoot Scans. Ext.A8 is the discharge card issued from Vijaya

Hospital, Kottarakara which shows that the applicant was admitted to the hospital on 22-01-2009 and discharged on 24-01-2009. Exts.A6 to A8 shows that the 1st applicant had sustained the injuries stated by her in the accident. Issue No. 1 is found in favour of the 1st applicant.

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

Exts. A1 series to A5 are certified copies. Ext.A1 is FIR No. 125/2009 registered at Kottarakara Police Station u/s 279 and 337 of IPC against the rider of motor cycle bearing Reg. No. KL-24A/4227. 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, Kottarakara in FIR No. 125/2009 of Kottarakara Police Station alleging commission of offences punishable u/s 279 and 337 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 respondents have 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-24A/4227 by the 1st respondent and the accident occurred due to the negligence of the 1st applicant.

Therefore, from Ext.A1 series to A5 documents, I find that the rash and negligent riding of motor cycle bearing Reg. No. KL-24A/4227 by the 1st respondent is the direct and proximate cause of the injuries sustained by the 1st applicant. Issue No. 2 is found in favour of the 1st applicant.

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

In view of my finding on Issue Nos. 1 and 2, the 1st applicant is entitled to get compensation. The 1st applicant is a VIth standard student aged 12 years at the time of accident. The 1st applicant is awarded ₹ 1,000 towards transport to hospital, ₹ 8,000 towards extra nourishment and ₹ 500 towards damages to clothing and articles. The 1st applicant has produced Ext.A9 series medical bills showing payment of ₹ 3,996 and she is entitled to get this amount towards medical expenses. The 1st applicant is awarded ₹ 750 towards bystander's expenses.

12. The 1st applicant is awarded ₹ 8,000 towards compensation for pain and suffering. The 1st applicant has claimed ₹ 15,000 towards compensation for permanent disability. The nature of the injuries sustained by the 1st applicant does not show that the 1st applicant had sustained any disability. So, no amount is awarded under the head compensation for disability. The 1st applicant is awarded ₹ 8,000 towards compensation for loss of amenities in life. All other claims are disallowed.

13. The compensation awarded to the 1st 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	Transport to hospital	1,000	1,000	Reasonable estimation
2	Extra nourishment	2,000	8,000	„
3	Damage to clothing and articles	1,000	500	„
4	Medical expenses	6,000	3,996	Ext.A9 series medical bills
	Bystander's expense		750	Reasonable estimation
Non-pecuniary Damages				
5	Compensation for pain and sufferings	25,000	8,000	Reasonable estimation
6	Compensation for permanent disability and compensation for loss of earning power	15,000	Disallowed
7	Compensation for loss of amenities in life	8,000	Reasonable estimation
	Total Rounded to	50,000	30,246 30,250	

14. Therefore, the 1st applicant is entitled to get total compensation of **₹ 30,250 (Rupees Thirty Thousand Two Hundred and Fifty only)** as shown in the schedule.

15. The rash and negligent riding of motor cycle bearing Reg. No. KL-24A/4227 by the 1st respondent is the direct and proximate cause of the injuries sustained by the 1st applicant. The 1st respondent is also the registered owner of the offending motor cycle bearing Reg. No. KL-24A/4227 which was insured

with the 2nd respondent. The 2nd respondent admits that insurance policy was issued for motor cycle bearing Reg. No. KL-24A/4227 covering the date of accident. Ext.B1 is the insurance policy issued by the 2nd respondent in favour of the 1st respondent. So, the 2nd respondent has a statutory liability to indemnify the 1st respondent for the compensation to be paid to the 1st applicant. Therefore, the 1st applicant is entitled to get compensation from the 2nd respondent. Issue Nos. 3 and 4 are found in favour of the 1st applicant.

16. **Issue No. 5 :-**

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

(1) The 1st applicant is entitled to recover an amount of **₹ 30,250 (Rupees Thirty Thousand Two Hundred and Fifty only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 09-03-2010 till realization with proportionate costs from the 2nd respondent.

(2) The 2nd respondent is directed to deposit the award amount with interest and proportionate costs within 30 days from the date of this award and the said amount is directed to be retained in court deposit until 1st applicant attains majority; on attaining majority and on production of the said details; the disbursal of the amount shall be made directly to the credit of the bank account of the 1st applicant 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 the respondents.

18. 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 21st April, 2026.

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	25.01.2009	:	Certified Copy of FIR and FIS in Cr.No. 125/2009 of Kottarakkara Police Station.
A2	:	26.01.2009	:	Certified Copy of Scene Mahazar in Cr.No. 125/2009 of Kottarakkara Police Station.
A3	:	27.01.2009	:	Certified Copy of Vehicle Mahazar in Cr. No125/2009 of Kottarakkara Police Station.
A4	:	27.01.2009	:	Certified Copy of AMVI Report in Cr.No.125/2009 of Kottarakkara Police Station.
A5	:	30.01.2009	:	Certified Copy of Final Report in Cr.No. 125/2009 of Kottarakkara Police Station.
A6	:	22.01.2009	:	Certified Copy of Accident Register Cum Wound Certificate issued from Vijaya Hospital, Kottarakkara.

- A7 : 22.01.2009 : Report on CT-Brain issued from Muthoot Scans.MRI-CT laboratories and Research Centre, Kottarakkara.
- A8 : 22.01.2009 : Discharge/Reference Card issued from Vijaya Hospital, Kottarakkara.
- A9 : Nil : Medical Bills.

Exhibits for the Respondents:-

- B1 : 24.07.2008 : Copy of Policy Certificate

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) 152/2010****Costs for the Petitioner**

1	Court Fee	123/-
2	Vakalath Fee	5/-
3	Petition Fee	5/-
4	Stamp for exhibits	12/-
5	Process fee	60/-
6	Advocate Fee	3,320/-

TOTAL**Rs. 3,525/-**

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$$\text{Proportionate Cost} = \frac{3525 \times 30250}{50000}$$

$$= 2,133/-$$

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(Rupees Two thousand one hundred and thirty three only)**Proportionate costs allowed. Cost memo not filed.****MOTOR ACCIDENTS CLAIMS TRIBUNAL.**