

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.

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

Saturday the 28th day of March, 2026/7th Chaithra, 1948.

OP(M.V) 191/2022

Between

Petitioner:-

Mahesh. M aged 33 years

S/o.K. Muraleedharan,

Mahesh Vilasom, Thevannoor P.O.,

Elamadu, Kottarakkara 691533

Rep. by Adv. Sri. Jose. Y and

Adv. Smt. S. Nisha..

And

Respondents:-

1. Annamma John Aged 49 years,
W/o. John, Pushpagiri,
Elamadu, Ayoor, Kottarakkara-691533
 2. Steve John Plus Aged 22 years,
S/o. John, Ebaneser Pushpagiriyil,
Arakkal, Ayoor, Edamulackal, 691533
 3. The Divisional Manager,
M/s. New India Assurance Co. Ltd.,
Divisional Office Khaise Bldg, Beach Road,
Kollam 691001
- Addl. R4: The Manager- Legal
M/s. ICICI Lombord General Insurance Co. Ltd,
Ground Floor, Mahesh Estate, Vazhuthakkadu,
Thiruvananthapuram Pin - 605306
R1, R2 – V. R. Kumaran Pillai,
R3 rep. by Adv. Smt. G. Sarojini Amma

This OP(MV) have been finally heard on 13.03.2026 and on 28.03.2026 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-24S/9060 through Ampalammukku-Mathaimukku and when he reached Vayalikkada Junction at about 7.30 a.m on 25-06-2021, the car bearing Reg. No. KL-24S/608 driven by the 2nd respondent in a rash and negligent manner through the same road had hit the applicant's motor cycle. Due to the impact of the hit, the applicant fell down and sustained serious injuries. Immediately, the applicant was taken to St. Joseph's Hospital, Anchal, given first aid and referred to Medical College Hospital, Thiruvananthapuram where he was treated as an inpatient. The accident occurred due to the rash and negligent driving of car bearing Reg. No. KL-24S/608 by the 2nd respondent. The 1st respondent is the registered owner and the 3rd respondent is the insurer of the offending car. The applicant claims compensation of ₹ 5,00,000. The respondents are jointly and severally liable to compensate the applicant.

3. The 1st and 2nd respondents have filed written statement with the following contentions:

The accident had not occurred due to the rash and negligent driving of car bearing Reg. No. KL-24S/608 by the 2nd respondent and the accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No.

KL-24S/9060 by the applicant. The car bearing Reg. No. KL-24S/608 was having insurance policy issued by the 3rd respondent covering the date of accident. The compensation amount claimed is exorbitant. The 1st and 2nd respondents are not liable to compensate the applicant. The application is to be dismissed with costs.

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

There is delay of 45 days in reporting the police after the date of accident. There is no explanation for the delay of 45 days. The applicant does not have driving licence on the date of accident. The applicant had influenced Pooyappally police to charge sheet the 2nd respondent. The accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-24S/9060 by the applicant. The 3rd respondent has no liability because only a standalone motor own damage policy was issued for private car bearing Reg. No. KL-24S/608. The said policy does not cover third party losses. The injuries sustained by the applicant is simple in nature and does not cause any disability. The compensation amount claimed is exorbitant. So, the application is to be dismissed with costs.

5. The addl. 4th respondent had filed written statement with the following contentions:-

The addl. 4th respondent had issued insurance policy for car bearing Reg. No. KL-24S/608 covering the date of accident. The accident had not occurred due to the rash and negligent driving of the offending car by the 2nd respondent and the accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No.KL-24S/9060 by the applicant. The compensation amount claimed is exorbitant. The addl. 4th respondent had no liability to pay compensation to the applicant. So, the application is to be dismissed with costs.

6. The following issues are raised:-

1. Whether the applicant sustained injuries in the accident?
2. Whether the rash and negligent driving of car bearing Reg. No. KL-24S/608 by the 2nd 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?
7. On the side of the applicant, Exts.A1 to A10 series were marked.

On the side of the 3rd respondent, Ext.B1 was marked.

8. Heard both sides.

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

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

1. Right foot- Fracture 1st metatarsal shaft
2. Lacerated wound of size 4x1x1 cm over planter aspect of foot
3. Avulsion and crush injury on the right lateral aspect of foot
4. Pain and injury all over the body

Ext.A5 is the accident register cum wound certificate issued from St. Joseph's Mission Hospital, Anchal. Ext.A6 is the discharge summary issued from Medical College Hospital, Thiruvananthapuram which shows that the applicant was admitted to the hospital on 25-06-2021 and discharged on 04-07-2021. Ext.A7 series are outpatient records issued from Medical College Hospital, Thiruvananthapuram. Ext.A8 series are laboratory test results. Exts.A5 to A8 series shows that the applicant had sustained the injuries stated by him in the accident. Issue No. 1 is found in favour of the applicant.

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

Ext.A1 series to A4 are certified copies. Ext. A1 is FIR No.956/2021 registered at Pooyappally Police Station u/s 279, 337 and 338 of IPC against the driver of car bearing Reg. No. KL-24S/608 and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 and A3(a) are motor vehicle inspection reports and Ext.A4 is the final report forwarded to the Judicial First Class Magistrate Court-II, Kottarakara alleging commission of offences punishable u/s 279, 337 and 338 of IPC by the 2nd respondent. The Hon'ble High Court 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 occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-24S/9060 by the applicant and the accident had not occurred due to the rash and negligent driving of car bearing Reg. No. KL-24S/608 by the 2nd respondent. Therefore, from Ext.A1 series to A4 documents, I find that the rash and negligent driving of car bearing Reg. No. KL-24S/608 by the 2nd 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 he is a tile worker having monthly income of ₹ 25,000. 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 an unskilled worker in the year 2021 is reckoned as ₹ 13,000 per month. There is no reason to disbelieve the claim of the applicant that he is a tile worker. Therefore, the applicant is entitled to get his notional income fixed at a higher level. So, the notional income of the applicant is fixed at ₹ 15,000 per

month. The applicant could have taken rest for a period of 4 months after hospitalization due to the accident. So, the applicant is awarded ₹ 60,000 towards loss of earning for a period of 4 months (15,000 x 4 months). The applicant is awarded ₹ 8,000 towards transport to hospital, ₹ 4,000 towards extra nourishment and ₹ 2,500 towards damages to clothing and articles. The applicant has produced Ext.A10 series medical bills showing payment of ₹ 1,114 and the applicant is entitled to get this amount towards medical expenses. The applicant is awarded ₹ 20,000 towards bystander's expenses.

12. The applicant is awarded ₹ 50,000 towards compensation for pain and suffering. The applicant has claimed ₹ 1,10,000 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 applicant states that his date of birth is 18-05-1988. Ext.A9 is the copy of the Aadhar card of the applicant which shows that his year of birth is 1988. The accident occurred on 25-06-2021. So, the age of the applicant at the time of accident was 33 years. The multiplier applicable in this case is '16'. Taking in to consideration the submission made by the counsel for the applicant and the addl. 4th respondent, the functional disability of the applicant is fixed at 4%. Hence, the applicant is entitled to get ₹ 1,15,200 towards compensation for functional disability (15,000 x 12 x 16 x 4/100). The applicant is awarded ₹.20,000 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	1,00,000	60,000	(15,000 x 4 months)
2	Transport to hospital	10,000	8,000	Reasonable estimation
3	Extra nourishment	10,000	4,000	„
4	Damage to clothing and articles	10,000	2,500	„
5	Medical expenses	80,000	11,114	Ext.A10 series medical bills
	Bystander's expense		20,000	Reasonable estimation

Non-pecuniary Damages				
6	Compensation for pain and sufferings	80,000	50,000	14 pt Reasonable estimation
7	Compensation for continuing or permanent disability and compensation for loss of earning power	1,10,000 50,000	1,15,200	$(\frac{15,000 \times 12 \times 16 \times 4}{100})$
8	Compensation for loss of amenities in life	50,000	20,000	Reasonable estimation
	Total Rounded to	5,00,000	2,90,814 2,90,820	

14. Therefore, the applicant is entitled to get total compensation of **₹ 2,90,820 (Rupees Two Lakhs Ninety Thousand Eight Hundred and Twenty only)** as shown in the schedule.

15. The rash and negligent driving of car bearing Reg. No. KL-24S/608 by the 2nd respondent is the direct and proximate cause of the injuries sustained by the applicant. The offending car was owned by the 1st respondent and insured with the addl. 4th respondent. The addl. 4th respondent admits that insurance policy was issued for car bearing Reg. No. KL-24S/608 covering the date of accident. So, the addl. 4th 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 addl. 4th respondent. 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 ₹ 2,90,820 (Rupees Two Lakhs Ninety Thousand Eight Hundred and Twenty only) as compensation with interest at the rate of 9% per annum from the date of application ie. 10-06-2022 till realization with proportionate costs from the addl. 4th respondent.

(2) The addl. 4th 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 (Mahesh.M), SBI, Ayur Town Branch, Account No. 20309893450 IFSC : SBIN0017842 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.

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 28th March, 2026.

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1 : 10.08.2021 : Certified Copy of FIR in Cr.No. 956/2021 of Pooyappally Police Station.

- A1(a) : 10.08.2021 : Certified Copy of FIS in Cr. No. 956/2021 of Pooyappally Police Station.
- A2 : 24.08.2021 : Certified Copy of Vehicle Mahazar in Cr.No. 956/2021 of Pooyappally Police Station.
- A3 : 24.08.2021 : Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-24 S 0608 in Cr.No.956/2021 of Pooyappally Police Station.
- A3(a) : 24.08.2021 : Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-24 S 9060 in Cr.No.956/2021 of Pooyappally Police Station.
- A4 : 27.10.2021 : Certified Copy of Final Report in Cr.No. 956/2021 of Pooyappally Police Station.
- A5 : 25.06.2021 : Certified Copy Accident Register Cum Wound Certificate issued from St.Joseph's Mission Hospital, Anchal.
- A6 : 04.07.2021 : Discharge Summary issued from Medical College Hospital, Thiruvananthapuram.
- A7 : .07.2021 : Out Patient Record issued from Medical College Hospital, Thiruvannathapuram.
- A7(a) : 30.07.2021 : Out Patient Record issued from Medical College Hospital, Thiruvannathapuram.
- A7(b) : 16.12.2021 : Out Patient Record issued from Govt. Ayurveda Hospital, Ayur.
- A7(c) : 16.12.2021 : Medical Prescription issued by Dr. N.M. Ganga Prasad.
- A7(d) : 08.09.2023 : Out Patient Record issued from Medical College Hospital, Thiruvannathapuram.
- A8 Series: Nil : Medical Records.
- A9 : Nil : Copy of Aadhar Card in respect of Mahesh. M
- A10 Series: Nil : Medical Bills.

Exhibits for the Respondents:-

B1 : 21.10.2024 : 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) 191/2022**Costs for the Petitioner**

1	Court Fee	4,373/-
2	LBF	5,000/-
3	Vakalath Fee	5/-
4	Petition Fee	11/-
5	Stamp for exhibits	12/-
6	Process fee	120/-
7	Advocate Fee	16,941/-

TOTAL**Rs. 26,462/-**

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$$\text{Proportionate Cost} = \frac{26462 \times 290820}{500000}$$

$$= 15,391/-$$

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