

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.

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

Monday the 30th day of March, 2026/9th Chaithra, 1948.

OP(M.V) 232/2023

Between

Petitioner:-

Suma aged 58 years
W/o. Sasi, Palathinkal Veedu,
Karayalarmeth, Aryankavu P.O.,
Aryankavu Village, Punalur Taluk -691309

Rep. by Adv. Sri. L. Rajesh.

And

Respondents:-

1. Syamala Chandran, aged about 60,
W/o. Chandran, Pulimoottil,
Aryankavu P.O., Aryankavu Village
Pin - 691307
2. Sanjay aged 19
S/o. Saji, Charuvila Puthen Veedu,
Karayalrmeth, Aryankavu P.O.,
Aryankavu Village Pin - 691309
3. The Divisional Manager,
Divisional Office,
New India Assurance Company Ltd.,
Kollam. - 691001

R1, R2 - Ex-parte and
R3 rep. by Adv. Sri.P. Nataraja Pillai.

This OP(MV) have been finally heard on 17.03.2026 and on
30.03.2026 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 walking along the Aryankavu-Chenagiri public road from west to east and when she reached near railway crossing on the said road at about 10 a.m on 21-12-2022, the motor cycle bearing Reg. No. KL-25B/0914 ridden by the 2nd respondent in a rash and negligent manner in the same direction had hit the applicant from behind. Due to the impact of the hit, the applicant was thrown on the road and she sustained severe injuries on the head. Immediately, the applicant was taken to Primary Health Centre, Kazhuthurutty, given first aid and referred to Taluk Headquarters Hospital, Punalur where she was treated as an inpatient. The applicant was later referred to Medical College Hospital, Thiruvananthapuram and was also treated as an inpatient. The accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-25B/0914 by the 2nd respondent. The 1st respondent is the registered owner and the 3rd respondent is the insurer of motor cycle bearing Reg. No. KL-25B/0914. The applicant claims compensation of ₹.5,50,000. 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 with the following contentions:-

The final report shows that the accident occurred due to rash and negligent riding of motor cycle bearing Reg. No. KL-25B/0914 by the 2nd respondent without a valid driving licence to ride a motor cycle with gear. The 1st respondent had entrusted the motor cycle with the 2nd respondent with the knowledge that 2nd respondent was not having valid driving licence at the time of accident. As there is violation of policy conditions, the 3rd respondent is not liable to indemnify the 1st respondent. The motor cycle bearing Reg. No. KL-25B/0914 was insured with the 3rd respondent at the time of accident. The amended Motor Vehicles Act does not contain the pay and recover principle. So, the 3rd respondent is to be exonerated from the liability. The applicant had not sustained any serious injuries which causes permanent disability. The compensation amount claimed is exorbitant. 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-25B/0914 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 compensation to the applicant?
5. Reliefs and costs?
6. On the side of the applicant, Exts.A1 to A17 were marked. On the side of the 3rd respondent, Ext.B1 was marked.

7. Heard both sides.

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

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

1. Large haematoma over ® parietal region 1x1 cm
2. Lacerated wound on right parietal region 6 cm from top to ear
3. Ear bleed ®
4. Acute subarachnoid hemorrhage (SAH) on (L) frontal, parietal and temporal sulci
5. Acute SAH on left sylvian cistern along tentorium cerebelli (L)
6. Acute SAH on left sylvian fissure
7. Few tiny hemorrhagic contusions in (L) frontal and (L) high parietal lobes
8. Linear nondisplaced fracture involving right parietal bone which further extends to involve mastoid part of right temporal bone associated with ® hemomastoid
9. Wedge shaped hypodensity noted in (L) parieto temporal region with acute infarct
10. Intra perenchymal contusion in (L) frontal region 3.5 x 3.7 mm

Ext. A6 is the treatment certificate issued from Medical College Hospital, Thiruvananthapuram. Ext.A7 is the OP ticket issued from Primary Health Centre, Kazhuthuritty, Ext.A8 is the discharge summary issued from Medical College Hospital, Thiruvananthapuram which shows that the applicant was

admitted to the hospital on 21-12-2022 and discharged on 26-12-2022. Ext.A9 is the report of CT scan brain. Ext.A10 is the discharge card issued from Taluk Headquarters Hospital, Punalur which shows that the applicant was admitted to the hospital on 27-12-2022 and discharged on 31-12-2022. Ext.A11 series are outpatient records issued from Medical College Hospital, Thiruvananthapuram. Ext.A12 is the report of CT scan brain. Ext.A13 is the discharge card issued from Medical College Hospital, Thiruvananthapuram which shows that the applicant was admitted to the hospital on 12-08-2023 and discharged on 16-08-2023. Ext.A14 is the outpatient record issued from Medical College Hospital, Thiruvananthapuram. Ext.A15 series are the request for medicine given by the applicant at Taluk Headquarters Hospital, Punalur and Medical College Hospital, Thiruvananthapuram. Exts.A6 to A15 shows that the applicant had sustained the injuries stated by her 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. 27/2023 registered at Thenmala Police Station u/s 279, 337 and 338 of IPC against the rider of motor cycle bearing Reg. No. KL-25B/0914 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.27/2023 of Thenmala Police Station alleging commission of offences punishable u/s 279, 337 and 338 of IPC and Sec. 3(1) r/w 181 of the Motor Vehicles Act by the 2nd 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 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-25B/0914 by the 2nd respondent. Therefore, from Ext.A1 to A5 documents, I find that the rash and negligent riding of motor cycle bearing Reg. No. KL-25B/0914 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.

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 claims that she is a Mahatma Gandhi National Rural Employment Guarantee Scheme worker with monthly income of ₹4,043. 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 could have taken rest for a period of 3 months after hospitalization due to the accident. So, 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 ₹ 8,000 towards transport to hospital, ₹ 6,000 towards extra nourishment and ₹ 2,000 towards damages to clothing., The applicant has produced Ext.A16 series medical bills showing payment of ₹ 22,624 and she is entitled to get this amount towards medical expenses. The applicant is awarded ₹ 15,000 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 her 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.A17 is the copy of the Aadhar card of the applicant which shows that her date of birth is 01-01-1964. The accident occurred on 21-12-2022. So, the age of the applicant at the time of accident was 58 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 9%. Hence, the applicant is entitled to get ₹ 1,31,220 towards compensation for permanent disability (13,500 x 12 x 9 x 9/100). The applicant is awarded ₹ 20,000 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	50,000	40,500	(13,500 x 3 months)
2	Transport to hospital	8,000	8,000	Reasonable estimation
3	Extra nourishment	40,000	6,000	„
4	Damage to clothing and articles	2,000	2,000	„
5	Medical expenses	1,00,000	22,624	Ext.A16 series medical bills
	Bystander’s expense		15,000	Reasonable estimation

Non-pecuniary Damages				
6	Compensation for pain and sufferings	1,00,000	75,000	Reasonable estimation
7	Compensation for continuing or permanent disability and compensation for loss of earning power	1,00,000	1,31,220	$(\frac{13,500 \times 12 \times 9 \times 9}{100})$
8	Compensation for loss of amenities in life	1,00,000	20,000	Reasonable estimation
9	Compensation for future treatment	50,000	Disallowed
	Total Rounded to	5,50,000	3,20,344 3,20,350	

13. Therefore, the applicant is entitled to get total compensation of **₹ 3,20,350 (Rupees Three Lakhs Twenty Thousand Three Hundred and Fifty only)** as shown in the schedule.

14. The rash and negligent riding of motor cycle bearing Reg. No. KL-25B/0914 by the 2nd respondent is the direct and proximate cause of the injuries sustained by the applicant. The 1st respondent is the registered owner and the 3rd respondent is the insurer of the offending motor cycle bearing Reg. No. KL-25B/0914. It is admitted by the 3rd respondent that the motor cycle bearing Reg. No. KL-25B/0914 was having insurance coverage on the date of accident. Ext.B1 is the policy schedule cum certificate of insurance for vehicle bearing Reg. No. KL-25B/0914 which shows that the motor cycle was having insurance coverage from 07-03-2022 to 06-03-2023. The 3rd respondent contends that since the 2nd respondent was not having valid driving licence at the

time of accident, the 3rd respondent is not liable to indemnify the 1st respondent and to compensate the applicant. Ext.A5 final report shows that the 2nd respondent was charged for offence punishable u/s 3(1) r/w 181 of Motor Vehicles Act which means that the 2nd respondent was not having valid driving licence at the time of accident. As there is violation of condition of policy, the 3rd respondent who has a statutory liability to indemnify the 1st respondent shall pay compensation to the applicant and recover the compensation amount from the 1st and 2nd respondents. 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 **₹ 3,20,350 (Rupees Three Lakhs Twenty Thousand Three Hundred and Fifty only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 04-05-2023 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 ₹ 4,873 and ₹ 5,500 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 (Suma), Central Bank of India, Aryankavu Branch, Account No. 2080600690 IFSC : CBIN0282388 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.

(3) The 3rd respondent is allowed to recover the amount that will be paid by it as per the direction in clause 1 and 2, from the 1st and 2nd respondents by resorting to appropriate legal steps.

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 30th March, 2026.

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	08.01.2023	:	Certified Copy of FIR in Cr.No. 27/2023 of Thenmala Police Station.
A1(a)	:	08.01.2023	:	Certified Copy of FIS in Cr. No. 27/2023 of Thenmala Police Station.
A2	:	08.01.2023	:	Certified Copy of Scene Mahazar in Cr.No. 27/2023 of Thenmala Police Station.
A3	:	09.01.2023	:	Certified Copy of Vehicle Mahazar in Cr.No. 27/2023 of Thenmala Police Station.
A4	:	10.02.2023	:	Certified Copy of AMVI Report in Cr. No.

- 27/2023 of Thenmala Police Station.
- A5 : 25.03.2023 : Certified Copy of Final Report in Cr.No. 27/2023 of Thenmala Police Station. .
- A6 : 04.03.2023 : Certified Copy of Treatment Certificate issued from Medical College Hospital, Thiruvananthapuram.
- A7 : 21.12.2022 : O.P. ticket issued from Primary Health Centre, Kazhuthurutti.
- A8 : 26.12.2022 : Discharge Summary issued from Medical College Hospital, Thiruvannathapuram.
- A9 : 21.12.2022 : Report on CT-Brain Trauma issued from Taluk Headquarters Hospital, Punalur.
- A10 : 31.12.2022 : Discharge Card issued from Taluk Headquarters Hospital, Punalur.
- A11 : 04.01.2023 : Out Patient Record issued from Medical College Hospital, Thiruvannathapuram.
- A11(a): 18.01.2023 : Out Patient Record issued from Medical College Hospital, Thiruvannathapuram.
- A11(b): 22.03.2023 : Out Patient Record issued from Medical College Hospital, Thiruvannathapuram.
- A12 : 24.12.2022 : Report on CT Scan Brain (Plain)-Axial issued from Medical College, Thiruvananthapuram.
- A13 : 16.08.2023 : Discharge Card issued from Medical College Hospital, Thiruvananthapuram.
- A14 : 06.09.2023 : Outpatient Record issued from Medical College Hospital, Thiruvananthapuram.
- A15Series: Nil : Medical Records.
- A16 Series: Nil : Medical Bills.
- A17 : Nil : Copy of Aadhar Card in respect of Suma.

Exhibits for the Respondents:-

- B1 : 07.03.2022 : 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**MEMO OF COSTS****OP(MV) 232/2023****Costs for the Petitioner**

1	Court Fee	4,873/-
2	LBF	5,500/-
3	Vakalath Fee	5/-
4	Petition Fee	10/-
5	Stamp for exhibits	70/-
6	Process fee	90/-
7	Advocate Fee	11,000/-

TOTAL**Rs. 21,548/-**

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$$\text{Proportionate Cost} = \frac{21548 \times 320350}{550000}$$

$$= \frac{12,551/-}{=====}$$

(Rupees Twelve thousand five hundred and fifty one only)**Proportionate costs allowed. Cost memo filed.****MOTOR ACCIDENTS CLAIMS TRIBUNAL.**