

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.

Present:- Sri. A. V Telles, Motor Accidents Claims Tribunal

Tuesday the 2nd day of June, 2026/12th Jyeshtha,1948.

OP(M.V) 340/2023

Between

Petitioner:-

Mariyamma Aged 64
W/o. John,
Charuvila Puthen Veedu,
Karukone P.O, Anchal,
Alayamon Village, Punalur Taluk.
Pin – 691306

Rep. by Adv. Sri. Binu S.S

And

Respondents:-

1. Shaji J.P Aged 44,
S/o.Johnson. K,
Thadatharikathu Veedu,
Venkottukavu, Chackrapanipuram,
Puthukulangara, Thiruvananthapuram
695541 Now residing at
Chakkalath Veedu, Kallupalam,
Puramattam Village, Mallappalli Taluk,
Pathanamthitta District Pin - 689543.
2. National Insurance Company Ltd.,
Rep. by Divisional Manager, Kollam.
691001.
R1 - Ex-parte and
R2 rep. by Adv. Sri. K.M. Thomaskutty.

This OP(MV) have been finally heard on 19.05.2026 and on
02.06.2026 the Tribunal delivered the following:-

AWARD

This is a claim petition for compensation filed u/s 166 of the Motor Vehicles Act, 1988.

2. The case of the petitioner in brief is as follows :-

On 22/12/2022 at about 5 pm, while the petitioner was travelling in a car bearing Reg. No KL-25M/3757 from Anchal to Trivandrum through MC road and when the car reached at Vamanapuram hospital junction, another car bearing Reg No. KL-03Q-3542 driven by the 1st respondent in a rash and negligent manner endangering the human life, hit the car travelled by the petitioner and the petitioner sustained serious injuries. Soon after the incident the petitioner was taken to the Medical College Hospital Thiruvananthapuram. On examination, identified fracture on the lateral part of 5th and 6th rib of left side and fracture on 5th metacarpal neck of right hand including soft tissue injury, abrasions over the face and knee of the petitioner. She was treated as an inpatient and discharged on 23.12.2022. After discharge from the Medical College, she continued the treatment at St' Joseph hospital Anchal from 23.12.2022 to 29.12.2022. While on treatment on 28.12.2022 IVRA, CMR+ percutaneous K wire fixation of 5th metacarpal of right hand of the petitioner was done and treatment is continuing. The petitioner is a home maker and she had been managing all the household affairs including the responsibility of looking after the children, cooking food, washing clothes and attending all the house

hold chores. Petitioner has aged 64 and was earning Rs. 20,000/- per month at the time of accident. She alleged that after the accident she cannot resume her routine activities like managing the house hold needs. Now she arranged a maidservant for the management of household needs. Due to the accident, she sustained serious injuries and suffered severe pain. The accident occurred only due to the rash and negligent driving of the car by the 1st respondent, who is also the owner of the offending car. The 2nd respondent is the insurer of the car bearing Reg No. KL-03Q-3542, which caused the accident. The petitioner alleged that she is entitled to get a total amount of Rs.3,50,000/- as compensation from the respondents. Both the respondents are jointly and severally liable to pay compensation to the petitioner.

3. The 1st respondent though served with notice, did not appear before the Tribunal and he was called absent and set ex-parte. The 2nd respondent filed written statement contending that there was no negligence on the side of the 1st respondent. 1st respondent was driving his car with care and caution by keeping his side. The accident occurred solely due to the rash and negligent driving of the driver of the car in which the petitioner was travelled. He drove the car without keeping the proper side and without dimming the head lights. The 2nd respondent further contended that the incident was purely an accident and if the Tribunal finds the fault of the 1st respondent, composite negligence be find against the drivers of both the vehicles involved in the occurrence to the

extent of negligence contributed. The age, occupation, monthly income, nature of the injuries, allegation of permanent disability, the claim amount are denied by the 2nd respondent. The 2nd respondent admitted the insurance policy which was issued in favour of car bearing registration number KL-03Q-3542. The 2nd respondent further contended that the 1st respondent did not report the accident before the insurer and submitted any claim or produced the documents of the car and his driving license, after the accident, for verification as warranted in the conditions enumerated in the policy. Since the 1st respondent violated the policy conditions, the 2nd respondent is not liable to indemnify the act of the 1st respondent or to compensate the petitioner. The 2nd respondent contended that permission be given to the insurance company to proceed in accordance with the provisions of section 170 of the Motor Vehicle Act. It is also contended that the insurance company may be permitted to recover the amount from the 1st respondent by reserving its right of recovery.

4. On the above pleadings, the following issues arise for trial: -
 - i) Whether the petitioner sustained injuries due to the rash or negligent driving of the car bearing Reg No. KL-3Q-3542 by the 1st respondent?
 - ii) Whether the petitioner is entitled to get any compensation and if so, what amount?
 - iii) Who is liable to compensate the petitioner?
 - iv) Reliefs and Costs?

5. When the matter came up for trial, no oral evidence adduced on either side. Exts A1 to A8 marked on the side of the petitioner. Ext A1 is the FIR, Ext.A1(a) is the FIS, Ext.A2 is the final report, Ext.A2(a) and A2(b) are motor vehicle inspection reports, Ext.A3 is the accident register cum wound certificate, Ext.A4 and A4(a) are outpatient records, Ext.A5 is the discharge summary, Ext.A6 series are the medical bills, Ext.A7 is the Aadhar card and Ext.A8 is the pan card of the petitioner. No documentary evidence was adduced by the 2nd respondent.

6. Heard both sides.

7. **Issue No.1 :-** The petitioner contended that she sustained injuries on 22.12.2022 at about 5 pm at Vamanapuram junction on the M.C road. A car bearing Reg No. KL-3Q-3542 driven by the 1st respondent hit the car travelled by the petitioner and she sustained injuries. It is further contended that the accident had occurred due to the rash and the negligent driving of the 1st respondent. The 2nd respondent contended that there was no negligence or rashness on the side of the 1st respondent. The accident occurred solely due to the negligence of the driver of the car in which the claimant was travelling.

8. The petitioner has produced Ext A1, copy of FIR in Crime No.17/2023 of Venjaramood Police station. Ext A1 (a) is the first information statement, the basis for the registration of FIR. Ext A2 is the final report in crime No 17/2023 forwarded to the Judicial First Class Magistrate Court-1 Nedumangadu against

1st respondent alleging commission of offences punishable under sections 279, 337, 338 IPC, and Ext A2 (a), A2(b) are the copy of accident inspection report prepared by the Motor Vehicle Inspector. All these documents show that the accident had occurred due to the negligence of the 1st respondent. The Hon'ble High Court of Kerala in **New India assurance Company Ltd Vs Pazhaniyammal and others 2011(3) KHC 595** held that “as a general rule, production of 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 produced any evidence to show that the accident had not occurred due to the rash and negligent driving endangering the human life, of the car bearing Reg.No. KL-3Q-3542 by the 1st respondent. Therefore, from Ext. A1, A1(a), A2, A2(a), A2(b) this Tribunal finds that the rash and negligent driving of the car bearing Reg No. KL-3Q- 3542 by the 1st respondent is the direct and proximate cause of the accident and the injuries sustained by the petitioner.

9. The petitioner contended that due to the occurrence, she sustained injuries and was taken her to Medical College hospital Thiruvananthapuram and later treated at St' Joseph hospital Anchal. She has produced Ext A3, accident register-cum wound certificate dated 22.12.2022 issued by the General surgeon MCH Thirunananthapuram. This certificate shows that the petitioner was

examined by Dr. Jithin Jose Konattu on 22.12.2022. Ext A4 and A4(a) are the outpatient case records of Medical College Hospital, Thiruvananthapuram dated 22.12.2022. Later petitioner was shifted to St' Joseph mission hospital, Anchal and treated her as an inpatient from 23.12.2022 to 27.12.2022. Ext.A5, discharge summery shows that she underwent CMR+percutaneous K-wire fixation on the right hand 5th metacarpal under intravenous regional anesthesia (IVRA). The petitioner contended that she had sustained the following injuries in the accident:-

- i) Fracture antero lateral part of 5th and 6th of left rib
- ii) Fracture on 5th metacarpel neck of right hand
- iii) Abrasions and soft tissue injury over face and knee.

Exts A3, A4, A4(a) and A5 show that the applicant had sustained the injuries in the accident as contended in the petition. Issue No. 1 is found in favor of the petitioner.

10. **Issue No. 2:** - In view of my finding on Issue No.1, the petitioner is entitled to get compensation. The petitioner is a house wife and claimed that she gets Rs 20,000/- as monthly income. But no document is produced to prove her monthly income. In view of the dictum in **Ramachandrappa Vs Manager, Royal Sundaram Alliance Insurance Company Ltd (2011 KHC 4675)** the notional income of the petitioner in the year 2022 is reckoned as Rs. 13,500/-. The petitioner is claiming a sum of

1,20,000/- towards loss of earning. According to her, she is a house wife and was getting an amount of Rs. 20,000/- as monthly income. But no evidence was adduced to prove the income. Considering the nature and severity of the injuries, this Tribunal is of the view that the claimant would have required a period of three months rest for recuperation after treatment. So in the light of Judgment in **Ramachandrappa's** case (Supra), the petitioner is awarded Rs.40,500/- towards loss of earning for a period of three months. Though the petitioner claimed partial loss of earning, considering the amount awarded towards loss of earning, no amount is awarded as partial loss of earning.

11. The petitioner is claiming a sum of Rs 10,000/- towards transportation expense to the hospital. Considering the distance from Vamanapuram junction to Thiruvananthapuram Medical College and back, the petitioner is awarded Rs. 5,000/- towards transportation expenses.

12. The petitioner claims a sum of Rs. 5,000/- towards damage to clothing and articles. Considering the nature of the injuries, she is entitled to receive an amount of Rs. 2,000/- as compensation for damage to clothing.

13. The petitioner claimed Rs.1,30,000/- as medical expenses, bystanders expenses and extra nourishment. The petitioner produced Ext. A6 series medical bills for an amount of Rs. 35,127/-. There is no dispute regarding the medical bills. So, the petitioner is entitled to get an amount of Rs. 35,127/- towards medical expense. Considering the nature of injuries, period of

hospitalization, and other circumstances, the petitioner is entitled to get a sum of Rs. 4,000/- as bystander's expenses (Rs. 500/- per day) Considering the nature of the injuries (multiple fractures including rib fractures and a metacarpal fracture requiring K-wire fixation), the age of the petitioner, the period of recovery, and the need for a nutritious diet to facilitate proper healing and recovery, this tribunal deems it just and reasonable to award a sum of Rs. 10,000/- towards extra nourishment.

14. The petitioner claims Rs. 75,000/- as compensation for pain and suffering. Considering the nature of injuries and other circumstances, the petitioner is entitled to get a sum of Rs. 50,000/- as compensation for pain and suffering.

15. The petitioner is claiming an amount of Rs.1,40,000/- as compensation for permanent as well as partial disability and loss of earning. The applicant has not produced any disability certificate from the medical board. So, no amount is awarded under the head of permanent or partial disability.

16. The injuries would have restricted the petitioner's normal household activities and enjoyment of life for several months. Considering the nature of the injuries, the period of hospitalization and the loss of enjoyment for life, restrictions in carrying out her normal day-to-day and household duties, the petitioner is entitled compensation for loss of amenities and an amount of Rs. 40,000/- is awarded as compensation for loss of amenities.

17. Considering the nature of the injuries and the need of follow up consultations this Tribunal awarded a modest sum of Rs. 10,000/- towards future medical expenses.

18. The compensation awarded to the petitioner under different heads are given as follows:-

Sl. No.	Heads	Amount claimed (Rs.)	Amount awarded (Rs.)	Basis-vital details in a nut shell
Pecuniary Damages				
1	Loss of earning	1,20,000	40,500	(13,500 x 3 months)
2	Transport to hospital	10,000	5,000	Reasonable estimation
3	Damage to clothing and articles	5,000	2,000	„
4	Medical expenses		35,127	Ext.A6 series medical bills
	Extra nourishment	1,30,000	10,000	Reasonable estimation
	Bystander's expense		4000	„
Non-pecuniary Damages				
5	Compensation for pain and sufferings	75,000	50,000	Reasonable estimation
6	Compensation for permanent disability and compensation for loss of earning power	1,40,000	Disallowed
7	Compensation for loss of amenities in life	75,000	40,000	Reasonable estimation
8	Future medical expenses	25,000	10,000	„
	Total Amount limited to Rounded to	5,80,000 3,50,000	1,96,627 1,96,630	

19. Therefore the claimant is entitled to get an amount of **Rs. 1,96,630/-(Rupees One Lakh Ninety Six Thousand Six Hundred and Thirty only)** as shown in the schedule.

20. **Issue No. 3 :-** The fact that the accident occurred as a result of the rash and negligent driving of the car bearing Reg. No. KL-03Q/3542 by the 1st respondent stands proved. The 1st respondent is also the registered owner of the offending car which was insured with the 2nd respondent. It is admitted by the 2nd respondent that insurance policy was issued for car bearing Reg. No. KL-03Q/3542 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 petitioner. Therefore, the petitioner is entitled to get compensation from the 2nd respondent. Issue No. 3 is found in favour of the petitioner.

21. **Issue No. 4 :-**

In the result, the O.P is allowed in part and award is passed on the following terms:-

(1) The petitioner is entitled to recover an amount of **Rs. 1,96,630/- (Rupees One Lakh Ninety Six Thousand Six Hundred and Thirty only)** as compensation with interest at the rate of 9% per annum from the date of application ie.19-06-2023 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 ₹ 2,875 and ₹ 3,500 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. The amount due to the

petitioner shall be transferred directly to the credit of the bank account of the petitioner (Mariyamma), with Account No. 67372930230 IFSC : SBIN0070245 of State Bank of India, Anchal Branch, 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.

22. Issue free copies of this award to the petitioner and the 2nd respondent.

23. The parties should apply as soon as possible for the return of all documents which they may wish to preserve. 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 2nd June, 2026.

Sd/-

A. V. Telles.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	03.01.2023	:	Certified Copy of FIR in Cr.No.17/2023 of Venjaramoodu Police Station.
A1(a)	:	03.01.2023	:	Certified Copy of FIS in Cr.No.17/2023 of Venjaramoodu Police Station.

A2	:	25.01.2023	:	Certified Copy of Final Report in Cr.No. 17/2023 of Venjaramoodu Police Station.
A2(a)	:	18.01.2023	:	Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL- 25M- 3757 in Cr.No.17/2023 of Venjaramoodu Police Station.
A2(b)	:	18.01.2023	:	Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL- 03Q- 3542 in Cr.No.17/2023 of Venjaramoodu Police Station
A3	:	22.12.2022	:	Certified Copy of Accident Register Cum Wound Certificate issued from Medical college Hospital, Thiruvananthapuram.
A4	:	22.12.2022	:	Out Patient Record issued from Medical college Hospital, Thiruvananthapuram.
A4(a)	:	22.12.2022	:	Out Patient Record issued from Medical college Hospital, Thiruvananthapuram.
A5	:	27.12.2022	:	Discharge Summary issued from St. Joseph's Mission Hospital, Anchal.
A6 series:	Nil	:	:	Medical Bills.
A7	:	Nil	:	Copy of Aadhar Card in respect of Mariamma.
A8	:	Nil	:	Copy of PAN Card in respect of Mariamma.

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

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MOTOR ACCIDENTS CLAIMS TRIBUNAL**MEMO OF COSTS****OP(MV) 340/2023****Costs for the Petitioner**

1	Court Fee	2,875/-
2	L B F	3,500/-
3	Vakalath Fee	5/-
4	Other Charges	500/-
5	Stamp for exhibits	10/-
6	Process Fee	30/-
7	Advocate Fee	12,232/-

TOTAL**Rs. 19,152/-**

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Proportionate Cost = $\frac{19152 \times 196630}{350000}$

= 10,760/-

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(Rupees Ten thousand seven hundred and sixty only)

Proportionate costs allowed. Cost memo filed.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.