

**IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.**

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

**Friday the 13<sup>th</sup> day of March, 2026/22<sup>nd</sup> Phalguna, 1947.**

**OP(M.V) 388/2022**

**Between**

**Petitioners:-**

1. Vishnu (Minor aged 13 years),  
S/o. Palanivel,  
Palani House, Attinu Kizhakkekara,  
Villumala P.O., 691310,  
Kulathupuzha, Kollam District.
2. Palanivel, aged 41 years,  
S/o. Subhayya,  
Palani House,  
Villumala P.O., 691310  
Kulathupuzha, Kollam District.

For and on behalf of the 1<sup>st</sup> petitioner (minor) as his father and legal guardian.9

Represented by Adv. Sri. Hareesh J Pillai and

Adv. Sri. V. Manoj

**And**

**Respondents:-**

1. Anil. P aged 32  
S/o. Retnamma,  
Anil Vilasom, Peruvazhikkala  
Villumala P.O., 691310,  
Kulathupuzha, Kollam District.
2. The Manager,  
HDFC ERGO Insurance Co. Ltd.,  
Bishop Jerome Nagar, New Block,  
5<sup>th</sup> Bishop Jerome Lane, Chinnakkada,  
Kollam. 691001

R1, R2 – Ex-Parte and

R3 rep. by Adv. Sri. R. Mohana Rajan.

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:-

The 1<sup>st</sup> applicant is a minor represented by his father, the 2<sup>nd</sup> applicant. While the 1<sup>st</sup> applicant was walking through the side of Kulathupuzha-Madathara road in north-south direction and when he reached near coffee shop of Babu at Kulathupuzha Junction at about 6 p.m on 11-11-2021, the Scooter bearing Reg. No.KL-25P/5652 ridden by the 1<sup>st</sup> respondent in a rash and negligent manner through the same road in same direction had hit the 1<sup>st</sup> applicant causing serious injuries to him. Immediately, the 1<sup>st</sup> applicant was taken to Govt. Hospital, Kulathupuzha and referred to Medical College Hospital, Thiruvananthapuram, where he underwent treatment as inpatient. The accident occurred due to the rash and negligent riding of the scooter bearing Reg. No. KL-25P/5652 by the 1<sup>st</sup> respondent who is also the owner of the offending scooter. The 2<sup>nd</sup> respondent is the insurer of the offending vehicle. The 1<sup>st</sup> applicant claims compensation of Rs. 7,00,000. The respondents are jointly and severally liable to compensate the 1<sup>st</sup> applicant.

3. The 1<sup>st</sup> respondent was set ex-parte.

4. The 2<sup>nd</sup> respondent had filed written statement with the following contentions:

The Activa Scooter bearing Reg. No. KL-25P/5652 was having insurance coverage as per the insurance policy issued by the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent was not having a valid and effective driving licence at the time of accident. The 1<sup>st</sup> respondent had not furnished the particulars of policy, date, time and place of accident, particulars of the injured and particulars of the driving licence to the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent does not admit that the 1<sup>st</sup> respondent had ridden the offending vehicle in a rash and negligent manner at the time of accident. The compensation amount claimed is exorbitant. So, the application is to be dismissed with costs.

5. The following issues are framed:-

1. Whether the 1<sup>st</sup> applicant sustained injuries in the accident?
2. Whether the rash and negligent riding of scooter bearing Reg. No. KL-25P/5652 by the 1<sup>st</sup> respondent is the direct and proximate cause of the injuries sustained by the 1<sup>st</sup> applicant ?
3. Whether the 1<sup>st</sup> applicant is entitled to get compensation ? If so, what is the quantum?
4. Who is liable to pay compensation to the 1<sup>st</sup> applicant?
5. Reliefs and costs?
6. On the side of the 1<sup>st</sup> applicant, Exts.A1 to A12 series were marked.

On the side of the 2<sup>nd</sup> respondent Ext. B1 was marked.

7. Heard both sides.

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

The 1<sup>st</sup> applicant states that he had sustained the following injuries in the accident :-

1. Comminuted fracture involving nasal crest and adjacent alveolar process of maxilla
2. Lacerated wound over the chin region
3. Avulsion teeth upper ® central incisor, upper (L) central incisor and lateral incisor
4. Dento alveolar fracture ----- maxillary anterior region
5. Avulsed teeth ----- replanted and fixed with segmental arch bar
6. Inter dental wiring -----
7. Wiring done -----
8. Arch bar stabilization ---- to ---- region

Ext. A6 is the accident register cum wound certificate issued from Community Health Centre, Kulathupuzha. Ext.A7 is the treatment certificate issued from Govt. Dental College, Thiruvananthapuram. Ext.A8 is the case record relating to the applicant issued from Govt. Dental College, Thiruvananthapuram. Ext.A9 is the OP ticket issued from Community Health Centre, Kulathupuzha. Ext.A10 series are outpatient records. Ext.A11 is the report of CT scan brain. Exts.A6 to A11 reveals that the 1<sup>st</sup> applicant had sustained the injuries which are stated in the application due to the road traffic accident. Issue No. 1 is found in favour of the 1<sup>st</sup> applicant.

9. **Issue No. 2 :-**

Exts. A1 to A5 are certified copies. Ext.A1 is FIR No.1151/2021 registered at Kulathupuzha Police Station u/s 279, 337 and 338 of IPC against the rider of scooter bearing Reg. No. KL-25P/5652 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. 1151/2021 of Kulathupuzha Police Station alleging commission of offences punishable u/s 279, 337 and 338 of IPC and Sec. 3(1) r/w 181 of M.V Act by the 1<sup>st</sup> 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 2<sup>nd</sup> respondent had not adduced evidence in support of the contention that the rash and negligent riding of scooter bearing Reg. No. KL-25P/5652 by the 1<sup>st</sup> respondent is the cause of the accident. Therefore, from Exts.A1 to A5 documents, I find that the rash and negligent riding of scooter bearing Reg. No. KL-25P/5652 by the 1<sup>st</sup> respondent is the direct and proximate cause of the injuries sustained by the 1<sup>st</sup> applicant in the accident. Issue No. 2 is found in favour of the 1<sup>st</sup> applicant.

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

In view of my finding on Issue Nos. 1 and 2, the 1<sup>st</sup> applicant is entitled to get compensation. The 1<sup>st</sup> applicant is awarded ₹ 20,000 towards transport to hospital, ₹ 10,000 towards extra nourishment and ₹ 2,500 towards damages to clothing. The 1<sup>st</sup> applicant has produced Ext. A12 series medical bills showing payment of ₹ 1,497 and he is entitled to get this amount towards medical expenses. The 1<sup>st</sup> applicant is awarded ₹ 10,000 towards bystander's expenses.

11. The 1<sup>st</sup> applicant is awarded ₹ 75,000 towards compensation for pain and suffering. The applicant has claimed ₹ 1,00,000 towards compensation for permanent disability. The 1<sup>st</sup> applicant has not produced any disability certificate from the medical board showing his disability. The nature of the injuries sustained by the 1<sup>st</sup> applicant does not show that he is having any disability. Therefore, no amount is awarded under this head. The 1<sup>st</sup> applicant is awarded ₹ 50,000 towards compensation for loss of amenities in life. All other claims are disallowed

12. The compensation awarded to the 1<sup>st</sup> applicant under different heads are given below :-

Sl. No.	Heads	Amount claimed (Rs.)	Amount awarded (Rs.)	Basis-vital details in a nut shell
<b>Pecuniary Damages</b>				
1	Transport to hospital	30,000	20,000	Reasonable estimation

2	Extra nourishment	30,000	10,000	„
3	Damage to clothing and articles	40,000	2,500	„
4	Medical expenses	50,000	1,497	Ext.A12 series medical bills
	Bystander's expense		10,000	Reasonable estimation
<b>Non-pecuniary Damages</b>				
5	Compensation for pain and sufferings	1,00,000	75,000	Reasonable estimation
6	Compensation for continuing or permanent disability and compensation for loss of earning power	1,00,000 2,50,000	....	Disallowed
7	Compensation for loss of amenities in life	....	50,000	Reasonable estimation
8	Future treatment	1,00,000	.....	Disallowed
	<b>Total Rounded to</b>	<b>7,00,000</b>	<b>1,68,997</b> <b>1,69,000</b>	

13. Therefore, the 1<sup>st</sup> applicant is entitled to get total compensation of **₹ 1,69,000 (Rupees One Lakh Sixty Nine Thousand only)** as shown in the schedule.

14. The accident occurred due to the rash and negligent riding of Scooter bearing Reg. No. KL-25P/5652 by the 1<sup>st</sup> respondent. The 2<sup>nd</sup> respondent admits that the offending vehicle was having insurance coverage at the time of accident. Ext.B1 is the copy of the insurance policy issued by the 2<sup>nd</sup> respondent for the offending vehicle which covers the date of accident. The 2<sup>nd</sup> respondent contends that the 1<sup>st</sup> respondent was not having valid and effective driving

licence at the time of accident. Ext.A5 final report shows that the 1<sup>st</sup> respondent was charged for offence punishable u/s 3(1) r/w 181 of M.V Act as he rode the offending scooter at the time of accident without having a valid and effective driving licence. As there is violation of condition of policy, the 2<sup>nd</sup> respondent having a statutory liability to indemnify the 1<sup>st</sup> respondent shall pay compensation to the 1<sup>st</sup> applicant and recover the compensation amount from the 1<sup>st</sup> respondent. Issue Nos. 3 and 4 are found in favour of the 1<sup>st</sup> applicant

15. **Issue No. 5 :-**

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

(1) The 1<sup>st</sup> applicant is entitled to recover an amount of **₹ 1,69,000 (Rupees One Lakh Sixty Nine Thousand only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 14-09-2022 till realization with proportionate costs from the 2<sup>nd</sup> respondent.

(2) The 2<sup>nd</sup> respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹ 6,373 and ₹ 7,000 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 the said amount is directed to be retained in court deposit until 1<sup>st</sup> 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 1<sup>st</sup> 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.

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

16. Issue free copies of this award to the 1<sup>st</sup> applicant and 2<sup>nd</sup> 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 13<sup>th</sup> March, 2026.

**Sd/-**

**Baiju. T. D**

**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**

**Appendix**

**Exhibits for the Petitioners:-**

A1	:	16.11.2021	:	Certified Copy of FIR in Cr.No. 1151/2021 of Kulathupuzha Police Station.
A1(a)	:	16.11.2021	:	Certified Copy of FIS in Cr.No. 1151/2021 of Kulathupuzha Police Station.
A2	:	16.11.2021	:	Certified Copy of Scene Mahazar in Cr.No. 1151/2021 of Kulathupuzha Police Station.
A3	:	17.11.2021	:	Certified Copy of Vehicle Mahazar in Cr.No. 1151/2021 of Kulathupuzha Police Station.

- A4 : 29.11.2021 : Certified Copy of AMVI Report in Cr.No 1151/2021 of Kulathupuzha Police Station.
- A5 : 30.11.2021 : Certified Copy of Final Report in Cr.No. 1151/2021 of Kulathupuzha Police Station.
- A6 : 11.11.2021 : Copy of Accident Register Cum Wound Certificate in respect of Vishnu issued from Community Health Centre, Kulathupuzha.
- A7 : 19.01.2022 : Copy of Treatment Certificate in respect of Vishnu issued from Govt. Dental College, Thiruvananthapuram.
- A8 : 12.11.2021 : Case Records in respect of Vishnu issued from Govt. Dental College, Thiruvananthapuram.
- A9 : 14.11.2021 : OP Ticket in respect of Vishnu issued from Community Health Centre, Kulathupuzha.
- A10 : 11.11.2021 : Out Patient Record in respect of Vishnu issued from Medical College Hospital, Thiruvananthapuram
- A10(a): 11.11.2021 : Out Patient Record in respect of Vishnu issued from Medical College Hospital, Thiruvananthapuram
- A10(b): 12.11.2021 : Out Patient Record in respect of Vishnu issued from Govt. Dental College Hospital, Thiruvananthapuram
- A11 : 11.11.2021 : Report on CT Scan Brain (Plain) – Axial + Mandible in respect of Vishu issued from Medical College Hospital, Thiruvananthapuram.
- A12 Series: Nil : Medical Bills in respect of Vishnu.

Exhibits for the Respondents:-

- B1 : 20.03.2021 : 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) 388/2021****Costs for the Petitioner**

1	Court Fee	6,373/-
2	LBF	7,000/-
3	Vakalath Fee	5/-
6	Stamp for exhibits	22/-
7	Process fee	60/-
8	Advocate Fee (Senior)	10,850/-
9	Advocate Fee (Junior)	5,425/-

**TOTAL****Rs. 29,735/-**

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$$\text{Proportionate Cost} = \frac{29735 \times 169000}{700000}$$

$$= 7179/-$$

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**(Rupees Seven thousand one hundred and seventy nine only)**  
**Proportionate costs allowed. Cost memo filed.**

**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**