

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.

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

Saturday the 18th day of April, 2026/28th Chaithra, 1948.

OP(M.V) 383/2023

Between

Petitioner:-

Celineraj Aged 63 years

W/o. Arul Raj,

Hebron House, Near Railway Station,

Chemmanthoor, Punalur P.O.,

Punalur Taluk Pin - 691305

Rep. by Adv. Sri. S. S. Prasantha Kumar.

And

Respondents:-

1. Arul Raj Aged 65 years,

S/o. Maria Antony,

Hebron House, Near Railway Station,

Chemmanthoor, Punalur P.O.,

Punalur Taluk Pin - 691305

2. Cholamandalam M/s.General Insurance Co.Ltd.,

Dare House, NSC Bose Rd,

Parrys George Town, Chennai

Tamil Nadu Pin – 600001.

R1- Ex-parte and

R2 rep. by Adv. Sri. Sreedharan Thampi.

This OP(MV) have been finally heard on 26.03.2026 and on 18.04.2026 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:-

While the applicant was travelling in car bearing Reg. No. KL-25A/1951 owned and driven by the 1st respondent in a rash and negligent manner through Punalur-Anchal MC road and when the car reached near Karavalloor Junction at about 10.15 p.m on 09-01-2022, the 1st respondent had hit the car against a compound wall causing serious injuries to the applicant. Immediately, the applicant was taken to Govt. Taluk Hospital, Punalur, given first aid and referred to St. Joseph's Mission Hospital, Anchal for treatment. Later, the applicant was taken to SP Fort Hospital, Thiruvananthapuram where she underwent treatment as an inpatient. The accident occurred due to the rash and negligent driving of car bearing Reg. No. KL-25A/1951 by the 1st respondent. The 2nd respondent is the insurer of car bearing Reg. No. KL-25A/1951. The applicant claims compensation of ₹ 6,00,000. The respondents are jointly and severally liable to compensate the applicant.

3. The 1st respondent was set ex-parte.

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

The 1st respondent had not driven car bearing Reg. No. KL-25A/1951 in a rash and negligent manner at the time of accident. The 2nd respondent is not liable to compensate the applicant as the accident occurred due to the fault of the applicant. The injuries sustained by the applicant does not cause any disability. The compensation amount claimed is exorbitant. The 2nd respondent had issued

insurance policy for car bearing Reg. No. KL-25A/1951 covering the date of accident. The 1st respondent had not reported the accident, produced the vehicle particulars and driving licence before the 2nd respondent for verification. As there is violation of condition of policy, the 2nd respondent is not liable to indemnify the 1st respondent and compensate the applicant. 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 driving of car bearing Reg. No. KL-25A/1951 by the 1st 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 A12 were marked. The

2nd respondent had not adduced evidence.

7. Heard both sides.

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

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

1. Comminuted fracture proximal humerus left shoulder
2. Radial nerve palsy left arm

Ext. A6 is the certified copy of accident register cum wound certificate issued from Taluk Headquarters Hospital, Punalur. Ext.A7 is the report of CT scan of the left shoulder. Ext.A8 is the discharge summary issued from St. Joseph's Mission Hospital, Anchal which shows that the applicant was admitted to the hospital on 10-01-2023 and discharged on 11-01-2023. Ext.A9 is the discharge summary issued from SP Fort Hospital, Thiruvananthapuram which shows that the applicant was admitted to the hospital on 11-01-2023 and discharged on 14-01-2023. Ext.A10 is the discharge summary issued from KIMS Health, Thiruvananthapuram which shows that the applicant was admitted to the hospital on 14-01-2023 and discharged on 18-01-2023. Exts.A6 to A10 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 series to A5 are certified copies. Ext.A1 is FIR No. 191/2023 registered at Punalur Police Station u/s 279, 337 and 338 of IPC against the 1st respondent and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle record mahazar, Ext.A4 is the motor vehicle inspection report and Ext.A5 is the final report forwarded to the Judicial First Class Magistrate Court-II, Punalur in FIR No. 191/2023 of Punalur Police Station alleging commission of offences punishable u/s 279, 337 and 338 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 2nd respondent had not adduced evidence in support of the contention that the accident had not occurred due to the rash and negligent driving of car bearing Reg. No. KL-25A/1951 by the 1st respondent and the accident occurred due to the negligence of the applicant. Therefore, from Ext.A1 series to A5 documents, I find that the rash and negligent driving of car bearing Reg. No. KL-25A/1951 by the 1st 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 states that she is a housewife with monthly income of ₹ 30,000. 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 the applicant in the year 2023 is reckoned as ₹ 14,000 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 ₹ 56,000 for loss of earning for a period of 4 months (14,000 x 4 months). The applicant is awarded ₹ 10,000 towards transport to hospital, ₹ 5,000 towards extra nourishment and ₹ 2,500 towards damages to clothing and articles. The applicant has produced Ext.A11 series medical bills showing payment of ₹ 3,82,299 and she is entitled to get this amount towards medical expenses. The applicant is awarded ₹ 20,000 towards bystander's expenses.

11. The applicant is awarded ₹ 75,000 towards compensation for pain and suffering. The applicant has claimed ₹ 1,50,000 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.A12 is the copy of the Aadhar card of the applicant which shows that her date of birth is 07-01-1960. The accident occurred on 09-01-2023. So, the age

of the applicant at the time of accident was 63 years. The multiplier applicable in this case is '7'. Taking in to consideration the submission made by the counsel for the applicant and the 2nd respondent, the functional disability of the applicant is fixed at 10%. Hence, the applicant is awarded ₹ 1,17,600 towards compensation for functional disability ($14,000 \times 12 \times 7 \times 10/100$). The applicant is awarded ₹.25,000 towards compensation for loss of amenities in life.

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 earning	80,000	56,000	(14,000 x 4 months)
2	Transport to hospital	10,000	10,000	Reasonable estimation
3	Extra nourishment	5,000	5,000	„
4	Damage to clothing and articles	5,000	2,500	„
5	Medical expenses	2,00,000	3,82,299	Ext.A11 series medical bills
	Bystander's expense		20,000	Reasonable estimation
Non-pecuniary Damages				
6	Compensation for pain and sufferings	1,00,000	75,000	Reasonable estimation
7	Compensation for permanent disability and compensation for loss of earning power	1,50,000	1,17,600	$(\frac{14,000 \times 12 \times 7 \times 10}{100})$
8	Compensation for loss of amenities in life	50,000	25,000	Reasonable estimation
	Total Rounded to	6,00,000	6,93,399 6,93,400	

13. Therefore, the applicant is entitled to get total compensation of **₹ 6,93,400 (Rupees Six Lakhs Ninety Three Thousand and Four Hundre only)** as shown in the schedule.

14. The rash and negligent driving of car bearing Reg. No. KL-25A/1951 by the 1st respondent is the direct and proximate cause of the injuries sustained by the applicant. 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-25A/1951 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 applicant. Therefore, the applicant is entitled to get compensation from the 2nd respondent. 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 **₹ 6,93,400 (Rupees Six Lakhs Ninety Three Thousand and Four Hundre only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 06-07-2023 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 ₹ 6,307 and ₹ 6,934 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 (Celineraj), Canara Bank, Punalur Branch, Account No. 110244858170 IFSC : CNRB0001099 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.

16. Issue free copies of this award to the applicant and the 2nd 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 18th April, 2026.

Sd/-
Baiju. T. D
MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	02.02.2023	:	Certified Copy of FIR in Cr.No. 191/2023 of Punalur Police Station.
A1(a)	:	02.02.2023	:	Certified Copy of FIS in Cr.No. 191/2023 of Punalur Police Station.
A2	:	05.02.2023	:	Certified Copy of Scene Mahazar in Cr.No. 191/2023 of Punalur Police Station.
A3	:	12.02.2023	:	Certified Copy of Vehicle Mahazar in Cr.No. 191/2023 of Punalur Police Station
A4	:	16.02.2023	:	Certified Copy of AMVI Report in Cr.No. 191/2023 of Punalur Police Station
A5	:	25.05.2023	:	Certified Copy of Final Report in Cr.No. 191/2023 of Punalur Police Station
A6	:	09.01.2023	:	Certified Copy of Accident Register Cum Wound Certificate issued from Taluk Headquarters Hospital, Punalur.
A7	:	10.01.2023	:	Report on CT- shoulder issued from St. Josephs Scans, St. Jospheph's Hospital, Anchal.
A8	:	11.01.2023	:	Discharge Summary issued from St. Jospheph's Mission Hospital, Anchal.
A9	:	14.01.2023	:	Discharge Summary issued from SP Fort Hospital, Thiruvananthapuram.
A10	:	14.01.2023	:	Discharge Summary issued from KIMS Health, Thiruvananthapuram.
A11 series:	Nil	:		Medical Bills.
A12	:	Nil	:	Copy of Aadhar Card in respect of Celineraj.

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

MOTOR ACCIDENTS CLAIMS TRIBUNAL**MEMO OF COSTS****OP(MV) 383/2023****Costs for the Petitioner**

1	Court Fee	6,307/-
2	LBF	6,934/-
3	Vakalath Fee	5/-
4	Petition Fee	9/-
5	Stamp for exhibits	70/-
6	Process fee	60/-
7	Advocate Fee	37,070/-

TOTAL**Rs. 50,455/-**

=====

Proportionate Cost = $\frac{50455 \times 693400}{600000}$

= 58,309/-

=====

(Rupees Fifty eight thousand three hundred and nine only)

Proportionate costs allowed. Cost memo not filed.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.