

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) 455/2022****Between****Petitioner:-**

Ambi. S Aged 36 years,
W/o. Anjish. V,
Kalluthundil Puthen Veedu,
Marur P.O., Endadimangalam Village,
Konni Taluk, Pathanamthitta, Pin 691524
Now residing at Anugraha Building, Building
No. PMP/XVIII/1076, Pathanapuram P.O.,
689695, Pathanapuram Village.

Represented by Adv.S. R. Amrit and
Adv. Sri. J. Bahuleyan.

And**Respondents:-**

1. Deril Koshi, M. Zachariah (Aged 45 years),
S/o. Geevarghese Zachariah,
Manakadompallil House, Puthukandam,
Karthikappally P.O., Alappuzha Pin 690516.
2. Prakash (Aged 42 years)
S/o. Kochukoshy, Elavumthanthu Veedu,
Eravankara, Kunnam P.O.,
Mavelikkara Pin -621708
3. The Branch Manager,
New India Assurance Company Ltd.,
Kottarakkara Pin - 691506
R1, R2 - Ex-parte and
R3 rep. by Adv. Sri. K.M. Thomas Kutty.

This OP(MV) have been finally heard on 18.03.2026 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 scooter bearing Reg. No. KL-26G/5891 through Pathanapuram-Maroor road from east to west and when the scooter reached near Kalluvalayam Junction, Maroor at about 6.30 a.m on 09-05-2022, the Torus lorry bearing Reg. No. KL-29R/7317 driven by the 2nd respondent in a rash and negligent manner through the same road from the opposite direction had hit the applicant's scooter. Due to the impact of the hit, the applicant fell down and sustained injuries. Immediately, the applicant was taken to EMS Co-operative Hospital, Pathanapuram, given first aid and referred to TSC Hospital, Kulathoor for specialist treatment. The accident occurred due to the rash and negligent driving of the offending Torus lorry bearing Reg. No. KL-29R/7317 by the 2nd respondent. The 1st respondent is the registered owner and the 3rd respondent is the insurer of the offending Torus lorry bearing Reg. No. KL-29R/7317. The applicant claims compensation of ₹ 20,00,000. 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 accident had not occurred due to the rash and negligent driving of the lorry by the 2nd respondent and the accident occurred due to the rash and negligent riding of scooter bearing Reg. No. KL-26G/5891 by the applicant. The 3rd respondent is not liable to compensate the applicant since the accident occurred due to her fault. The injuries sustained by the applicant does not cause any permanent disability to her. The compensation amount claimed is exorbitant. The 3rd respondent had issued insurance policy for the Torun lorry bearing Reg. No. KL-29R/7317 covering the date of accident. The 3rd respondent is not liable to compensate the applicant since the 1st respondent had not reported the accident, submitted any claim form, produced the vehicle particulars and driving licence of the driver at the time of accident for verification. So, the application is to be dismissed with costs.

5. The following issues are framed:-

1. Whether the applicant sustained injuries in the accident?
2. Whether the rash and negligent driving of Torus lorry bearing Reg. No. KL-29R/7317 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 A13 were marked. The 3rd 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. Contusion in parietal region
2. Lacerated wound in occipital region
3. Multiple abrasions over right knee, right shoulder, back and calcaneal region
4. Fracture clavicle right side

Ext. A6 is the accident register cum wound certificate issued from EMS Co-operative Hospital Society Ltd., Pathanapuram. Ext.A7 is the treatment certificate issued from TSC Hospital, Kulathoor. Ext.A8 is the discharge summary issued from TSC Hospital, Kulathoor which shows that the applicant was admitted to the hospital on 09-05-2022 and discharged on 17-05-2022. Exts.A6 to A8 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.730/2022 registered at Adoor Police Station u/s 279, 337 and 338 of IPC against the driver of Torus lorry bearing Reg. No. KL-29R/7317 and Ext.A1(a) is the first

information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle mahazar, Ext.A4 and A4(a) are motor vehicle inspection reports and Ext.A5 is the final report forwarded to the Judicial First Class Magistrate Court, Adoor in FIR No.730/2022 of Adoor Police Station alleging commission of offences punishable u/s 279, 337 and 338 of IPC 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 occurred due to the rash and negligent riding of scooter bearing Reg. No. KL-26G/5891 by the applicant and the accident had not occurred due to the rash and negligent driving of Torus lorry bearing Reg. No. KL-29R/7317 by the 2nd respondent. Therefore, from Ext.A1 to A5 documents, I find that the rash and negligent driving of lorry bearing Reg. No. KL-29R/7317 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 for compensation. The applicant claims that she is a net work engineer with Kerala Vision Broad Band as well as a business women with monthly income of ₹ 1,75,000. Ext.A10 is the copy of the cable T.V registration certificate issued to the applicant showing that she is a registered cable operator who runs cable television network in the address T.S Digital Communication, Pattazhy. Ext.A11 is the revenue monthly report of T.S Digital Communications. Ext.A12 is the statement of income of the applicant for the assessment year 2022-2023 which shows that her total income from business and profession after tax is ₹.4,87,354. Ext.A10 to A12 documents does not show that the applicant has monthly income of ₹ 1,75,000. On considering Ext.A12 statement of income, the monthly income of the applicant is reckoned as ₹ 40,613 (4,87,354/12). Taking into consideration the fact that the applicant could have taken rest for a period of 6 months after hospitalization due to the accident, the applicant is awarded ₹ 2,43,678 towards loss of earning for a period of 6 months (40,613 x 6 months). The applicant is awarded ₹ 8,000 towards transport to hospital ₹.5,000 towards extra nourishment and ₹ 2,500 towards damages to clothing. The applicant has produced Ext.A9 series medical bills showing payment of ₹.2,75,641 and she is entitled to get this amount towards medical expenses. The applicant is awarded ₹ 25,000 towards bystander's expenses.

11. The applicant is awarded ₹ 75,000 towards compensation for pain and suffering. The applicant has claimed ₹ 5,00,000 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.A13 is the copy of the Aadhar Card of the applicant which shows that her year of birth is 1986. The date of birth of the applicant in the application is 26-01-1986. The accident occurred on 09-05-2022. So, the age of the applicant at the time of accident was 36 years the multiplier applicable is 15. 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 4%. Hence, the applicant is entitled to get ₹ 2,92,414 towards compensation for functional

disability $(40,613 \times 12 \times 15 \times 4/100)$. The applicant is awarded ₹ 30,000 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 earning	8,00,000	2,43,678	$(40,613 \times 6 \text{ months})$
2	Partial loss of earning	1,00,000	Disallowed
3	Transport to hospital	50,000	8,000	Reasonable estimation
4	Extra nourishment	10,000	5,000	„
5	Damage to clothing and articles	5,000	2,500	„
6	Medical expenses	5,00,000	2,75,641	Ext.A9 series medical bills
	Bystander's expense		25,000	Reasonable estimation
Non-pecuniary Damages				
7	Compensation for pain and sufferings	2,00,000	75,000	Reasonable estimation
8	Compensation for continuing or permanent disability and compensation for loss of earning power	5,00,000	2,92,414	$(40,613 \times 12 \times 15 \times 4) / 100$
9	Compensation for loss of amenities in life	10,00,000	30,000	Reasonable estimation
	Total Amount limited to Rounded to	31,65,000 20,00,000	9,57,233 9,57,240	

13. Therefore, the applicant is entitled to get total compensation of **₹ 9,57,240 (Rupees Nine Lakhs Fifty Seven Thousand Two Hundred and Forty only)** as shown in the schedule.

14. The rash and negligent driving of Torus lorry bearing Reg. No. KL-29R/7317 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 Torus lorry bearing Reg. No. KL-29R/7317. It is admitted by the 3rd respondent that Torus lorry bearing Reg. No. KL-29R/7317 was having insurance policy issued by the 3rd respondent covering the date of accident. So, the 3rd respondent has a statutory liability to indemnify the 1st respondent for the compensation to be paid to the applicant. Therefore, the 3rd respondent is liable to pay compensation to the applicant. 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 **₹ 9,57,240 (Rupees Nine Lakhs Fifty Seven Thousand Two Hundred and Forty only)** as compensation with interest at the rate of 9% per annum from the date of application ie.13-10-2022 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 ₹ 19,373 and ₹ 20,000 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 (Ambi.S), Federal Bank, Pathanapuram Branch, Account No. 99980117606462 IFSC : FDRL0001052 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 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 28th March, 2026.

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

- A1 : 19.05.2022 : Certified Copy of FIR in Cr.No. 730/2022 of Adoor Police Station.
- A1(a) : 19.05.2022 : Certified Copy of FIS in Cr. No. 730/2022 of Adoor Police Station
- A2 : 20.05.2022 : Certified Copy of Scene Mahazar in Cr.No. 730/2022 of Adoor Police Station.
- A3 : 23.05.2022 : Certified Copy of Vehicle Mahazar in Cr.No. 730/2022 of Adoor Police Station.
- A4 : 23.05.2022 : Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-29-R-7317 in Cr.No. 730/2022 of Adoor Police Station.
- A4(a) : 23.05.2022 : Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-26-G-5891 in Cr.No. 730/2022 of Adoor Police Station.
- A5 : 07.06.2022 : Certified Copy of Final Report in Cr.No. 730/2022 of Adoor Police Station.
- A6 : 09.05.2022 : Certified Copy of Accident Register Cum Wound Certificate issued from EMS Co-Operative Hospital Society Ltd, Pathanapuram.
- A7 : 03.06.2022 : Certified Copy of Treatment Certificate issued from TSC Hospital, Kulathoor, Thiruvannathapuram.
- A8 : 17.05.2022 : Discharge Summary issued from TSC Hospital, Kulathoor, Thiruvannathapuram.
- A9 Series: Nil : Medical Bills
- A10 : 24.09.2022 : Copy of Cable T.V Registration certificate in

respect of Amp. S issued from Post Office,
Punalur.

- A11 : 01.06.2022 : Revenue Monthly Report and Invoice issued
from Kerala Communicators Cable Ltd,
Panambilly Nagar, Ernakulam.
- A12 : 23.07.2022 : Statement of Income for the year 2021-2022 in
respect of Amp.
- A13 : Nil : Copy of Aadhar Card in respect of Amp. S

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

MOTOR ACCIDENTS CLAIMS TRIBUNAL**MEMO OF COSTS****OP(MV) 455/2022****Costs for the Petitioner**

1	Court Fee	19,373/-
2	LBF	20,000/-
3	Vakalath Fee	5/-
4	Petition Fee	15/-
5	Other Charges	500/-
6	Advocate Fee (Senior)	50,262/-
7	Advocate Fee (Junior)	25,000/-

TOTAL Rs. 1,15,155/-**=====****Proportionate Cost = $\frac{115155 \times 957240}{2000000}$** **= 55,115/-****=====****(Rupees Fifty five thousand one hundred and fifteen only)****Proportionate costs allowed. Cost memo filed.****MOTOR ACCIDENTS CLAIMS TRIBUNAL.**