

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.**Present:- Sri. Baiju.T.D, Motor Accidents Claims Tribunal****Wednesday the 22nd day of April, 2026/2nd Vaisakha, 1948.****OP(M.V) 509/2022****Petitioner:-**

Joy Thomas, aged 65 years, S/o. Thomas,
Choorakuzhiyil Puthen Veedu, Canal Junction,
Areeplacy P.O, Karavaloor (Part) Areeplachy,
Anchal Village, Punalur Taluk, Kollam District.

By Adv. Sri. Pradeep Chandran

And**Respondents:-**

1. Jothish Kumar.B, aged about 47 years,
S/o. Biju Kumar, Kailas, Manjamankala, Eiccode P.O,
Punalur, Vilakudy Village, Punalur Taluk,
Kollam District, PIN-691 322.
2. Bobin.K Babu, aged 24 years, S/o. Babu,
Babu Vilasom, Vattamon, Mathra P.O,
Karavaloor Village, Punalur Taluk, Kollam District,
PIN-691333.
3. The Divisional Manager,
New India Assurance Co .Ltd, Chinnakada,
Kollam- 695 001.

Adv. Sri. M. Sabu for R3.

This OP(MV) have been finally heard on 28.03.2026 and on the same day 22/04/2026 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 riding scooter bearing Reg. No. KL-25J/7921 through Punalur-Anchal road and when the scooter reached Canal Junction at about 11.30 a.m on 09-02-2021, the scooter bearing Reg. No. KL-25L/2555 ridden by the 2nd respondent in a rash and negligent manner along the same road from north to south had hit the applicant's scooter. Due to the impact of the hit, the applicant was thrown on the road and he sustained serious injuries. Immediately, the applicant was taken to Taluk Headquarters Hospital, Punalur and referred to Medical College Hospital, Thiruvananthapuram where he was treated as an inpatient. The accident occurred due to the careless and negligent riding of scooter bearing Reg. No. KL-25L/2555 by the 2nd respondent. The 1st respondent is the registered owner and the 3rd respondent is the insurer of offending scooter bearing Reg. No. KL-25L/2555. The applicant claims compensation of ₹ 14,00,000. 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 negligence of the 2nd respondent since he had ridden scooter bearing Reg. No. KL-25L/2555 with due care and caution. The accident occurred due to the negligence of the applicant. The applicant had not sustained the injuries stated by him and he does not have any disability either temporary or permanent. The compensation amount claimed is exorbitant. The 3rd respondent had issued insurance policy for scooter bearing Reg. No. KL-25L/2555 covering the date of accident. The 3rd respondent is not liable to indemnify the 1st respondent due to violation of condition of policy. The 2nd respondent was not having valid driving licence at the time of accident. 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 scooter bearing Reg. No. KL-25L/2555 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, Ext.A1 series to Ext. A8 were marked.
The 3rd respondent had not adduced evidence.

7. Heard both sides.

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

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

1. Fracture on ribs and injuries to body
2. Fracture @ 8th, 9th, 10th ribs

Ext. A6 is the treatment certificate issued from Taluk Headquarters Hospital, Punalur which shows that the applicant was admitted to the hospital on 09-02-2021 and discharged on 10-02-2021. Ext.A7 is the discharge summary issued from Medical College Hospital, Thiruvananthapuram which shows that the applicant was admitted to the hospital on 10-02-2021 and discharged on 21-02-2021. Exts.A6 and A7 shows that the applicant had sustained the injuries stated by him 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. 342/2021 registered at Anchal Police Station u/s 279, 337 and 338 of IPC against the rider of scooter bearing Reg. No. KL-25L/2555 and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle seizure mahazar and Ext.A3(a) is the vehicle record mahazar in respect of vehicle bearing Reg.

No. KL-25L/2555, Ext.A3(b) is the vehicle record mahazar and Ext.A3(c) is the vehicle seizure mahazar in respect of vehicle bearing Reg. No. KL-25J/7921, Ext.A4 series are motor vehicle inspection reports and Ext.A5 is the final report forwarded to the Judicial First Class Magistrate Court-I, Punalur in FIR No. 342/2021 of Punalur 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 had not occurred due to the rash and negligent riding of scooter bearing Reg. No. KL-25L/2555 by the 2nd respondent and the accident occurred due to the rash and negligent riding of scooter bearing Reg. No. KL-25J/7921 by the applicant. Therefore, from Ext.A1 series to Ext. A5 documents, I find that the rash and negligent riding of scooter Reg. No. KL-25L/2555 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 he is a rubber tapper having monthly income of ₹ 25,000. 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 an unskilled worker in the year 2021 is reckoned as ₹ 13,000 per month. There is no reason to disbelieve the claim of the applicant that he is a rubber tapper. Therefore, the applicant is entitled to get his notional income fixed at a higher level and the notional income of the applicant is fixed at ₹ 15,000 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 ₹ 60,000 towards loss of earning for a period of 4 months (15,000 x 4 months). The applicant is awarded ₹ 12,000 towards transport to hospital, ₹ 6,000 towards extra nourishment and ₹ 2,500 towards damages to clothing and articles. The applicant is awarded ₹ 10,000 towards bystander's expenses.

11. The applicant is awarded ₹ 75,000 towards compensation for pain and suffering. The applicant has claimed ₹ 3,00,000 towards compensation for permanent disability. The applicant has not produced any disability certificate from the medical board showing his 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.A8 is the copy of the Aadhar Card of the applicant which shows that his year of birth is 1957. The date of birth of the applicant shown in the application is 30-10-1957. The accident occurred on 09-02-2021. 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 3rd respondent, the functional disability of the applicant is fixed at 4%. Hence, the applicant is awarded ₹ 50,400 towards compensation for functional disability (15,000 x 12 x 7 x 4/100). The applicant is awarded ₹ 25,000 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	1,50,000	60,000	(15,000 x 4 months)
2	Partial loss of earning	30,000		Disallowed
3	Transport to hospital	30,000	12,000	Reasonable estimation
4	Extra nourishment	20,000	6,000	„
5	Damage to clothing and articles	10,000	2,500	„
6	Medical expenses	1,60,000		Disallowed
	Bystander’s expense		10,000	Reasonable estimation
Non-pecuniary Damages				
7	Compensation for pain and sufferings	2,00,000 3,00,000 2,00,000 	75,000	Reasonable estimation
8	Compensation for permanent disability and compensation for loss of earning power		50,400	($\frac{15,000 \times 12 \times 7 \times 4}{100}$)
9	Compensation for loss of amenities in life		25,000	Reasonable estimation
10	Loss of dependency	2,00,000		Disallowed
11	Future treatment	1,00,000		„
	Total	14,00,000	2,40,900	

13. Therefore, the applicant is entitled to get total compensation of **₹ 2,40,900(Rupees Two Lakhs Forty Thousand and Nine Hundred only)** as shown in the schedule.

14. The rash and negligent riding of scooter bearing Reg. No. KL-25L/2555 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 offending scooter bearing Reg. No. KL-25L/2555. It is admitted by the 3rd respondent that insurance policy was issued for scooter bearing Reg. No. KL-25L/2555 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 applicant is entitled to get compensation from the 3rd 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 **₹ 2,40,900(Rupees Two Lakhs Forty Thousand and Nine Hundred only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 31-10-2022 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 ₹ 13,373 and ₹ 14,000 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 (Joy Thomas), State Bank of India, Karavalloor Branch, Account No.

36047605382 IFSC : SBIN0007623 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 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 22nd April, 2026.

Sd/-

Baiju.T.D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioner:-

A1	17/03/2021	Certified Copy of FIR in Cr.No. 342 /2021 of Anchal Police Station.
A1(a)	17/03/2021	Certified Copy of FIS in Cr.No. 342 /2021 of Anchal Police Station.
A2	18/03/2021	Certified copy of scene Mahazer in Cr.No. 342 /2021 of Anchal Police Station.

A3	09/02/2021	Certified copy of Vehicle seizure Mahazer in bike bearing Reg.No. KL -25 L/ 2555 in respect of Jyothish Kumar.B issued by Sub Inspector of Police, Anchal Police Station.
A3(a)	19/03/2021	Certified copy of Vehicle seizure Mahazer in bike bearing Reg.No. KL -25 L/ 2555 in respect of Jyothish Kumar.B issued by Sub Inspector of Police, Anchal Police Station.
A3(b)	19/03/2021	Certified copy of Vehicle seizure Mahazer in bike bearing Reg.No. KL -25 J/ 7921 in respect of Joy Thomas issued by Sub Inspector of Police, Anchal Police Station.
A3(c)	09/02/2021	Certified copy of Vehicle seizure Mahazer in bike bearing Reg.No. KL -25 J/ 7921 in respect of Joy Thomas issued by Sub Inspector of Police, Anchal Police Station.
A4	27/04/2021	Certified copy of AMVI report in bike bearing no. KL25 J 7921 issued by SHO Anchal Police Station.
A4(a)	27/04/2021	Certified copy of AMVI report in bike bearing no. KL25 L 2555 issued by SHO Anchal Police Station.
A5	06/05/2021	Certified Copy of Final Report in Crime No. 342/2021 of Anchal Police Station.
A6	10/02/2021	Certified copy of Treatment Certificate in respect of Joy Thomas issued by Taluk Head Quarters Hospital, Punalur.
A7	21/02/2021	Discharge summary in respect of Sri.Joy Thomas issued by Medical College Hospital, Thiruvananthapuram.
A8		Adhar copy in respect of Joy Thomas.

Exhibits for the Respondents:- Nil

Witness for both sides :- Nil.

Id/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

//True Copy//

Typed by : Binu.S

Compd. by : Jayasree

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL

MOTOR ACCIDENTS CLAIMS TRIBUNAL
MEMO OF COSTS
OP(MV) 509/2022

Cost for the Petitioner:-

Court fee	13,373/-
L.B.F	14,000/-
Vakkalath fee	5
Petition fee	30
Record fees	60
Advocate fee	14445/-
Total	41913/-

Proportionate Cost : 41913 X 240900

1400000

= 7212

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**(Rupees Seven Thousand Two hundred and Twelve only.
Proportionate cost allowed. Costs memo not filed.)**

Sd/-

MOTOR ACCIDENTS CLAIMS TRIBUNAL .