

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.**Present:- Sri. Baiju. T. D, Motor Accidents Claims Tribunal****Monday the 27th day of April, 2026/7th Vaisakha, 1948.****OP(M.V) 550/2022****Between****Petitioner:-**

Dini Samuel. S Aged 33 years,
W/o. Sijo Mamachan
residing at Vazhavila House, Mukkoodu P.O.,
Mulavana, Kundara, Kollam, Kerala – 691503
hailing from Sunil Bhavan, Parakadavu,
Pulamon Muri, Mylom Village, Kottarakkara P.O.,
Kollam - 691506

Rep. by Adv. Sri. Bijeesh S Pillai.

And**Respondents:-**

1. Ratheesh. S.C aged about 45 years,
residing at Kulathinkara Veedu,
Peringamala, Kalliyoor P.O., Venganoor,
Thiruvananthapuram – 695042
2. Dinesh V. R aged about 24 years
S/o. Reghuvaran, residing at Deepa Bhavan,
Peringamala, Kalliyoor P.O., Venganoor,
Thiruvananthapuram - 695042
3. The Manager,
M/s. Magma HDI General Insurance Co. Ltd.,
Haji. M. Bava Sahib Commercial Complex,
TC-25/2890(1), Ambujavilasam Road,
Thiruvananthapuram - 695001
R1, R2 rep. by Adv. Sri. K. K. Jose Kumar and
R3 rep. By Adv. Sri. Sreedharan Thampi.

The O.P was dismissed for default on 31.03.2026 and it was restored to
file on 06.04.2026 as per order in I.A No. 2/2026.

This OP(MV) have been finally heard on 07.04.2026 and on 27.04.2026 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 her motor cycle bearing Reg. No. KL-02AT/7964 through Kottarakara - Govindamangalam MC road and when she stopped the motor cycle in the center median of the road near Village Office, Mylom and waited for right turn to enter into the Govidnamangalam road at about 2 p.m on 07-06-2022, the Mahindra Pickup van bearing Reg. No. KL-01CS/8227 driven by the 2nd respondent in a rash and negligent manner through the same road in the same direction had hit the rear side of the applicant's motor cycle. Due to the impact of the hit, the applicant fell down on the road and sustained serious injuries. Immediately, the applicant was taken to Taluk Headquarters Hospital, Kottarakkar, given first aid and admitted to Pazhavila Medical Care Specialty Hospital, Kottarakara where she was treated as an inpatient. The accident occurred due to the rash and negligent driving of the 2nd respondent. The 1st respondent is the registered owner and the 3rd respondent is the insurer of the offending pickup van bearing Reg. No.KL-01CS/8227. The applicant claims compensation of ₹ 8,65,300. The respondents are jointly and severally liable to compensate the applicant.

3. The 1st and 2nd respondents have filed joint written statement with the following contentions:-

The 1st respondent is the owner and the 2nd respondent is the driver of vehicle bearing Reg. No. KL-01CS/8227. The accident occurred due to the negligence of the applicant when she overtook the vehicle driven by the 2nd respondent near Mylom. The accident had not occurred due to the rash and negligent driving of the 2nd respondent. The vehicle owned by the 1st respondent was having insurance coverage on the date of accident. The 2nd respondent has valid driving licence at the time of accident. As the accident occurred due to the negligence of the applicant, the respondents are not liable to compensate the applicant. So, the application is to be dismissed with costs.

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 pickup van bearing Reg. No. KL-01CS/8227 by the 2nd respondent. The accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-02AT/7964 by the applicant. The 1st respondent had permitted the 2nd respondent to drive vehicle bearing Reg. No. KL-01CS/8227 without valid fitness certificate. As there is violation of condition of policy, the 3rd respondent is not liable to indemnify the 1st respondent. The 3rd respondent had issued insurance policy for pickup van bearing Reg. No. KL-01CS/8227 covering the

date of accident. The compensation amount claimed is without any basis. There is collusion between the applicant and respondents 1 and 2. The application is to be dismissed with costs.

5. The O.P was dismissed for default on 31-03-2026 and restored on file on 06-04-2026 as per order in IA No. 2/2026.

6. The following issues are raised:-

1. Whether the applicant sustained injuries in the accident?
2. Whether the rash and negligent driving of pickup van bearing Reg. No. KL-01CS/8227 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?
7. On the side of the applicant, Ext.A1 series to A14 were marked.

On the side of the 3rd respondent, Ext.B1 was marked.

8. Heard both sides.

9. **Issue No. 1 :-**

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

1. Pain and swelling over left hip
2. Oedema over back of head scalp
3. Pain and swelling left iliac crest may be left sacroiliac joint
4. Contusion and oedema over left thigh

Ext. A7 is the accident register cum wound certificate issued from Taluk Headquarters Hospital, Kottarakara. Ext.A8 is the treatment certificate issued from Pazhayaveedu Medical Care Specialty Hospital, Kottarakara. Ext.A9 is the outpatient registration card issued from Taluk Headquarters Hospital, Kottarakara. Ext.A10 is the CT scan report issued from Muthoor Help Plus, Kottarakara. Exts.A7 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.

10. **Issue No. 2 :-**

Ext. A1 series to Ext. A6 are certified copies. Ext.A1 is FIR No. 1327/2022 registered at Kottarakara Police Station u/s 279, 337 and 338 of IPC against the driver of pickup van bearing Reg. No. KL-01CS/8227 and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle mahazar, Ext.A4 and A5 are motor vehicle inspection reports and Ext.A6 is the final report forwarded to the Judicial First Class Magistrate Court-I, Kottarakara in FIR No. 1327/2022 of Kottarakara Police Station alleging commission of offences punishable u/s 279 and 337 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 respondents have not adduced evidence in support of the contention that the accident had not occurred due to the rash and negligent driving of pickup van bearing Reg. No. KL-01CS/8227 by the 2nd respondent and the accident occurred due to the rash and negligent riding of motor cycle bearing Reg. No. KL-02AT/7964 by the applicant. Therefore, from Ext.A1 series to A6 documents, I find that the rash and negligent driving of pickup van bearing Reg. No. KL-01CS/8227 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.

11. **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 she is a staff nurse in Medicity Hospital, Kollam having monthly income of ₹ 20,000. 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 2022 is reckoned as ₹ 13,500 per month. There is no reason to disbelieve the claim of the applicant that she is a staff nurse in Medicity Hospital, Kollam. So, the applicant is entitled to get her notional income fixed at a higher level and the notional income of the applicant is reckoned as ₹ 15,000 per month. The applicant could have taken rest for a period of 3 months after hospitalization due

to the accident. So, the applicant is awarded ₹ 45,000 as compensation towards loss of earning for a period of 3 months (15,000 x 3 months). The applicant is awarded ₹ 8,000 towards transport to hospital, ₹ 5,000 towards extra nourishment and ₹ 2,500 towards damages to clothing and articles. Ext.A12 shows that applicant had paid ₹ 20,038 for repairing the damages caused to the motor cycle bearing Reg. No. KL-02AT/7964 and the applicant is entitled to get this amount. The applicant has produced Ext.A14 series medical bills showing payment of ₹ 21,696 and Ext.A13 is the final bill issued from Pazhaveedu Medical Care Speciality Hospital, Kottarakara showing payment of ₹ 10,308. So, the applicant is entitled to get ₹ 32,004 which is the total amount of Ext.A13 and Ext.A14 series medical bills. The applicant is awarded ₹ 15,000 towards bystander's expenses.

12. The applicant is awarded ₹ 1,00,000 towards compensation for pain and suffering. The applicant has claimed ₹ 3,50,000 towards compensation for permanent disability. The applicant has not produced any disability certificate from the medical board showing her disability. The nature of injuries sustained by the applicant does not show that the applicant had suffered any functional disability. So, no amount is awarded under the head compensation for functional disability. The applicant is awarded ₹ 50,000 towards compensation for loss of amenities in life. All other claims are disallowed.

13. 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	50,000	45,000	(15,000 x 3 months)
2	Partial loss of earning	20,000	Disallowed
3	Transport to hospital	10,000	8,000	Reasonable estimation
4	Extra nourishment	25,000	5,000	„
5	Damage to clothing and articles	5,000	2,500	„
	Damages for motor cycle	20,038	20,038	Ext.A12 bill
6	Medical expenses	22,262	32,004	Ext.A13 and A14 series medical bills
	Bystander's expense	13,000	15,000	Reasonable estimation
Non-pecuniary Damages				
7	Compensation for pain and sufferings	1,50,000	1,00,000	Reasonable estimation
8	Compensation for permanent disability and compensation for loss of earning power	3,50,000	Disallowed
9	Compensation for loss of amenities in life	2,00,000	50,000	Reasonable estimation
	Total Rounded to	8,65,300	2,77,542 2,77,550	

14. Therefore, the applicant is entitled to get total compensation of **₹ 2,77,550 (Rupees Two Lakhs Seventy Seven Thousand Five Hundred and Fifty only)** as shown in the schedule.

15. The rash and negligent driving of pickup van bearing Reg. No. KL-01CS/8227 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 pickup van bearing Reg. No. KL-01CS/8227. The 3rd respondent admits that insurance policy was issued for pickup van bearing Reg. No. KL-01CS/8227 covering the date of accident. The 3rd respondent contends that pickup van bearing Reg. No. KL-01CS/8227 was not having fitness certificate and therefore the 3rd respondent is not liable to indemnify the 1st respondent. Ext.B1 is the copy of the registration certificate of pickup van bearing Reg. No. KL-01CS/8227 which shows that the vehicle was having registration validity from 08-09-2021 to 07-09-2036. 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.

16. **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 ₹ 2,77,550 **(Rupees Two Lakhs Seventy Seven Thousand Five Hundred and Fifty only)** as compensation with interest at the rate of 9% per annum from the date of application ie. 18-11-2022 till realization with proportionate costs from the

3rd respondent. The applicant is not entitled to get interest for the period from 31-03-2026 to 05-04-2026 during which the O.P stood dismissed.

(2) The 3rd respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹ 8,026 and ₹ 8,653 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 (Dini Samuel.S), Federal Bank, Kottarakara Branch, Account No. 10360100499199 IFSC : FDRL0001036 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.

17. Issue free copies of this award to the applicant and the 3rd respondent.

18. 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 27th April, 2026.

Sd/-

Baiju. T. D

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

Appendix

Exhibits for the Petitioners:-

A1	:	07.06.2022	:	Certified Copy of FIR in Cr.No.1327/2022 of Kottarakkara Police Station.
A1(a)	:	07.06.2022	:	Certified Copy of FIS in Cr.No. 1327/2022 of Kottarakkara Police Station.

- A2 : 08.06.2022 : Certified Copy of Scene Mahazar in Cr.No. 1327/2022 of Kottarakkara Police Station.
- A3 : 09.06.2022 : Certified Copy of Vehicle Mahazar in Cr.No. 1327/2022 of Kottarakkara Police Station.
- A4 : 09.06.2022 : Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-01CS8227 in Cr.No. 1327/2022 of Kottarakkara Police Station.
- A5 : 09.06.2022 : Certified Copy of AMVI Report in respect of vehicle bearing Reg. No. KL-02AT7964 in Cr.No. 1327/2022 of Kottarakkara Police Station.
- A6 : 09.07.2022 : Certified Copy of Final Report in Cr.No. 1327/2022 of Kottarakkara Police Station.
- A7 : 18.06.2022 : Certified Copy of Accident Register Cum Wound Certificate issued from Taluk Headquarters Hospital, Kottarakkara.
- A8 : 21.06.2022 : Certified Copy of Treatment Certificate issued from Pazhaveedu Medical Care Speciality Hospital, Kottarakkara.
- A9 : 07.06.2022 : Out Patient Registration Card issued from Taluk Headquarters Hospital, Kottarakkara.
- A10 : 08.06.2022 : Report on MRI-B/L HIP Joints with Screening of LS Spine issued from Muthoot Health Plus, Kottarakkara.
- A11 : Nil : Copy of Aadhar Card in respect of Dini Samuel.S
- A12 : 20.07.2022 : Copy of Job Card Retail – Tax Invoice issued from Ramjan Mobikes Pvt., Ltd, Kollam.
- A13 : 10.06.2022 : Medical Bill issued from Pazhaveedu Medical Care Speciality Hospital, Kottarakkara.
- A14Series: Nil : Medical Bills.

Exhibits for the Respondents:-

- B1 : 08.09.2021 : Copy of Certificate of Registration in respect of vehicle bearing Reg. No. KL-01-CS- 8227.

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) 550/2022****Costs for the Petitioner**

1	Court Fee and LBF	16,678/-
2	Vakalath Fee	10/-
3	Petition Fee	15/-
4	Stamp for exhibits	14/-
5	Process Fee	75/-
6	Advocate Fee	16,277/-

TOTAL**Rs. 33,069/-**

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Proportionate Cost = $\frac{33069 \times 277550}{865300}$

= 10,607/-
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(Rupees Ten thousand six hundred and seven only)
Proportionate costs allowed. Cost memo filed.

MOTOR ACCIDENTS CLAIMS TRIBUNAL.