

.....OP (M.V) 1211/2021.....

IN THE M.A.C. TRIBUNAL, ALAPPUZHA.
Present: Sri.Basheer.A.M, M. A. C. Tribunal
Wednesday 29th day of April 2026

O.P.(M.V) No. 1211/2021

(Filed on 31.12.2021)

- Petitioners:**
1. Chandramathi, aged 66 years,
W/o Late Prabhakaran, Mundakamveli Colony,
Sreekandamangalam, Muttathiparambu P O,
Cherthala, Alappuzha
 2. Sajan. P, aged 48 years, S/o Late Prabhakaran,
Residing at Mundakamveli Colony,
Sreekandamangalam, Muttathiparambu P O,
Cherthala, Alappuzha
 3. Sathimol. P, aged 47 years, W/o Vijayan,
Vattachirayil, Varanad P O, Cherthala, Alappuzha
By Adv. Jose Y. James, Adv. James Chacko

- Respondents:**
1. Bijukumar. K. B, S/o Bhakaran,
Kannadichirayil House, Velorvattom, Cherthala P O,
Alappuzha-688524
 2. The Reliance General Insurance Co. Ltd. Rep. by its
Branch Manager, Branch Office, RNA Plaza,
Boat Jetty Road, Mullackal, Alappuzha-688011
R1 Set Exparte
R2 Adv. C. Muraleedharan

This petition having been finally heard on 29.04.2026 and the Tribunal on the same day delivered the following:-

AWARD

- (1) This is a petition filed under section 166 of the Motor Vehicles Act for death of one Prabhakaran filed by wife and major children of deceased in the capacity of legal heirs claiming compensation of Rs.10,00,000/-.

(2) **Petition averments in brief are as follows:** At 6.30 pm on 14.02.2021, Prabhakaran was standing on the western side of foot path of 11th Mile-Muttathiparambu road near Bhavana Gardens, Cherthala. At that time, an auto-taxi bearing Reg.No.KL-32-F-3815 driven by R1 in a rash and negligent manner knocked down him. As a result, he sustained serious injuries. He was taken to Green Gardens Hospital, Cherthala and from there he was referred to MCH, Kottayam and then to Indo American Hospital, Vaikom. According to the petitioners, accident occurred solely due to the rash and negligent driving of auto-taxi bearing Reg.No. KL-32-F-3815 by R1. R1 himself is owner and R2 is insurer of the same vehicle. So, R1 and R2 are jointly and severally liable for compensation claimed by them.

(3) R1 was set exparte.

(4) **R2 filed written statement contending as follows:** Petition is not maintainable. The petition is filed for death of the injured. There is no 304 (A) charge and no postmortem was conducted. Death occurred after five months from the date of accident. The death is not due to accidental injuries. This respondent admitted existence of valid policy coverage of auto-taxi bearing Reg.No.KL-32-F-3815 as on the date of accident. Negligence on part of R1 is denied. Accident occurred due to negligence of deceased himself. Age, occupation and income of the deceased are

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disputed. Amount claimed as compensation are exorbitant. On the above grounds, R2 prayed for dismissal of original petition.

(5) On the basis of aforesaid pleadings, the issues arose for consideration are:

(1) Whether the accident occurred due to rash and negligent driving by R1?

(2) Whether petitioners are entitled for a compensation as claimed? If so, what is the quantum ?

(3) Who is liable to pay compensation ?

(4) Reliefs and costs?

(6) Exts.A1 to A16 and Ext.X1 were marked on the side of petitioners. Heard both sides.

(7) **Issue No.1:-** Ext.A1 is copy of FIR with FIS.Ext.A4 is copy of scene mahazar. Ext.A5 is copy of vehicle mahazar. Ext.A6 is copy of charge sheet. Ext.A7 is copy of AMVI report. As per Ext.A6 charge sheet, R1 was charge sheeted for the offence punishable u/ss.279,337 & 338 of IPC. It is specifically stated in Ext.A6 that, the accident occurred due to the rash and negligent driving of auto-taxi bearing Reg.No.KL-32-F-3815 by R1. There is nothing on record to go against the charge sheet. The charge sheet/final report filed a police officer after due investigation can be accepted as evidence of negligence against the driver of the offending

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vehicle(**New India Assurance Company Ltd v. Pazhani Ammal (2011(3) KLT 648)**). So on perusal of records, I hold that the accident occurred due to the rash and negligent driving of rash and negligent driving of auto-taxi bearing Reg.No.KL-32-F-3815 by R1. Issue no.1 is answered in favour of petitioners.

- (8) **Issue Nos.2 and 3:** It is vehemently contended that Prabhakaran died due to injuries sustained in the accident. Petitioners produced Ext.A8 & Ext.A9 discharge cards of MCH, Kottayam, Ext.A10 OP tickets and Ext.A11 MRI scan report. These documents would show that Prabhakaran sustained inter-hemispheric SDH, SAH, left mid shaft of clavicle fracture with soft tissue injury, SAH in right parietal sulci, left parietal SDH, posterior disc bulge, C5, C6 level causing indentation over ventral thecal sac, SAH, SDH in left post parietal region and left occipital convexity, SAH over sub cortical gradient hypointense, foci in right antero superior frontal lobe and bilateral parietal lobes sequelae of old bleed and multiple focal patchy hyper intensive in the white matter of bilateral frontal parietal lobes. Therefore, these documents would not specifically prove that Prabhakaran died due to the injuries sustained in the accident as alleged. Ext.A2 death certificate would prove that Prabhakaran died 5 months after the date of accident. Moreover, postmortem examination was not conducted. Further, Police has not

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charge sheeted accused for having committed offence u/s.304 A of IPC. Therefore, I find substance in the submission by learned counsel for respondents that death of Prabhakaran was not due to the alleged accident. Hence, petitioners are not entitled to get compensation due to death of Prabhakaran. However, the fact remains that deceased had sustained grievous hurt and had spent huge money for treatment and this application is considered as one for compensation due to the injuries sustained by Prabhakaran. Ext.A3 is family membership certificate and petitioners 1 to 3, being legal heirs, are entitled to get compensation.

- (9) Deceased was agriculturist and was earning Rs.15,000/- per month as per averment in the petition. No document is produced to prove his occupation and income. In the circumstances, relying the decisions in **Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd(2011(13) SCC 236)** and **Syed Sadique v. Divisional Manager, United India Insurance Company Ltd (2014(2) SCC 735)** and considering the year of accident and as far as the socio-economic condition prevailing at the time of accident in the year 2021, the notional income of injured is fixed at Rs.13,000/- per month as on the date of accident.

- (10) Having regard to the fact that he had underwent treatment for the injuries sustained in the accident, he is entitled to get loss of earnings for a period of 5 months and hence he is awarded to get Rs.13,000 x 5 = **Rs.65,000/-** towards loss of earnings.
- (11) Petitioners produced Ext.A13 medical bills for Rs.6,760/- No serious objections were raised by R2. Hence, **Rs.6,760/-** is awarded towards medical expenses.
- (12) He underwent inpatient treatment from 14.02.2021 to 21.02.2021 and from 27.02.2021 to 09.03.2021 at MCH, Kottayam. He continued treatment at MCH, Kottayam as OP till his death on 28.07.2021. Hence, **Rs.1,00,000/-** is awarded towards bystander's expenses and **Rs.25,000/-** is awarded towards extra-nourishment. **Rs.50,000/-** is awarded towards transportation charges. Petitioner is entitled **Rs.2,500/-** towards damage to clothing.
- (13) The injured had suffered pain for 5 months and he died thereafter. Ext.A2 death certificate would show that he died on 28.07.2021. It is submitted that the death was due to the consequences of injuries sustained in the accident. The deceased lived for a period of five months undergoing all the pain and sufferings, till he breathed his last. Therefore, a considerable amount of compensation is to be awarded towards pain and sufferings. Recognizing the physical and

mental discomfort experienced by the original petitioner due to the accident, considering the severity and nature of the injuries, the duration of pain and suffering, and the impact on the claimant's life, I find it fit to award **Rs.2,00,000/-** towards pain and sufferings.

(14) The loss of amenities must be based on the impact of the injury on the claimant's ability to enjoy life and engage in activities he previously could. My assessment must be considering factors like age, marital status, and the unusual deprivation caused by the injury. I must also consider the claimant's pre-accident activities, and how his ability to work in future or enjoy life has been affected. Hence I am inclined to allow **Rs.1,50,000/-** towards loss of amenities. Other reliefs are rejected for want of evidence.

(15) In view of the above findings and discussion, petitioners 1 to 3 are entitled a sum **₹5,99,300/- (Rupees five lakh ninety nine thousand and three hundred only)** in the ratio 50:25:25 towards compensation. They are entitled to get proportionate costs. They are also entitled to recover the said amount with interest thereon @ 7.5% per annum.

(16) The compensation awarded can be scheduled as follows:

No.	Head of claim	Amount Claimed(Rs.)	Amount Awarded(Rs.)
PART-I			
a)	Loss of earnings		65,000
	Transportation charges		50,000
b)	Funeral expenses	40,000	
	medical expenses	1,00,000	6,760
	bystander's expenses		1,00,000
	extra-nourishment		25,000
c)	Damages to clothing		2,500
PART-II			
d)	Compensation for pain and sufferings	1,00,000	2,00,000
e)	Compensation for loss of estate		
f)	Loss of spousal consortium	1,00,000	
	parental consortium	2,00,000	
g)	Compensation for loss of dependency	6,00,000	
	love and affection		
	amenities		1,50,000
Total		11,40,000/- ltd to 10,00,000/-	5,99,260/- rounded off to 5,99,300/-

(17) It has already been answered in issue No.1 that the accident has occurred due to the rash and negligent driving of rash and negligent

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driving of auto-taxi bearing Reg.No.KL-32-F-3815 by R1. He himself is owner of the same vehicle. R2 admitted the existence of a valid policy in respect of the offending vehicle as on the date of accident. There is no evidence to show violation of the policy conditions. So, being the insurer, R2 is liable to indemnify the owner/R1. Hence, it is found that R1 and R2 are jointly and severally liable to compensate the petitioners. Issues No.2 and 3 are also answered in favour of petitioners.

Issue No.4 :

(18) **In the result**, the petition is allowed and an award is passed as follows:-

1. The petitioners are awarded a sum of **₹5,99,300/- (Rupees five lakh ninety nine thousand and three hundred only)** and they are permitted to recover the said amount from R2 with interest thereon @ 7.5% per annum from 31.12.2021 i.e, from date of filing of petition till date of realization with proportionate costs. The said amount shall be apportioned among the petitioners 1 to 3 in the ratio 50:25:25.
2. R2 is directed to deposit two cheques in the name of MACT, Alappuzha for Rs.9,373/- and Rs.10,000/- towards Court fee and Legal Benefit Fund, and to deposit the entire balance award amount with interest and proportionate costs to the bank account of the 1st

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petitioner, Ext.A12(Chandramathi, A/c No.13220100176758, Federal Bank Limited, Puthengadi branch, IFSC Code: FDRL0001322, Aadhar card No.963835461168), 2nd petitioner(Sajan P, A/c No.A/c No.13220100255800, Federal Bank Limited, Puthengadi branch, IFSC Code: FDRL0001322, Aadhar card No.489029592372) & 3rd petitioner(Sathimol P, A/c No.32436658479, State Bank of India, Cherthala branch, IFSC Code: SBIN0005046, Aadhar card No.707700846584)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 through NEFT or RTGS or any other Electronic mode as per the direction in the official memorandum No.D1-1/62475/2016 dated:11.12.2023 read with Circular No.1/24 of the Hon'ble High Court of Kerala within 30 days from the date of this award. R2 shall comply with the all the directions regarding deduction of Income tax as per law.

3. Copies of the award shall be issued free of costs to the parties within 15 days from today.

Dictated to the Confidential Assistant, typed by her, revised and corrected by me and pronounced in Open Court on this, the 29th day of April, 2026

Sd/-
BASHEER.A.M
M A C Tribunal

APPENDIX:-

Exhibits for the Petitioners side:

- | | |
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| A1 | Copy of FIR & FIS |
| A2 | Copy of Death Certificate |
| A3 | Copy of Family Membership Certificate |
| A4 | Copy of Scene Mahazar |
| A5 | Copy of Vehicle Mahazar |
| A6 | Copy of Charge Sheet |
| A7 | Copy of AMVI report |
| A8 | Original Discharge card issued from MCH Kottayam |
| A9 | Original Discharge card issued from MCH Kottayam |
| A10 | Original OP Ticket issued from MCH Kottayam |
| A11 | MR Brain Scanning report issued from Hind Labs |
| A12 | Copy of Aadhar Card & Copy of Bank Passbook |
| A13 | Medical Bills |
| A14 | CT Brain Plain Report issued from Indo- American,
Chemmanakary |
| A15 | Original CT Scan Head Report issued from MCH Kottayam |
| A16 | Original external refferal form |

Exhibits for the Respondents side:- Nil

Witness for the petitioners side:- Nil

Witness for the respondents side:- Nil

Other Exhibits:-

- | | |
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| X1 | Hospital Case Records issued from MCH, Kottayam |
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Court Exhibits:- Nil

**Id/-
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Cost Memo Of OP (M.V) 1211/2021

<u>Sl.No.</u>	<u>Item</u>	Amount Claimed(Rs.)	Amount Allowed by Court(Rs.)
1.	Court Fee payable	9373	9373
2.	Legal Benefit Fund	10000	10000
3.	Stamp for Vakalath	100	5
4.	Stamp for Exhibits	100	12
5.	Stamp for Petitions	115	15
6.	Service and Process fee	100	95
7.	Witness Batta	1000	1000
8.	Pleader's fee	55000	32365
9.	Clerk fee	0	0
10.	Paper Publication Charg	0	0
	TOTAL	75788	52865

Proportionate Cost = $\frac{5,99,300 \times 52,865}{10,00,000} = 31,681/-$
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Sd/-
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