

**IN THE COURT OF THE III ADDL. MOTOR ACCIDENTS CLAIMS
TRIBUNAL/IV ADDL. DISTRICT JUDGE, KOZHIKODE
Present:-Sri. Pradeep P, B.com, LLB., III Addl. Motor Accidents
Claim Tribunal /
IV Addl. District Judge**

Tuesday on 2nd day of June, 2026

OP(MV) No.2673/2022

Between:-

- | | | |
|---|--|-------------|
| <p>1 Mohammed Abdul Samad
S/o. K.A.Mohammed, aged 67 years,
Residing at 37/570 B, Nafeesa Manzil,
Santhiruthi Vayal, Ramanunni Road,
P.O.Karaparamba, Kozhikode 673 010</p> <p>2. Khadeeja Rila.C.C
aged 21 years,
D/o CC Manzoor Ahammed.
Ayishas,
53/379,Narangali Paramba,
Kuthukallu Road, Mathottam,
P.O.Arakkinar, Kozhikode -673 028</p> <p>3. Zaya Jazim Marjan (Minor)
aged 3 months,
Date of birth 23/04/2022,
Rep. by her mother and next friend Khadeeja
Rila.C.C</p> | | Petitioners |
|---|--|-------------|

And:-

- | | | |
|--|--|-------------|
| <p>1 Abdul Kareem .C. S/o Muhammedkutty,
aged 28 years
Residing at Palakkandyparambu House,
Kacherimukku, P.O.Pokkunnu, Kozhikode- 673 007.
(Owner-cum-Driver of the Autorikshaw bearing</p> | | Respondents |
|--|--|-------------|

- Reg No.KL-11BU 8257)
- 2 Future Generali India Insurance Company Limited
 Represented by Divisional Manager
 3rd Floor, Central Warehousing Corporation
 building,63 Maveli Road, Kadavantra,
 Ernakulam,Cochin- 682 020.
 Policy No.V 8968916
 Validity:07/09/2021 to 06/09/2022
 (Insurer of the Autorikshaw bearing Reg No.KL-11
 BU 8257)
3. Raesa
 D/o Easakoya,
 Residing at Faiza Roost PO,
 Pottammal,
 Kozhikode- 673 016.
 (Mother of the deceased Najmi Jazim Marjan)

Respondents

This petition coming on 19th day of May, 2026 for final hearing before me in the presence of Sri. Babu.P. Benedict and Sri. Sabin Babu Advocates for petitioner and Sri. C.P. Abdul Rafeeq advocate for R1. Sri. Thomas Mathew advocate for R2 and Smt.. Deepa.C.K. and having stood over to this day for consideration, the court passed the following:-

Judgment

1.This is an application filed under section 166 of the Motor Vehicles Act, 1988 claiming compensation for the death of Najmi Jazim Marjan by legal representatives.

2. The case of the petitioners, curtly is as follows:- The petitioners and respondent No.3 are the legal representatives of

the deceased Najmi Jazim Marjan, who sustained injuries at about 2 pm on 04.02.2022 at Karikkamkulam, Kozhikode – Balussery road, while he was riding the motor cycle bearing registration No. KL-56-E 8996 on hitting an autorickshaw bearing registration No. KL-11- BU-8257 driven by respondent No.1 in an exorbitant speed and in a rash or negligent manner. Immediately after the accident, he was taken to Medical College Hospital, Kozhikode, but he succumbed to the injuries on the same day. The respondent No. 1 being the owner cum driver, and respondent No.2 is the insurer of the autorickshaw are liable to compensate the petitioners. The respondent No.3 is the mother of deceased Najmi Jazim Marjan. The deceased was a Field Manager at Asian Paints and was getting ₹50,000/- per month. So, the petitioners claimed compensation of ₹ 80,00,000/- (Rupees eighty lakh only).

3. Though notice was served on the respondent No.1, he did not file written statement. The respondent No.3 remained absent. The respondent No.2 filed written statement contending *inter alia* that the vehicle bearing registration Number KL-11-BU-8257 referred to in the petition was insured with this respondent during the relevant period. This respondent contended that the accident happened only due to the rash and negligent riding of the deceased himself. This respondent denied the case of the petitioner as to the age, income and avocation of the deceased. According to it, the compensation amount claimed on various heads is exorbitant.

4. Based on the pleadings and materials available on record, the issues were framed as follows:-

1. Was the death of Najmi Jazim Marjan caused due to the rash or negligent driving of the autorickshaw bearing registration KL-11-BU-8257 by the respondent No.1 as contended by the petitioners ?
2. Are the petitioners entitled to get any compensation from respondent No.2 as the insurer of the offending vehicle owned by the respondent No.1 on account of the death of their predecessor in the above accident?
3. Reliefs and costs?

5. On the side of the petitioners, Exts.A1 to A10 were marked. No oral or documentary evidence is adduced on the side of the respondents.

6. Heard.

7. **Issue No.1:-** The petitioners alleged that Najmi Jazim Marjan, their predecessor died due to the accident occurred on 04.02.2022 due to the rash or negligent driving of the autorickshaw bearing registration No.KL-11-BU-8257 by the respondent No.1. In oppugnation, the respondent No.2 denied the allegation of negligence on the side of the respondent No.1. Ext.A1(a), would go to show that SHO, Chevayur Police Station filed final report in crime No.85/2022 alleging that the death of Najmi Jazim Marjan caused in the road accident due to the

negligent riding of the autorickshaw bearing registration No.KL-11-BU-8257 by the respondent No.1. It is beyond cavil that in a claim for compensation under the Motor Vehicles Act, in the absence of contra evidence, final report will be sufficient to prove negligence on the part of the driver. I place reliance on **New India Insurance Co. Ltd. V. Pazhani Ammal (2011(3) KLT 648)**. As there is no contra evidence to Ext.A1(a) final report, I hold that the case of the petitioner that the accident took place due to the negligence of the respondent No.1 is established. Ext.A2 postmortem report would go to show that the deceased died due to injuries sustained to chest, abdomen and pelvis. So, the case of the petitioners that Najmi Jazim Marjan died in the accident occurred due to the negligent driving of the autorickshaw by the respondent No.1 is liable to be upheld. So, this issue is found in favour of the petitioners.

8. **Issues No.2 and 3 :-** The first petitioner is the father, second petitioner is the wife and third petitioner is the minor child of the deceased Najmi Jazim Marjan. Admittedly, the respondent No.3 is the mother of the deceased Najmi Jazim Marjan. Ext.A3 family membership certificate shows that they are the surviving members of their family. There is no disentitlement to the respondent No.3 for getting compensation only for the reason that she has not joined as a petitioner. Since Najmi Jazim Marjan died in a motor accident due to the negligence of the respondent No.1, the petitioners and respondent No.3 being the legal

representatives of Najmi Jazim Marjan are entitled to get compensation under section 166 of Motor Vehicles Act.

9. The petitioners contended that as the deceased was a Field Manager at Asian Paints, he was getting ₹50,000/- per month. They produced Ext.A5 appointment letter, Ext.A6 pay slip for the month of January, 2021 and Ext.A7 final settlement. As per Exts.A6 and A7, the last pay to the deceased was ₹28,190/-. Of course, the petitioners have not examined any of the authorized representatives of the company in which the deceased was working and who issued the said documents. Even then I have not seen any element to doubt the genuineness of the documents produced by the petitioners. So, I am inclined to accept that the last pay to the deceased was ₹28,190/-.

10. It is well established by Ext.A4 extract of SSLC certificate of the deceased that the deceased was aged 28 years at the time of the accident. Likewise, as the age of the deceased was 28 years at the time of the accident, there must be addition towards future prospects in view of the judgment of Hon'ble Supreme Court in **National Insurance Co.Ltd. V. Pranay Sethi and Others (AIR 2017 SC 5157)**. Considering the fact that he was a self employed person, 40% has to be added towards future prospects. So, the monthly income has to be re-assessed at **₹39466/-** [(28190+ 11276 (40% of 28190)]. The father, mother, wife and minor child were dependents on the deceased. Since the deceased was a married man and there were four dependents, 1/4 of the income has to be

deducted towards living and personal expenses of the deceased in view of **Sarla Verma and Others V. Delhi Transport Corporation (2010(2) KLT 802)** and **2023 (6) KHC 89 Royal Sundaram Alliance Insurance Company Limited v. V. S. Sujatha and Reliance General Insurance Co. Ltd. v. Raveendran C.K.(2024 (2) KHC 163)**. So, after deducting 1/4 of the income towards his personal and living expenses, the monthly contribution to the family would be **₹29599.50/- (39466x3/4) rounded off to ₹29600/-**. Considering the age of the deceased at the time of the death, the multiplier is '17'. Resultantly, the loss of dependency is assessed at **₹60,38,400/- (Rupees sixty lakh thirty eight thousand and four hundred only) (29600x12x17)**.

11. Hon'ble Supreme Court in **Rajwati alias Rajjo and Ors V. United India Insurance Co.Ltd (2022 KHC 7265)** where the accident took place on 29.10.13 observed that:-

"Placing reliance on the **United India Insurance Co. Ltd vs Satinder Kaur @ Satwinder Kaur and Others (2021 (11) SCC 780)**, the grant of Rs.40,000/- towards loss of consortium is increased to Rs.44,000/- to each Appellant, amounting to a total of Rs.88,000/-. Along with this, Rs.15,000/- each for the heads of 'funeral expenses' and 'loss of estate' is also increased to Rs.20,000/- each."

In view of the above said binding precedent, petitioners and respondent No.4 are entitled to get **₹20,000/- (Rupees twenty thousand only) each** towards funeral expenses and towards loss of estate.

12. The parents, wife and child are entitled to get filial,

spousal and parental consortium in view of **United India Insurance Co. Ltd vs Satinder Kaur @ Satwinder Kaur and Others (2021 (11) SCC 780)**. Reaching November, 2023 from the date of pronouncement of Pranay Sethi (supra), 20% increase has to be given on ₹40,000/- with respect to loss of consortium. So, the amount should be enhanced to ₹48,000/-. The respondent No.3 is entitled to get filial consortium at the rate of **₹48,000/- (Rupees forty eight thousand only)**. The petitioners are entitled to get a consolidated filial, spousal and parental consortium **₹1,44,000/- (Rupees one lakh and forty four thousand only) (₹48,000x3)**.

13. An amount of **₹4,000/- (Rupees four thousand only)** can be granted towards transportation including for ambulance for taking corpse to the house from the Hospital. An amount of **₹1,000/- (Rupees one thousand only)** towards damage to clothing articles can also be granted. Though petitioner claimed compensation on many other grounds, those cannot be granted as per law.

14. In view of the above, the following amounts are awarded:-

Sl. No.	Head of claim	Amount claimed in ₹	Amount awarded in ₹	Basis
1.	Loss of future	10,00,000	0	Not entitled

	economic benefit			
2.	Transportation charges	5,000	4000	Reasonable
3.	Damages to the clothing and articles	5,000	1000	Reasonable
4.	Medical expenses	20,000	0	Not entitled
5.	Funeral expenses	1,00,000	20000	In view of Rajwati alias Rajjo and Ors V. United India Insurance Co.Ltd (2022 KHC 7265)
6.	Compensation for loss of consortium to petitioner and respondent No.3	10,00,000	1,92,000	In view of Rajwati alias Rajjo and Ors V. United India Insurance Co.Ltd (2022 KHC 7265)
7.	Compensation for Loss of Estate to Petitioner	10,00,000	20,000	In view of Rajwati alias Rajjo and Ors V. United India Insurance

				Co.Ltd (2022 KHC 7265)
8.	Compensation for love and affection	10,00,000	0	Not entitled in view of Sarla Verma Vs. Delhi Transport Corporation (2009(6) SCC 121)
9.	Compensation for dependency	40,00,000	60,38,400	(29600x12x17)
10.	For loss of enjoyment in life	10,00,000	0	Not entitled in view of Sarla Verma Vs. Delhi Transport Corporation (2009(6) SCC 121)
11.	Compensation for mental pain, agony and depression	10,00,000	0	Not entitled in view of Sarla Verma Vs. Delhi Transport Corporation (2009(6) SCC 121)

12.	Compensation for pain and suffering	1,00,000	0	Not entitled
	Total claim	1,02,30,000 limited to 80,00,000	62,75,400	Just compensation

15. The amount of compensation shall be allotted to to the petitioners and the respondent No.3 in proportion of 15:35:35:15.

16. The respondent No.1 is the owner cum driver of the offending autorickshaw and the respondent No.2 is the insurer. Since no policy violation is proved, the respondent No.2 is liable to indemnify the respondent No.1. The long and short of the above discussion is that the respondent No.2, being the insurer of the vehicle of the respondent No.1, is liable to pay compensation of **₹62,75,400/- (Rupees sixty two lakh sevnty five thousand and four hundred only)** to the petitioners and respondent No.3 with interest at the rate of 8% per annum from the date of application i.e. 08.08.2022 to the date of realisation with proportionate costs. So, these issues are found in favour of the petitioners.

In the result,

The petition is allowed with proportionate costs and **Award** is passed is as follows:

1. The petitioners and the respondent No.2 are granted the compensation of **₹62,75,400/- (Rupees sixty two lakh seventy five thousand and four hundred only)** with interest @ 8% per annum, from the date of institution of the petition i.e 8.8.2022 till the date of deposit of the amount.
2. The respondent No.2 shall produce a cheque for **₹79,373/- (Rupees seventy nine thousand three hundred and seventy three only)** towards Court fee and a cheque for **₹80,000/- (Rupees eighty thousand only)** towards Kerala Legal Benefit Fund in the name of MACT, Kozhikode.
3. The respondent No.2 shall deposit the entire balance amount within 30 days by NEFT or RTGS or any other electronic mode the entire balance amount directly to the **bank account bearing No. 42793395060 of MACT, Kozhikode** maintained with **State Bank of India, Mananchira branch, Kozhikode (IFSC No. SBIN0000861)** with memo prescribed in High Court Circular No.01/2024 and an authenticated copy of this award.

4. On making deposit to the Bank account of the Tribunal, a copy of payment advice shall be furnished to this Tribunal and to the petitioner or their counsel.
5. The Bank of the Tribunal shall also furnish to this Tribunal a statement of account relating to such payment to reconcile such payment.
6. On making such payment, the respondent No.2 shall submit a letter to this Tribunal, enclosing a copy of the bank advise in the format prescribed in High Court Circular No.01/2024.
7. The respondent No.2 shall also produce a copy of the payment advise to this Tribunal and serve a copy of the same on the claimant or her Advocate.
8. On depositing the amount by the respondent No.2 as directed above, an amount of **₹1,00,000/-, ₹3,50,000/-, ₹1,00,000/-** shall be released to the petitioners No.1 and 2 by transferring directly to their bank accounts such as A/c No. 1144104032555, at Canara Bank, Chalappuram branch (CNRB0001144) and A/c No.44042210010642, Canara Bank, Panniyankara branch (CNRB0014404) respectively and to the respondent No.3 to her

bank account which will be notified within 15 days from this date.

9. **₹ 3,50,000/-** shall be deposited in Fixed deposit at SBI, Mananchira branch in the name of the petitioner No.3 till she attains the age of 21.
10. Office of this Tribunal shall deposit the balance amount in the above mentioned proportion in the names of the petitioners **and** the respondent No.3 in fixed deposits at **SBI, Mananchira, Kozhikode** for a period of 5 years as far as the petitioners No.1 and 2 **and** the respondent No.3 are concerned and till the attainment of the age of 21 as far as the petitioner No.3 is concerned by marking a **lien to this Tribunal**.
11. On making fixed deposits, the fixed deposit receipts in the name of the petitioners and respondent No.3 are permitted to be handed over to the petitioners and respondent No.3 by the office of this Tribunal after obtaining endorsement from the petitioners including from next friend and respondent No.3 .
12. On maturity, on production of the Fixed Deposit Receipts by the petitioners and the respondent No.3, the bank concerned is authorized to credit

the amounts due on such respective fixed deposits to the bank accounts of the petitioners No.1 and 2 and to the bank A/c No.110058173830 at Canara Bank, Panniyankara branch (CNRB0014404) of the petitioner No.3 and to the bank account of the respondent No.3 as mentioned above without insisting for any further direction from this Tribunal.

13. The office of this Tribunal shall furnish an authenticated copy of this award to the SBI, Kozhikode.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 2nd day of June 2026).

Addl. Motor Accidents Claims Tribunal-III

Petitioners witness:-Nil

Petitioners Exhibits:-

A1	04-02-2022	Attested copy of FIR in crime no. 85/2022 issued by Chevayoor Police Station.
A2	05-02-2022	Postmortem report issued by Govt Medical College Hospital, Kozhikode.
A3	13-05-2022	Family Membership Certificate issued by Village Office, Vengeri

A4		Copy of S.S.L.C Certificate
A5	13-02-2017	Appointment letter from Sleek International Pvt. Ltd
A6	31-12-2018	Copy of Pay Slip issued by Sleek International Pvt. Ltd.
A7	04-02-2022	Final settlement issued by Sleek International Pvt. Ltd.
A8		Summary of accounts
A9		Attested Copy of Bank Pass book of the petitioner (Ac.No.1144104032555)
A10		Attested Copy of Pan Card of the petitioner. (No.CIVPM7152C)

Respondent's Witness :- Nil

Respondents Exhibits:- Nil

Court Exhibits:- Nil

Addl. Motor Accidents Claims Tribunal-III

