

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOLLAM

Present: Sri.Rajesh.R, MACT, Kollam

Wednesday, the 22nd day of April, 2026 /26th day of Vaisakha, 1948

OP(MV) No. 970/2021

Between

Petitioners:

1. Sheela.B, aged 50 years, D/o Sarojini, Amruthasudha, Caramcodu, Edanadu P.O, Chathannoor, Kollam- 691579
2. Sheeba.B, aged 42 years, D/o Sarojini, Charuvila Puthen Veedu, Edanadu, Chathannoor, Kollam-691579

By Adv.: Sri. V.I. Haris

And

Respondents :

1. Mohanan, S/o Sanku, Thenguvila Veedu, Eram, Chathannoor.P.O, Kollam-692572
2. The Divisional Manager, M/s National Insurance Co. Ltd, Kollam-691001
3. Rajendra Prasad, aged 55 years, S/o Balakrishnan, Charuvila Veedu, Edanad, Chathannoor, Kollam-691579
4. Rajeev, aged 53 years, S/o Balakrishnan, Charuvila Puthen Veedu, Edanad, Chathannoor, Kollam-691579

By Adv.:Sri. S. Dileep Kumar for R2

Smt. Raji.R for R3 & R4

(The 1st respondent remained exparte)

This OP(MV) is coming on for hearing before me on 30-03-2026 and having stood over to 22-04-2026 for consideration, this Tribunal passed the following:-

AWARD

Petition is filed by the legal representatives of Sarojini died in the relevant accident of this case, claiming compensation under Section 163 -A of Motor Vehicles Act.

2. The petitioners are respectively the children of the deceased.

3. According to the petitioners, on 13/01/2020, at about 10.00 am, while the deceased Sarojini was travelling in an ambulance bearing Reg.No.KL 02 AU 424 through Kollam – Thiruvananthapuram NH, at Kallambalam, due to the negligent and abrupt turning of the said vehicle by its driver, it was toppled and the aforementioned Sarojini was injured and thereafter she has succumbed to those injuries. The deceased Sarojini was a cashew factory worker earning ₹3,330/- per month and at the time of death she was 74 years of age. Kallambalam police have registered crime No.52/2020. The respondents are respectively, the driver cum owner and insured. As far as the 3rd and 4th respondents are considered, they are also the legal heirs of the deceased. Now the dependents of the deceased have filed petition seeking of ₹6,00,000/-.

4. The 1st respondent remained exparte.

5. The 2nd respondent has filed written statement which can be summarized as follows:

The petitioners will have to prove their claims as to dependents of the deceased. The deceased was aged more than 84 years at the time of accident. The contention of the petitioners regarding the age, occupation and income of the deceased are challenged. The compensation claimed is highly excessive. The vehicle involved in the accident bearing Reg.No.KL02 AU 424 was insured with the 2nd respondent. The 1st respondent has not obtained insurance coverage for the passengers carrying in the vehicle by remitting additional premium. The insured had not informed the factum of accident or handed over the vehicular records.

6. The 3rd and 4th respondents have filed joint written statement which can be summarized as follows:

The 3rd and 4th respondents are the legal representatives and dependents of the deceased. Most of the averments in the petition are supported by these respondents 3

and 4. They contend that since the vehicle was properly insured with insurer, later is duty bound to compensate the dependents of the deceased.

7. The petitioners did not adduce any oral evidence, but tendered documents and they were marked as Exts.A1 to A8. Respondents have neither tendered any document nor adduced any oral evidence

7. Heard both sides.

8. The points which arise for consideration are:

- 1 Did the accident occur on 13/01/2020 as alleged?
- 2 Had Smt. Sarojini succumbed to the injuries sustained in the accident?
- 3 Are the petitioners entitled to claim for no fault compensation from these respondents? If so, what should be the quantum of award and from whom it can be recovered?
- 4 Relief and costs?

9. **Point No. 1**

From the records, it can be learned that due to severe pain to leg the 84 year old Sarojini was on 07/01/2020 taken to Parippally MCH for treatment. The care takers of age old Sarojini were given medical advise to take her to Medical College Hospital, Thiruvananthapuram for neurological consultation. When the said Sarojini was proceeding in an ambulance on 08/01/2020, at 9 am, to the Medical College Hospital, Thiruvananthapuram. The relevant accident occurred at Kallambalam. In order to substantiate the accident the Ext.A8 copy of factual report has been produced. Wherein the incident has been referred as motor occurrence. In fact, when the driver of the ambulance had abruptly turned the same so as to avoid a hit on a scooter, the relevant accident was occurred.

10. But the original petition is filed under section 163-A of the Motor Vehicles Act. In the case of a claim petition filed under section 163-A of the Motor Vehicles Act. There is no need to plead or prove negligence as in the case of a claim petition filed under section 166 of the Motor Vehicles Act. Section 163-A (2) provides that in any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person. Hence the contention raised by the respondents regarding the maintainability of the original petition in this regard is not tenable.

11. The learned counsel for the 2nd respondent argued further that the petition is not maintainable since the petitioner's case is that the monthly income of the deceased was ₹3,330/-. Considering the increase in the cost of living index the annual income of the deceased is fixed at ₹40,000/-. To substantiate this argument the learned counsel relied on the decision reported in **Deepal Girishbhai Sony and Others Vs. United India Insurance Company Ltd[(2004) 5 SCC 385]** wherein the Hon'ble Supreme Court held that if the annual income of the injured is more than ₹40,000/- the petitioner filed under Section 163-A of The MV Act is not maintainable and that the proceeding under 163- A being a social security provision for a distinct scheme, only those whose annual income is upto ₹40,000/- can take benefit thereof. As pointed out by the learned counsel for the petitioner the above cited decision is of the year 2004 and after the amendment of the Second Schedule (As amended by notification dated 22/05/2018) of the Motor Vehicles Act, the age or income of the victim of the accident is not relevant. The learned counsel for the petitioner relied on the decision reported in **Urmila Halder Vs. New India Assurance Company and Others (2019 KHC 4996)** wherein the Hon'ble Calcutta High Court held that the victim's age and earning are no longer relevant subsequent to the second schedule of Section 163-A which was amended with effect from 22/05/2018. The petitioners are entitled to get compensation for fatal accidents as

per clause (a) of Second Schedule (As amended by notification dated 22/05/2018) of the Motor Vehicles Act, ie, ₹5,00,000/-. Hence issue No.1 is found in favour of the petitioners.

12. Issue No. 2

It is evident from Ext.A5, postmortem certificate that the deceased died due to injuries sustained to chest. The 1st and 2nd petitioners are the daughters of the deceased. Apparently and naturally these petitioners are dependents of deceased and as such they are entitled to get compensation for loss of dependency.

13. Though the petitioners have claimed compensation of ₹6,00,000/- they are entitled to get compensation for fatal accidents only as per clause (a) of Second Schedule (As amended by notification dated 22/05/2018) of the Motor Vehicles Act, ie, ₹5,00,000/-. As per the notification dated 22/05/2018 regarding the amendment of Second Schedule and also the decision reported in **National Insurance Company Ltd. V.Kamlesh Kumari and Others (2021 KHC 4543)** wherein the Hon'ble Punjab and Hariyanan High Court awarded compensation in terms of Section 163-A r/w amended Second Schedule of the Motor Vehicles Act, on and from the date of 1st day of January 2019 the amount of compensation specified in clause (a) is increased by 5% annually. Here one year six months twenty-nine days have elapsed on and from the date of 01/01/2019 where the amount of compensation specified in clause (a) of the Second Schedule was increased by 5% annually. Hence the petitioners are entitled to get ₹5,37,500/- (5,00,000 + 37,500) as compensation.

14. Admittedly the offending vehicle had valid insurance coverage with the 2nd respondent at the time of accident. Hence the 2nd respondent is liable to indemnify the 1st respondent and to compensate the petitioners. Point No.2 and 3 are found in favour of the petitioners.

15. **Point No.4**

1. The petitioners are entitled to recover an amount of ₹5,37,500/- (**Rupees Five Lakhs Thirty Seven Thousand and Five Hundred only**) with 8% interest per annum thereon from the date of filing of the original petition, ie, from 30/07/2021 till date of realization and proportionate costs from the 2nd respondent. The 1st and 2nd petitioners are entitled to get 50% each in the award amount. The 3rd and 4th respondents are not entitled to get compensation.

2. The 2nd respondent is directed to produce crossed cheque for ₹5,373/- towards court fee and for ₹6,000/- towards legal benefit fund in favour of the Motor Accident Claims Tribunal, Kollam within one month from the date of this award. Amount due to the petitioner shall be transferred directly to the credit of the bank account of the petitioner through NEFT or RTGS or any other electronic mode as per the direction in the Official Memorandum No.D1-1/62475/2016 dated 19/09/2025 read with circular No.1/2025 of the Hon'ble High Court of Kerala.

1st petitioner

1	Name of the person (s) entitled to compensation	Sheela .B
2.	Name of bank and branch	Kerala State Co-operative Bank Evening Branch, Kollam
3.	Bank IFSC Code	KSBK0001133
4.	Account Number (s)entitled to compensation	113312309201620
5.	PANCARD No.	KDFPS7989G

2nd petitioner

1	Name of the person (s) entitled to compensation	Sheeba.B
2.	Name of bank and branch	Kerala State Co-operative Bank Evening Branch, Kollam
3.	Bank IFSC Code	KSBK0001133
4.	Account Number (s)entitled to compensation	113312309201611
5.	PANCARD No.	IECPB7243J

4. Office shall issue free copy of the award to the petitioners and the 2nd, 3rd and 4th respondents forthwith.

(Dictated to Confidential Assistant transcribed and typed by her corrected and pronounced by me in open court this the 22nd day of April, 2026.)

Sd/-
Rajesh.R,
Motor Accident Claims Tribunal

Appendix:-

Exhibits for the Petitioner:-

A1	14-01-2020	Copy of FIR & FIS
A2	15-01-2020	Copy of Scene Mahazar
A3	15-01-2020	Copy of Vehicle Mahazar
A4	06-02-2020	Copy of AMVI report
A5	14-01-2020	Copy of Post Mortem Certificate
A6	--	Copy of PAN card
A7	--	Copy of PAN card
A8	--	Copy of factual report

Exhibits for the Respondents - Nil

Witness Examined for both sides :- Nil

Id/-
Motor Accident Claims Tribunal

Note as per Rule 7(2) of destruction of records Rules 2004. (“ The parties should apply as soon as possible for the return of all documents which they may wish to preserve, as the record will be liable to be destroyed twelve years from this date”).

Data Entry By : Bindhu. R.
Compared By : Binu.R

MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM**Memo of Cost****OP(MV) No.970/2021**

1.	Court fee	₹ 5,373/-
2.	Legal Benefit Fund	₹ 6,000/-
3.	Vakkalath fee	₹ 6/-
4.	Process fee	₹ 120/-
5.	Stamp for Exhibits	₹ 22/-
6.	Petition fee	₹ 5/-
7.	Writing Fee	₹ 500/-
8.	Advocate Fee	₹ 29,275/-
	Total	₹ 41,301/- =====

$$\text{Proportionate cost} = \frac{5,37,500 \times 41,301}{6,00,000} = 36,998/-$$

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(Rupees Thirty Six Thousand Nine Hundred and Ninety Eight only)

Id/-
Motor Accident Claims Tribunal