

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOLLAM

Present: Sri.Rajesh.R, MACT, Kollam

Monday, the 27th day of April, 2026 /7th day of Vaisakha, 1948**OP(MV) No. 2106/2021**Between
Petitioner:-G. Lalu, aged 57 years, S/o. Gopalapillai, Advocate,
Vadakkadathu Veedu, Mangad Cherry,
Mangad Village, Mangad. P.O, Kollam-691015

By Advs.: Sri.D.B. Ajayan and Sri. Ajith A. Khader

And
Respondents :

1. Mahesh.M, S/o. Madhavan, Chirakkaraputhen veedu, Kovoov, Arinalloor. P.O, Kollam-690538.
2. Vindokumar, S/o. Raghavan, Managing Director, South Indian Constructions Pvt. Ltd., Building OPX-582, Vavvakkave. P.O, Kollam-691528.
3. The Manager, The New India Assurance Co. Ltd., Kollam-1.

By Advs: Sri. A.M.Azim for R1 & R2
Sri. S.Subhash Chandra Babu for R3

This OP(MV) is coming on for hearing before me on 07-04-2026 and having stood over to 27-04-2026 for consideration, this Tribunal passed the following:-

AWARD

Petition is filed by the dependent of Saraswathyamma, died in the relevant accident of this case, claiming compensation under Sections 140 & 166 of Motor Vehicles Act.

2. The petitioner is the son of the deceased.

3. According to the petitioner on 01/01/2021, at about 6 pm, while the deceased was returning to home through the Kalumthazham- Kavanad NH bypass, and when she had tried to cross the road at Appuppankavu Temple a Range Rover car displayed for registration in number board, hit her. The injured was taken to

N.S. Memorial Hospital, Kollam. The petitioner is the son of the deceased. The deceased was a house wife, aged 84 years and earning ₹15,000/- per month. Since it has been alleged that the negligence and rashness of the 1st respondent driver of the car has caused the accident. Kilikolloor police have registered crime No.03/2021 against him. The dependent of the deceased have been seeking a total compensation of ₹20,00,000/- from the respondents.

4. The 1st and 2nd respondents have filed joint written statement which can be summarized as follows:-

The allegation of rash and negligent driving of the 1st respondent is denied. The 1st respondent had driven the car during the material point of time with care and caution. The compensation claimed is highly exorbitant. The vehicle caused accident was properly insured with the 3rd respondent so they are liable to indemnify the insured.

5. The 3rd respondent has filed written statement which can be summarized as follows:-

The claim of the petitioner as to age and occupation is denied. The 84 year old deceased have no income on the date of accident. The claim that the deceased had died in the motor accident has to be proved. The 3rd respondent had provided insurance coverage to the vehicle bearing Reg.No.KL 23 T/4444 at the material point of accident. Petitioner has the duty to prove that the 1st respondent was the duly authorized driver of the car and he was holding valid driving licence. Petitioner is not the sole dependent of the deceased. The claim amount is exorbitant. The 1st and 2nd respondents have been colluded with the petitioner. It was when the deceased had abruptly crossed the road in a most negligent manner, the accident was caused. The exact spot of the accident is in the middle of the road. So the insurer prays for considering the contributory negligence of the deceased.

6. The petitioners did not adduce any oral evidence, but tendered documents

and they were marked as Exts.A1 to A9. Ext.B1 was marked from the side of the respondents.

7. Heard both sides.

8. The points which arise for consideration are:

1. Did the accident occur on 01/01/2021 due to the rash and negligent driving of the Range Rover car by the 1st respondent as alleged?
2. Had Saraswathyamma succumbed to injuries sustained in the accident as alleged?
3. Whether the petitioner is entitled to recover compensation from the respondents? If so, what is the quantum of award and from whom to be recovered?
4. Relieves and costs?

9. **Issue No. 1**

To prove the accident, the petitioner has produced Ext.A1, which contain both First Information Statement as well as First Information Report No.03/2021 of Kilikolloor Police Station. The final report filed by the police after conducting investigation was marked as Ext.A6. In the Ext.A6 final report it was alleged that the 1st respondent had committed the offences u/s 279 & 304 A IPC.

10. It is prima facie evident from Ext.A6 final report that the accident happened due to the rash and negligent driving of the offending Range Rover car by the 1st respondent. In **New India Assurance Company Ltd. Vs. Pazhaniammal (2011 (3) KLT 648)**, the Division Bench of the Hon'ble High Court held that **as a general rule, it can safely be accepted that production of the police charge sheet is prima facie sufficient evidence of negligence for the purpose of a claim under S. 166 of the Motor Vehicle Act.** In this case as per Ext.A6 final report, the police concluded after investigation that the accident in which the petitioner sustained

injuries was caused as a result of the rash and negligent driving of the offending vehicle.

11. The prima facie proof of negligence on the part of the driver of the offending vehicle has been established by Ext.A6 final report, has not been rebutted by the respondents by adducing contra evidence. *The Hon'ble High Court of Kerala held in **Balan.R V. Abhiraj.R and others [2021 (4) KHC 380]** that production of police charge sheet is prima facie sufficient evidence to find the negligence attributed.* Moreover a reading of the Ext.A1, A2 and A6 documents clearly probalilised the contention of the petitioner that the accident occurred due to the rash and negligent driving of the Range Rover car by the 1st respondent. Hence issue No.1 is found in favour of the petitioner.

12. **Issue No. 2 &3:**

As per Ext.A4, post-mortem certificate of the deceased, the cause of death was due to injuries sustained to hip and chest as a result of blunt force trauma consisting with alleged history of road traffic accident. The petitioner is the son of the deceased. The Ext.A7 Family Membership certificate issued by the Village officer, Mangadu, Kollam, would reveal that the petitioner is the legal heir and dependent of the deceased. Apparently and naturally this petitioner is the dependent of deceased and as such he is entitled to get compensation for loss of dependency.

13. The petitioner claims that deceased Saraswathamma was a housewife, aged 84 years and earning ₹15,000/- per month from her job. However there is no evidence to prove the income of the deceased. So based on the facts narrated and on principles of natural justice, the monthly income of the deceased has been notionally fixed as ₹3,500/-.

14. It is evident from Ext.A4 copy of postmortem certificate that deceased was aged 84 years at the time of accident and in view of the decision reported in

Sarla Varma and others V. Delhi Transport Corporation [2010 (2) KLT 802 (SC)] multiplier 5 is adopted for computing compensation for loss of dependency as the deceased was in the aged above 65 years at the time of accident. Considering the number of dependent of the deceased at the time of accident was one, deduction of 1/3 of the income of the deceased is reckoned for personal expenses. Since the deceased was 84 years at the time of accident, no income is added to the income of the deceased towards future prospects and compensation for loss of dependency is calculated as follows:

$$3500 \times 12 \times 5 \times \frac{2}{3} = \text{₹}1,40,000/-.$$

15. It was held by the Hon'ble Supreme Court in **National Insurance Company V. Pranay Sethi and others [2017 (5) KHC 350]** that the dependents are entitled to receive ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses and further that the compensation under those heads are to be increased every 3 years by 10% and relying on the above cited decision **₹ 18,000/-** is awarded towards loss of estate and **₹ 18,000/-** is awarded towards funeral expenses.

16. In the decision reported in **Magma General Insurance Company Ltd. Vs. Nanu Ram @ Chuhru Ram [2018 (18) SCC 130]** the Hon'ble Supreme Court held that the wife, children and parents of the deceased are entitled to claim compensation under the head loss of spousal consortium, parental consortium and filial consortium respectively and an amount of ₹40,000/- each is to be awarded and further that the compensation under the head consortium is to be increased every 3 years by 10% and relying on the above cited decision **₹48,000/-** is to be awarded towards loss of consortium. The petitioner being the son of the deceased is entitled to get parental consortium of **₹48,000/-**.

17. It is reasonable to award an amount of ₹2,000/- towards damage to clothing and an amount of ₹5,000/- towards transport to hospital. An amount of ₹35,652/- is awarded based on Ext.A9 medical bills. The injured was succumbed to the injuries on the next day of the accident only and considering the pain and suffering undergone by her till then an amount of ₹25,000/- is awarded as compensation for pain and suffering.

18. The table of compensation claimed by the petitioners and the compensation awarded by the Tribunal is given below:

Sl No	Head of Claim	Amount Claimed	Amount Awarded
a	Loss of earning	-	
b	Partial loss of earning	-	
c.	Transport to hospital	1,000/-	5,000/-
d	Extra nourishment	-	
e	Damage to clothing and articles	1,000/-	2,000/-
f	Funeral expenses		18,000/-
g	Medicine	2,50,000/-	35,652/-
h	Bystander's expenses		
i	Compensation for pain and suffering		25,000/-
j	Compensation for continuing or permanent disability if any	17,48,000/-	
k	Compensation for loss of earning power and loss of amenities in life		
l	Compensation for loss of estate	-	18,000/-
m	Compensation for loss of dependency	-	1,40,000/-
n	Compensation for loss of consortium	-	48,000/-
	Total	₹20,00,000/-	₹2,91,652/-
(Rupees Two Lakhs Ninety One Thousand Six Hundred and Fifty Two only)			

19. Admittedly the offending vehicle had valid insurance coverage with the 3rd respondent at the time of accident. So the 3rd respondent is liable to indemnify the

2nd respondent and to compensate the petitioner. The point No.2 & 3 are also found in favour of the petitioner.

20. **Issue No.4**

In the result, OP is allowed in part and award is passed in favour of the petitioner as follows :

1. The petitioner is entitled to recover an amount of **₹2,91,652/- (Rupees Two Lakhs Ninety One Thousand Six Hundred and Fifty Two only)** with 8% interest per annum thereon from the date of filing of the original petition, ie, from 31/12/2021 till date of realization and proportionate costs from the 3rd respondent.

2. The 3rd respondent is directed to produce crossed cheque for ₹19,373/- towards court fee and for ₹20,000/- 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.

1	Name of the person (s) entitled to compensation	G.Lalu
2.	Name of bank and branch	Kerala State Co-operative Bank Main, Kollam
3.	Bank IFSC Code	YESBOKLMDCB
4.	Account Number (s)entitled to compensation	113412301063233
5.	PANCARD No.	DLLPG2015Q

4. Office shall issue free copy of the award to the petitioner and the respondents forthwith.

(Dictated to Confidential Assistant transcribed and typed by her corrected and pronounced by me in open court this the 27th day of April, 2026.)

Sd/-
Rajesh.R
Motor Accident Claims Tribunal

Appendix:-**Exhibits for the Petitioner:-**

A1	02.01.2021	Copy of FIR & FIS
A2	02.01.2021	Copy of Scene Mahazar
A3	07.01.2021	Copy of Vehicle Mahazar
A4	02.01.2021	Copy of Post mortem certificate
A5	---	Copy of AMVI report
A6	15.04.2021	Copy of Final report
A7	04.12.2021	Copy of Family membership certificate
A8	---	Copy of PAN card
A9	----	Medical Bills

Exhibits for the Respondents:-

B1	----	Copy of Policy
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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. 2106/2021

1.	Court fee	₹ 19,373/-
2.	Legal Benefit Fund	₹ 20,000/-
3.	Vakkalath fee	₹ 6/-
4.	Process fee	₹ 90/-
5.	Stamp for Exhibits	₹ 26/-
6.	Petition fee	₹ 5/-
7.	Writing Fee	₹ 500/-
8.	Advocate Fee	₹ 16,982/-
	Total	₹ 56,982/-
		=====

$$\text{Proportionate cost} = \frac{2,91,652 \times 56,982}{20,00,000} = \frac{8,309/-}{=====}$$

(Rupees Eight Thousand Three Hundred and Nine only)

Id/-
Motor Accident Claims Tribunal