

**IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PUNALUR.**  
**Present:- Sri. Baiju.T.D, Motor Accidents Claims Tribunal**  
**Tuesday the 7<sup>th</sup> day of April, 2026/ 17<sup>th</sup> Chaithra, 1947.**

**OP (M.V) No. 285/2022**

**Between**

**Applicants:-**

1. Nazimudeen. B, Aged 49 years,  
S/o Late Badarudeen, Nasim Manzil, Kaithodu,  
Nilamel, Nilamel Village, Kottarakkara Taluk,  
Kollam, PIN 691535
2. Hyrunnissa.S, Aged 42 years,  
D/o Late Badarudeen, KP22//115C, Karichira,  
Kulamvettivila, Asarivilakam, Kalpada,  
Kallayam P.O, Vattappara, PIN 695028,  
Thiruvananthapuram.
3. Rafeeka.S, Aged 40 years, D/o Late Badarudeen,  
Sparkles, Opp. Amset, Nalanchira P.O, PIN 695015.  
Thiruvananthapuram.
4. Zeenath.S, Aged 33 years, D/o Late Badarudeen,  
Panayil Kalpada, Kulamvettivila, Kallayam P.O,  
Vattappara, PIN – 695043. Thiruvananthapuram

Represented by Adv. Sri. V. Mohan Kumar and  
Adv. Sachin.C.

**And**

**Respondents:-**

1. Rajeevan.C, Aged 47 years, S/o Chellappan,  
Muthiravila Veedu, Kadamkulam, ETC P.O,  
Kottarakkara, 691531.
2. Sandhya.R, Aged 37 years, W/o Santhosh,  
Raja Sadanam, Veliyam West P.O, Veliyam,  
Kottarakkara, PIN- 691540.

3. Manager, New India Assurance Co.Ltd,  
Kottarakkara Branch, PIN 691506.

R1 Ex-parte.

R2 represented by Adv. T.Y. Lukose

R3. represented by Adv. M. Sabu.

This OP(MV) have been finally heard on 18-03-2026 and on 07-04-2026 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:-

The 1<sup>st</sup> applicant is the son and the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> applicants are the daughters of the deceased Badarudeen. While the deceased Badarudeen was driving Mahindra Jeep bearing Reg. No. KL-02D/9279 from Elikkunnammukal to Nilamel and when the jeep reached Priyadarshini Junction near Kaithode at about 8.30 a.m on 14-09-2018, the tipper lorry bearing Reg. No. KL-24Q/4662 driven by the 1<sup>st</sup> respondent in a rash and negligent manner from the opposite side had hit the jeep causing damages to the jeep as well as the passengers in the jeep including the deceased driver. The deceased Badarudeen was taken to the hospital where he succumbed to the injuries sustained by him. The accident occurred due to the rash and negligent driving of tipper lorry bearing Reg. No. KL-24Q/4662 by the 1<sup>st</sup>

respondent. The 2<sup>nd</sup> respondent is the registered owner and the 3<sup>rd</sup> respondent is the insurer of the offending tipper lorry bearing Reg. No. KL-24Q/4662. The applicants claim compensation of ₹ 20,00,000. The respondents are jointly and severally liable to compensate the applicants.

3. The 1<sup>st</sup> and 2<sup>nd</sup> respondents were set ex-parte.

4. The 3<sup>rd</sup> respondent had filed written statement with the following contentions :-

The accident had not occurred due to the rash and negligent driving of tipper lorry bearing Reg. No. KL-24Q/4662 by the 1<sup>st</sup> respondent and the accident occurred due to the negligent driving of jeep bearing Reg. No. KL-02D/9279 by the deceased without a driving licence. There is contributory negligence on the part of the deceased. The applicants are not the dependants of the deceased. The applicants are the married children of the deceased. The compensation amount claimed is exorbitant. The 3<sup>rd</sup> respondent admits that tipper lorry bearing Reg. No. KL-24Q/4662 was having valid insurance policy covering the date of accident. The 3<sup>rd</sup> respondent has no liability to indemnify the 2<sup>nd</sup> respondent due to violation of condition of policy. The 2<sup>nd</sup> respondent had not reported the accident to the 3<sup>rd</sup> respondent nor had produced the vehicle particulars for verification. So, the application is to be dismissed with costs.

5. The following issues are raised:-

1. Whether the deceased sustained fatal injuries in the accident and died as a result thereof ?
2. Whether the rash and negligent driving of tipper lorry bearing Reg. No. KL-24Q/4662 by the 1<sup>st</sup> respondent is the direct and proximate cause of the death of the deceased ?
3. Whether the applicants are the dependants of the deceased ?
4. Whether the applicants are entitled to get compensation ? If so, what is the just compensation and under what heads ?
5. What was the age, occupation and monthly income of the deceased at the time of accident ?
6. Who is liable to pay compensation ?
7. Reliefs and costs ?
6. On the side of the applicants, Exts.A1 to A11 were marked. The

3<sup>rd</sup> respondent had not adduced evidence.

7. Heard both sides.

8. **Issue No. 1:-**

The applicants state that the deceased Badardudeen had died as a result of the injuries sustained by him in a road traffic accident which occurred at about 8.30 a.m on 14-09-2018. Ext.A6 is the inquest report prepared for the dead body of the deceased in FIR No. 1466/2018 of Chadayamangalam Police Station. Ext.A7 is the postmortem certificate of the deceased which shows that death was due to injuries suffered to head, lungs and brain in a road

traffic accident. Exts.A6 and A7 shows that the deceased Badarudeen had died due to the injuries sustained by him in a road traffic accident. Issue No. 1 is found in favour of the applicants.

9. **Issue No.2:-**

Exts. A1 series to A5 are certified copies. Ext.A1 is FIR No. 1466/2018 registered at Chadayamangalam Police station u/s 279, 337, 338 and 304(A) of IPC against the driver of tipper lorry bearing Reg. No. KL-24Q/4662 and Ext.A1(a) is the first information statement. Ext.A2 is the scene mahazar, Ext.A3 is the vehicle mahazar, Ext.A4 is the motor vehicle inspection report and Ext.A5 is the final report forwarded to the Judicial First Class Magistrate Court, Kadakkal in FIR No. 1466/2018 of Chadayamangalam police station alleging commission of offences punishable u/s 279, 337, 338 and 304(A) of IPC and Sec. 134(a) & (b) r/w 187 of Motor Vehicles Act by the 1<sup>st</sup> 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 3<sup>rd</sup> respondent had not adduced evidence in support of the

contention that the accident had not occurred due to the rash and negligent driving of tipper lorry bearing Reg. No. KL-24Q/4662 by the 1<sup>st</sup> respondent and the accident occurred due to the rash and negligent driving of jeep bearing Reg. No. KL-02D/9279 by the deceased. Therefore, from Ext.A1 to A5 documents, I find that the rash and negligent driving of tipper lorry bearing Reg. No. KL-24Q/4662 by the 1<sup>st</sup> respondent is the direct and proximate cause of the death of the deceased Badarudeen. Issue No. 2 is found in favour of the applicants.

10. **Issue No. 3 :-**

Ext.A8 is the copy of the Aadhar card of the 1<sup>st</sup> applicant, Ext.A8(a) is the copy of the Aadhar card of the 2<sup>nd</sup> applicant, Ext.A8(b) is the copy of the Aadhar card of the 3<sup>rd</sup> applicant and Ext.A8(c) is the copy of the Aadhar card of the 4<sup>th</sup> applicant. Ext.A10 is the legal heirship certificate issued from the Taluk Office, Kottarakara which shows that the legal heirs of Badarudeen who died on 14-09-2018 are his wife Sinam Beevi, son Nazimudeen and daughters Hyrunnissa, Rafeeka and zeenath. Ext.A11 is the legal heirship certificate of the deceased Sinam Beevi which shows that Nazimudeen is the son and Hyrunnissa, Rafeeka and zeenath are the daughters of deceased Sinam Beevi. It should be noted that Nazimudeen is the 1<sup>st</sup> applicant, Hyrunnissa is the 2<sup>nd</sup> applicant, Rafeeka is the 3<sup>rd</sup> applicant and Zeenath is the

4<sup>th</sup> applicant. Therefore, from Ext.A8 and A10, I find that the applicants are the legal heirs and dependants of the deceased. Issue No. 3 is found in favour of the applicants.

11. **Issue Nos. 4 and 5 :-**

In view of my finding on Issue Nos. 1 to 3, the applicants are entitled to get compensation. The applicants state that the date of birth of the deceased is 22-05-1950. There is no document to show the date of birth of the deceased. There is no reason to disbelieve the claim of the applicants that the date of birth of the deceased is 22-05-1950. The accident occurred on 14-09-2018. So, the deceased was aged 68 years at the time of accident. The applicants claim that the deceased was the proprietor of a flour mill with monthly income of Rs. 30,000. Ext.A9 is the copy of the registration certificate issued by the Commissionerate of Food Safety in Kerala which shows that the deceased was granted registration certificate to conduct food business. Ext.A9 does not show that the deceased had really commenced the food business in the premises stated in Ext.A9. There is no document to show the income of the deceased. In view of the dictum in **Ramchandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited (2011 KHC 4675)**, the notional income of the deceased in the year 2018 is reckoned as Rs. 11,500 per month.

12. The applicants are awarded ₹ 6,000 towards transportation charges. The applicants are awarded ₹ 18,150 towards funeral expenses, following the decision in *National Insurance Co. Ltd. v Pranay Sethi* (AIR 2017 SC 5157).

13. The applicants are awarded ₹ 15,000 towards compensation for pain and suffering, following the decision in **Gopinathan versus Afzal Basha and another (2023 KHC 666)**. The applicants are awarded ₹ 48,400 each towards parental consortium. The applicants are awarded ₹ 18,150 towards loss of estate. The applicants have claimed ₹ 15,00,000 towards compensation for loss of dependency. As noted earlier, the notional income of the deceased is fixed at ₹ 11,500. Since the deceased was above the age of 60 years, no future prospects is to be added towards his income. Since the deceased was aged 68 years at the time of accident, the multiplier applicable in this case is '5'. Since the deceased is having four dependants, 1/4th of the income is to be deducted towards his personal and living expenses and the remaining amount should be the contribution to his family. The applicants are awarded ₹ 5,17,500 towards compensation for loss of dependency (11,500 x 12 x 5 x 3/4). All other claims are disallowed.

14. The compensation awarded to the applicants under different heads are given below :-

Sl. No.	Heads	Amount claimed	Amount awarded	Basis-vital details in a nut shell
<b>Pecuniary Damages</b>				
1	Transport to hospital	50,000	6,000	Reasonable estimation
2	Funeral expenses		18,150	Pranay Sethi's case
<b>Non-pecuniary Damages</b>				
3	Compensation for pain and suffering	1,00,000	15,000	Gopinathan's case
4	Compensation for loss of love and affection	1,00,000	....	Disallowed
5	Compensation for loss of parental consortium	1,50,000	1,93,600	(48,400 x 4) (Pranay Sethi's case)
6	Compensation for loss of estate	1,00,000	18,150	Pranay Sethi's case
7	Compensation for loss of dependency	15,00,000	5,17,500	(11,500 x 12 x 5 x ¾)
	<b>Total</b>	<b>20,00,000</b>	<b>7,68,400</b>	

15. Thus the applicants are entitled to get total compensation of **₹ 7,68,400 (Rupees Seven Lakhs Sixty Eight Thousand and Four Hundred only)** as shown in the schedule.

16. **Issue No. 6 :-**

The rash and negligent driving of tipper lorry bearing Reg. No. KL-24Q/4662 by the 1<sup>st</sup> respondent is the direct and proximate cause of the death of the deceased. The 2<sup>nd</sup> respondent is the registered owner and the 3<sup>rd</sup> respondent is the insurer of the offending tipper lorry. It is admitted by

the 3<sup>rd</sup> respondent that insurance policy was issued for tipper lorry bearing Reg. No. KL-24Q/4662 covering the date of accident. So, the 3<sup>rd</sup> respondent has a statutory liability to indemnify the 1<sup>st</sup> respondent for the compensation to be paid to the applicants. Therefore, the applicants are entitled to get compensation from the 3<sup>rd</sup> respondent. Issue No. 6 is found in favour of the applicants.

17. Out of the award amount including interest and costs, but, excluding the amount payable as court fee and legal benefit fund fee, 25% each shall be given to the applicants.

18. **Issue No. 7:-**

**In the result,** the application is allowed and award is passed on the following terms:-

(1) The applicants are entitled to recover an amount of **₹ 7,68,400 (Rupees Seven Lakhs Sixty Eight Thousand and Four Hundred only)** as compensation with interest at the rate of 9% per annum from the date of original petition ie. 02-08-2022 till realization with proportionate costs from the 3<sup>rd</sup> respondent.

(2) The 3<sup>rd</sup> respondent is directed to deposit two cheques in the name of MACT, Punalur for ₹ 19,373 and ₹ 20,000 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 1<sup>st</sup> applicant shall be transferred directly to the credit of the bank account of the 1<sup>st</sup> applicant (Nazimudeen.B), Canara Bank, Nilamel Branch, Account No.110044801179 IFSC : CNRB0005515, amount due to the 2<sup>nd</sup> applicant shall be transferred directly to the credit of the bank account of the 2<sup>nd</sup> applicant (Hyrunnissa.S), Kerala Gramin Bank, Mukkolakkal Branch, Account No.40641101085150 IFSC : KLGB0040641, amount due to the 3<sup>rd</sup> applicant shall be transferred directly to the credit of the bank account of the 3<sup>rd</sup> applicant (Rafeeka.S), HDFC Bank, Nalanchira Branch, Account No. 50100442740341 IFSC : HDFC0004063 and amount due to the 4<sup>th</sup> applicant shall be transferred directly to the credit of the bank account of the 4<sup>th</sup> applicant (Zeenath.S), Kerala Gramin Bank, Mukkolakkal Branch, Account No.40641101048265 IFSC : KLGB0040641, based on the observation in **Paragraph 17** of this award 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.

19. Issue free copies of this award to the applicants and 3<sup>rd</sup> respondent.

20. 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 7<sup>th</sup> April, 2026.

**Sd/-**

**Baiju.T.D.**

**MOTOR ACCIDENTS CLAIMS TRIBUNAL**

**Appendix**

**Exhibits for the Petitioners:-**

A1	14-09-2018	Certified Copy of FIR in Cr. No. 1466/2018 of Chadayamangalam Police Station.
A1(a)	14-09-2018	Certified Copy of FIS in Cr. No. 1466/2018 of Chadayamangalam Police Station.
A2	14-09-2018	Certified Copy of Scene Mahazar in Cr. No. 1466/2018 of Chadayamangalam Police Station.
A3	19-09-2018	Certified Copy of Vehicle Mahazar in Cr. No. 1466/2018 of Chadayamangalam Police Station.
A4	22-09-2018	Certified Copy of AMVI Report in Cr. No. 1466/2018 of Chadayamangalam Police Station.
A5	Nil	Certified Copy of Final Report in Cr. No. 1466/2018 of Chadayamangalam Police Station.
A6	14-09-2018	Certified Copy if Inquest Report in Cr. No 1466/2018 of Chadayamangalam Police Station.
A7	14-09-2018	Certified Copy of Post Mortem Certificate in Cr. No. 1466/2018 of Chadayamangalam Police Station.

A8		Copy of Aadhar Card in respect of Nazimudeen.B
A8(a)		Copy of Aadhar Card in respect of Hyrunnissa.S.
A8(b)		Copy of Aadhar Card in respect of Rafeeka.S
A8(c)		Copy of Aadhar Card in respect of Zeenath.S
A9	15-02-2018	Certificate issued to Badarudeen.R from Commissionerate of Food safety Registration under FSS Act, 2006.
A10	24-01-2019	Legal Heirship Certificate issued from Taluk Office, Kottarakkara.
A11	31-08-2022	Legal Heirship Certificate issued from Taluk Office, Kottarakkara.

Exhibits for the Respondents:- Nil

Witness for both sides:- Nil.

Id/-

Motor Accidents Claims Tribunal.

//True Copy//

Typed by : Jayasree.S  
Compd. by : Binu.S

**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**

**MOTOR ACCIDENTS CLAIMS TRIBUNAL**  
**MEMO OF COSTS**  
**OP(MV) 285/2022**

Costs for the Petitioner

1	Court Fee	19,373/-
2	LBF Fee	20,000/-
3	Vakalath Fee	5/-
4	Process Fee	90/-
5	Petition Fee	10/-
6	Stamp for Exhibits	62/-
7	Other Charges	500/-
8	Advocate Fee (Senior)	40,820/-
9	Advocate Fee (Junior)	20,410/-

**TOTAL**      **Rs. 1,01,270/-**  
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**Proportionate Cost =  $\frac{101270 \times 768400}{20,00,000/-}$**   
= 38,907/-  
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**(Rupees Thirty Eight Thousand Nine Hundred and Seven only)**  
**Proportionate costs allowed. Cost memo filed.**

**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**