

**THE MOTOR ACCIDENTS CLAIMS TRIBUNAL/ADDITIONAL
DISTRICT AND SESSIONS COURT, TALIPARAMBA.**

Present:- Sri.**Prasanth.K.N**, Motor Accidents Claims Tribunal/

Addl.District and Sessions Judge,

Friday, the 29th day of May, 2026/ 8th Jyeshtha, 1948

OP(MV) Nos. 659/2019 & 12/2019

OP(MV) 659/2019

1. Shyni Benny, W/o.Benny Joseph, aged 42 years, Kalloor, Edavaramba, (PO) Edavaramba, Pulingome, Cherupuzha, Payyanur Taluk, Kannur Dist – 670511. Aadhar No. 467899810690
2. Dona Kurian, D/o.Benny Joseph, aged 19 years, Kalloor, Edavaramba, (PO) Edavaramba, Pulingome, Cherupuzha, Payyanur Taluk, Kannur Dist – 670511. Aadhar No. 279825518531
3. Delbin Kurian, S/o.Benny Joseph, aged 16 years, (Minor) Aadhar No. 4205 7438 1636
(Declared as major and guardian removed as per order in IA 02/24 & 03/24 dated 18-09-2024.)
4. Ashna Kurian, aged 14 years, D/o.Benny Joseph (Minor) Aadhar Card No. 9696 1419 2479
(Petitioner Nos. 3 & 4 are minors represented by their next friend Mother Shyni Benny, Kalloor, Edavaramba, (PO) Edavaramba, Pulingome, Cherupuzha, Payyanur Taluk, Kannur Dist.)
(Declared as major and guardian removed as per order in IA 04/24 & 05/24 dated 18-09-2024.)

Petitioners

Vs.

1. Suja Denny, W/o.Poulose.K.E, aged 52 years, Kuruppan House, Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511
2. Sinto K Dennis, D/o.Dennis K.E @ Poulose KE aged 20 years, Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511

Respondents

3. Aleena K Denny, D/o.Poulose KE, aged 16 years (Minor), represented by his mother Suja Denny W/o.Poulose.K.E, aged 52 years, Kuruppan (H), Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511 (Legal heirs of deceased Poulose Rider & RC Owner of the Motor Cycle No. KL 59 P 4072)
4. New India Assurance Co.Ltd. South Bazar, Temple Road, Payyanur, (PO) Payyanur, Kannur Dist. 670307. Insurer of the Motor Cycle bearing No. KL 59 P 4072.
5. Joseph Kalloor, aged 75 years, Edanad, New Central School, (PO) Edat, Kannur Dist. 670307. Father of the deceased
6. Mery Joseph, W/o.Joseph, aged 70 years, New Central School, (PO) Edat, Kannur Dist. 670307. Mother of the deceased

Respondents

OP(MV) 12/2019

Paulose.K.E, S/o.Isac, Aged 52 years, (**No more**) Kuruppan House, Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511

Legal heirs of deceased Paulose K.E

1. Suja Denny, W/o.Poulose.K.E, aged 42 years, Kuruppan House, Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511
2. Sinto K Dennis, D/o.Dennis K.E @ Poulose KE aged 20 years, Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511
3. Aleena K Denny, D/o.Poulose KE, aged 16 years (Minor), represented by his mother Suja Denny W/o.Poulose.K.E, aged 42 years, Kuruppan (H), Meenthully, Kozhichal (PO), Pulingome, Cherupuzha, Kannur Dist. 670511

Petitioners

Vs.

1. Sreedharan Kandoth, S/o.Kunhiraman, (**Died**) aged 55 years, Kandoth (H), Cherakkal Mukku, SS Temple Road, Payyanur. (Owner of KL 13 P 5410 Motor Cycle)

Respondents

Benny Joseph, S/o.Joseph, aged 49, (**No more**)
 Kalloor House, Edavarambu (PO), Cherupuzha
 Taliparamba Taluk, Kannur Dist.
 Driver of KL 13 P 5410 Motor Cycle

Legal heirs of deceased Benny Joseph

2. Shyni, W/o.Benny Joseph, aged 47 years,
 Kalloor House, (PO) Edavarambu, Cherupuzha,
 Taliparamba Taluk, Kannur Dist. 670511.
3. Dona, D/o.Benny Joseph, aged 17 years.
4. Delbin, S/o.Benny Joseph, aged 15 years.
5. Ashna, D/o.Benny Joseph, aged 12 years,
 (Petitioner Nos.3,4,5 Minors are represented by
 Mother Shyni, aged 47 years, W/o.Benny Joseph,
 Kalloor House, (PO) Edavarambu, Cherupuzha,
 Taliparamba Taluk, Kannur Dist. 670511.)

Respondents

Legal heirs of deceased Sreedharan Kandoth

6. Padmavathi, W/o.Late Sreedharan, aged 65 years,
 Kandoth (H), Cherakkal Mukku, SS Temple Road,
 Payyanur.
7. Sreeja, D/o.Sreedharan, aged 40 years,Kandoth (H)
 Cherakkal Mukku, SS Temple Road, Payyanur.
8. Soumya,D/o.Sreedharan, aged 38 years,Kandoth (H)
 Cherakkal Mukku, SS Temple Road, Payyanur.
 Supl.R6 to R8 impleaded and amended as per
 order in IA 02/2025 and IA 03/25 dated 01-07-25

These petitions are coming on this day for hearing before me in the presence of S/Sri.M.V.Amaresan & Renjana.S, Advocates for the petitioners; of Sri.Saji Zacharias, Advocate for the Respondent Nos.1 & 2; of Sri.Pramod Krishnan, Advocate for the Respondent No.4; Respondent Nos.3, 5 & 6 are being called absent set exparte in **OP(MV) 659/2019**; of S/Sri.Saji Zacharias & Manoj U, Advocates for the petitioners; and of S/Sri. M.V.Amaresan & Renjana.S, Advocates for the Respondent Nos.2 to 5; and of Sri.M.V.Vinod, Advocate for the Respondent Nos.6 to 8; 1st respondent died in **OP(MV) 12/2019** and the tribunal passed the following:-

COMMON AWARDS**SUMMARY OF PETITION IN OP(MV) 659/2019**

| No | Heading | Description | Remarks |
|-----------|--------------------|--|--|
| 1 | Details of parties | P1 - Wife, P2 to P4 – Children, R5 & R6 – Parents (Legal heirs of deceased Benny), R1 to R3 - LH of driver, R4 – Insurer | |
| 2 | Accident details | A collision between two motorcycles resulted in the riders' death - Death Case | |
| 3 | Occurrence | 18.05.2019 - Ext.A1 29.11.2018 – Ext.B1 | FIR 171/2019, Cherupuzha PS FIR 334/2018, Cherupuzha PS |
| 4 | Final Report | 30.12.2018 - Ext.B2 | S. 279, 304 A of IPC, 3(i) r/w 181 MV Act |
| 5 | Petition | 15.11.2019 | U/s 166 of the MV Act |
| 6 | Licence | Admitted | Admitted |
| 7 | Insurance | Insured | Insured |
| 8 | Age | 48 | Proved - Ext.A6 |
| 9 | Job | Saw mill business | Not proved |
| 10 | Income | Claimed - ₹25,000 | MW Act - ₹17,025 |
| 11 | Dependency | Multiplier - 13 | Future prospects - 25% |
| | | Dependents - 6 | Deduction - 1/4 |
| 12 | Injuries | Instantaneous death | Death due to head injuries |
| 13 | Death | 29.11.2018 | Ext.A3 |
| 14 | Evidence | PW1 to PW4 | Ext.A1 to A10, B1 to B4, X1 |
| 15 | Compensation | ₹25,00,000 - Claimed | ₹14,39,500 - Allowed |

SUMMARY OF PETITION IN OP(MV) 12/2019

| | | | |
|----|--------------------|--|--------------------------------|
| 1 | Petition | 07.01.2019 | U/s 166 of the MV Act |
| 2 | Details of parties | P1 -Wife, P2 - Son, P3 - Daughter (Legal heirs of Paulose) R1 – RC Owner (Died), R2 to R5 – LH of deceased driver, R6 to R8 – LH of R1 | |
| 3 | Age | 51 | Proved - Ext.A5 |
| 4 | Job | Secretary Market | Not proved |
| 5 | Income | Claimed - 40,000 | MW Act - ₹17,025 |
| 6 | Dependency | Multiplier - 11 | Future prospects - 10% |
| | | Dependents - 3 | Deduction - 1/3 |
| 7 | Injuries | Instantaneous death | Due to head injuries |
| 8 | Death | 29.11.2018 | Ext.A3 |
| 9 | Evidence | PW1 | Ext.A1 to A7, B1, B2, X1 to X4 |
| 10 | Compensation | ₹50,00,000 - claimed | ₹9,38,500 - Allowed |

The beginning

"Death is certain in life,

but yet the timing remains uncertain..."

Branch Manager, UII Co. Ltd V. Mujeeb Rahman, 2025 KHC 74

1. These petitions are filed by the legal heirs of the deceased under **Section 166** of the Motor Vehicles Act, 1988, to seek compensation for the death of Benny and Paulose in an accident.

Case of the petitioners

2. On 29.11.2018, at 2.30 pm, at Meenthulli, Benny Joseph was riding a motorcycle bearing Regn. No. KL.13. P.5410, and Paulose was riding a motorcycle, bearing Regn. No. KL.59. P.4072 collided with each other, and both sustained grievous injuries. After the accident, both were taken to Government Medical College Hospital, Pariyaram, and they succumbed to death due to a head injury on the same day.

3. The petitioners in OP(MV) 659/2019 are the wife and children of Benny, and the first respondent was the wife, and the second and third respondents are the children of the deceased Poulouse, the fourth respondent was the insurer of the offending vehicle. The fifth and sixth respondents are Benny's parents, but they died after filing this petition.

4. The petitioners in OP(MV) 12/2019 are the wife and children of Poulouse, and the first respondent was the RC owner, the second respondent was the wife, the third to fifth respondents are the children of Benny, and the sixth to eighth respondents are the legal heirs of the first respondent, the deceased RC owner.

5. The legal heirs of Benny have claimed ₹25,00,000 in OP(MV) 659/2019, and the legal heirs of Poulouse have claimed ₹50,00,000 in OP(MV) 12/2019 as compensation for their deaths in the accident.

6. The first, second and fourth respondents appeared and filed their written statements in OP(MV) 659/2019. The third, fifth and sixth respondents did not appear on summons and were set ex parte. All respondents appeared and filed their written statements in OP(MV) 12/2019.

Case of the respondents in OP(MV) 659/2019

7. The first and second disputed the negligence and the vehicle's involvement in the accident and stated that the accident occurred due to the negligence of Benny. They have denied all the allegations in the petitions.

8. The fourth respondent disputed the negligence and the vehicle's involvement in the accident and stated that the amount of compensation claimed

in the petition under different heads is excessive and unreasonable. It is also contended that the deceased did not have a driving licence at the time of the accident, was charged under **Section 3(1) r/w 181** of the **MV Act**, and that the motorcycle was not covered by insurance either. The first petitioner filed a private complaint against Paulose, which was forwarded to the Cherupuzha police for investigation, and Crime 171/2019 was registered. After a detailed investigation, the police referred the said case as “mistake of fact”. They contended that the accident occurred due to the negligence of Benny.

Case of the respondents in OP(MV) 12/2019

9. The first respondent contended that he was the RC owner of the motorcycle, bearing Regn. No. KL.13. P.5410 at the relevant time of the accident, and it was sold on 30.05.2017 to Benny by a sale agreement. Thus, the legal heirs of Benny are liable to compensate. Further contended that the accident was caused solely due to the rash and negligent driving of Poullose.

10. The second to fifth respondents disputed the negligence and the vehicle's involvement in the accident and stated that the amount of compensation claimed in the petition under different heads is excessive and unreasonable. They further contended that the accident was caused solely by the rash and negligent driving of Poullose.

11. The sixth to eighth respondents are the legal heirs of the RC owner, who contended that the RC owner transferred the vehicle to Benny on 30.05.2017 by a sale agreement, and the legal heirs of Benny are liable to

compensate. Further contented that the accident was caused solely due to the rash and negligent driving of Paulose.

12. On going through the contentions raised by both sides, the following common points arise for consideration.

Points for consideration

1. *Did the accident occur due to the rash or negligent driving of Benny or Paulose?*
2. *Did the deaths of Benny and Paulose occur as a result of the injuries sustained in the motor vehicle accident on 29.11.2018?*
3. *Are the petitioners entitled to recover any amount as compensation? If so, what is the quantum?*
4. *Who is liable to compensate the petitioners?*
5. *Reliefs and costs?*

13. In OP(MV) 659/2019, on the petitioner's side, PW1 to PW4 were examined, and Exts.A1 to A10 documents were marked on the petitioner's side. Ext.X1 and Ext.B1 to B4 documents were marked on the respondents' side. In OP(MV) 12/2019, PW1 was examined, and Ext.A1 to A7 documents were marked on the petitioner's side and Ext.X1 to Ext.X4 and Ext.B1& B2 documents were marked on the respondents' side.

14. The third and fourth petitioners, the children of the deceased, were minors at the time of filing of this petition, and thereafter, they were declared as a major as per the order dated 18.09.2024 in IA 02/2024 and IA 04/2024 of these petitions. As per the order in IA 01/2020, the joint trial was ordered.

Point No.1/ Negligence

15. To prove the accident and negligence, the legal heirs of Benny, the petitioners in OP(MV) 659/2019, relied on A1 FIR, A8 private complaint, A9 protest complaint, and Ext.X1 site plan. These documents show that the police had registered a case regarding the incident as Crime No. 334/2018 at Cherupuzha Police Station, inculcating Poulose. However, as per the Ext.B2/A7 final report after the investigation, the report was filed under **Section 173(2)** of Cr.P.C. against Benny, and he was charged under **Sections 279, 304** of the **IPC** and **3(1) r/w 181** of the **MV Act**. As per the final report, Ext.A7/B2, the accident occurred due to the rash and negligent driving of Benny, who did not have a driving licence or insurance.

16. Against Ext.B2/A7 final report, which inculcates Benny, his legal heirs filed Ext.A8 private complaint before Judicial First-Class Magistrate, Payyannur, as CMP No.4323/2019, and it was forwarded to Cherupuzha police station. Based on the investigation, the Ext.B4 final report states that the case was referred to as a **mistake of fact**. Against the referral order, Ext.A9 protest complaint, CMP No.2231/2020, filed by the legal heirs of Benny, cognizance was taken by the court based on the private complaint. Therefore, there is a final report in favour of the legal heirs of Poulose and a protest complaint in favour of the Legal heirs of Benny. Then the question is which will prevail.

17. The legal heirs of Poulose are sticking to the final report, contending that, as per the final report itself, the police filed a final report against

Benny, and the presumption is available in favour of Poulouse. The Hon'ble High Court of Kerala has held in *New India Assurance Company V. Pazhaniammal, 2011 (3) KHC 595* and *Kolavan V. Salim, 2018 KHC 77* that the production of a police charge sheet, as a general rule, is sufficient evidence of negligence for a claim under **Section 166** of the Motor Vehicles Act unless the contrary is proved. Once the claimant produces the charge sheet, the burden of proof shifts to the party who does not accept the charge sheet to adduce contra evidence. Then, the question is whether the legal heirs of the deceased Benny, petitioners in OPMV 659/2019, succeeded in rebutting the presumption available in favour of the others.

18. To rebut the presumption available in favour of the final report, the legal heirs of Benny examined PW1 to PW4 from their side. PW1 was the Sub Inspector of Cherupuzha police station, who registered Ext.A1 FIR based on the private complaint filed by the wife of Benny. Then, he prepared the Ext.X1 scene mahazar based on the information given by Vipin and Anuraj. PW3 was the investigation officer who stuck to the final report. PW2 was an eyewitness to the incident, and PW4 arrived at the scene immediately after the occurrence.

19. The sole eyewitness, PW2, specifically stated that the incident happened in the middle of the road, which is substantiated by the oral evidence of PW1 and Ext.A10 sketch. Ext.A10 sketch was prepared by the Assistant Engineer, PWD, based on the scene mahazar and local inspection, after the

confirmation of order IA No.1/2021 by the Hon'ble High Court of Kerala in OP (MAC) No. 102/2021, dated 08.08.2023. PW4 stated that, when he reached at the spot, the accident was over, and his evidence could not be taken into consideration for the purpose of assessing the negligence.

20. The question is whether the testimony of the eyewitnesses will prevail over the final report filed by the investigation officer. It is held in *Mathew Alexander V. Muhammed Shafi, 2023 (4) KHC 566* and *Mani V.R.(Dr.) V. Binoy Varghese, 2022 (6) KHC 83*, that “*in cases involving negligence and contributory negligence, normally police charges will be emphasized to hold so if no contra-evidence is forthcoming, when substantive evidence otherwise is available, same should have predominance over the police charge.* Hence, the substantive evidence given by the witness shall be considered, and the oral evidence adduced before the court will have a predominance over the police charge.

21. In *Meera P.O V. Ananda P Naik, 2022 (1) KHC 591*, it is held that “*A Fortiori, it is trite, a claim petition under Section 166 of the act has to be decided on the touchstone of preponderance of probability and not on the litmus test of beyond reasonable doubt.*” After going through the evidence of PW1 and PW4, coupled with Ext.A10, Ext.X1, this court is of the view that the accident occurred in the middle portion. So, this court holds that the evidence is sufficient to prove that the accident resulted from the contributory negligence of both drivers. Therefore, in light of the evidence adduced, the deceased Benny and

Poulose are equally responsible for the accident of their rash and negligent riding. Point No.1 is answered accordingly.

Cause of death/ Point No.2 in OP(MV) 659/2019

22. After the accident, the deceased, Benny, was taken to Government Medical College Hospital, Kannur, and he succumbed to death on the same day. The case of the petitioners that the deceased died as a result of the injuries sustained in the accident is substantiated with Ext.A1 FIR, Ext.B2 Final Report, and Ext.A2 Postmortem certificate. The postmortem certificate reveals that the death was **“Died of aspiration of blood into the air passages, following Head Injury”**. The same fact is not disputed by any of the respondents. Hence, the petitioners succeeded in proving that the deceased died as a result of the injuries sustained in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

Point No.3 in OP(MV) 659/2019

23. The compensation under different heads has to be fixed in light of *Sarala Varma V. Delhi Transport Corporation, 2009 KHC 4634* and *National Insurance Co. V. Pranay Sethi, 2017 (5) KHC 350*. The Hon'ble Supreme Court laid down the fundamental facts to be established by the claimants for assessing compensation in case of death. The said facts are *(1) the Age of the deceased, (2) the Income of the deceased, and (3) the number of dependents*. According to the petitioners, the deceased was 49 years old at the time of the accident. The petitioners produced the Ext.A4 school admission abstract to

prove the deceased's age, showing his date of birth as 01.06.1970. Since the accident was on 29.11.2018, the deceased was 48 years old at the time of the accident, and the multiplier to be applicable is '13', as per *Sarala Varma's case (supra)*.

Future prospects

24. The petitioners aver that the deceased was a saw mill worker earning a monthly income of ₹30,000. The petitioners produced Ext.A7 ID card issued by the State President, Kerala State Timber Merchant Association, Taliparamba. This document shows that the deceased was a sawmill worker. However, they did not provide any documents to directly prove his income. The Hon'ble Supreme Court in *National Insurance Co. Ltd V. Neeru Devi, 2025 KHC OnLine 7679*, held that "*the income computation for the deceased must be supported by tax returns when claimed income exceeds taxable limits.*" The petitioner produced neither the bank account nor the tax payment details to prove the income. Therefore, the income claimed by the petitioner cannot be treated as such.

25. The concept of right to work and living wages was enshrined by **Article 43** of the Indian Constitution, which states that the wages of a worker shall ensure a decent standard of living and social justice. Therefore, the Minimum Wages Act was introduced to prevent the exploitation of labourers by securing minimum wages, ensuring a basic standard of living, and promoting social justice in conformity with constitutional directives. It is held by the

Hon'ble Supreme Court in *Gurpreet Kaur V. United Insurance Co. Ltd, 2022 (6) KHC 601*, and *Jithendra V. Sadiya, 2025 KHC 7101*, that the notifications under the Minimum Wages Act can be a guiding factor in cases where there is no evidence available to evaluate monthly income.

26. The Ext.A7 shows that the petitioner was a timber merchant by profession. Therefore, it is proven that the petitioner was an unskilled worker at the time of the accident. As far as the State of Kerala is concerned, the Government has brought the minimum wage rates in **G.O.(P). No. 56/2017/Fin, w.e.f 28.04.2017**, for unskilled workers at ₹17,025 per month. Therefore, this court is of the considered view that, as beneficial legislation, the minimum wages can be taken into account in accident claims, and the deceased's notional monthly income can be fixed at **₹17,025**. Therefore, this court is of the considered view that the notional income of the deceased can be fixed as **₹17,025**. Since the deceased was **48**, an additional **25%** of the monthly income will be added towards *future prospects*, as per *Pranay Sethi's (Supra)* case. Hence, the monthly income of the deceased for assessing dependency will be **₹21,281 (17,025 + 4256)**.

Loss of Dependency

27. According to the petitioners, the first petitioner is the wife, the second, third and fourth petitioners are the children, and the fifth and sixth respondents are the parents of the deceased. To prove this, the petitioners have produced the legal heirship certificate issued by the Tahsildar, Payyannur,

marked Ext.A5, which shows that the petitioners are the legal heirs of the deceased. All the petitioners contended that they depended upon the deceased at the time of his death, and the respondent did not dispute the same, and that the total number of dependents was six. Therefore, following the decision in *Sarala Varma (Supra)*, 1/4 of the deceased's income must be deducted to cover the deceased's personal and living expenses. After the deduction, the amount is multiplied by the multiplier of **13**, which comes to **₹24,89,877** (21,281x12x13x3/4), and the amount is awarded as compensation for the loss of dependency.

Funeral expenses and loss of estate

28. Following the decision of the Hon'ble Supreme Court in *Pranay Sethi (Supra)* and *Magna General Insurance Company Ltd. V. Nanu Ram, 2018 KHC 6697*, the dependents of the deceased are entitled to compensation of **₹19,965** under the head of funeral expenses and an amount of **₹19,965** is granted towards the loss of estate.

Loss of consortium

29. The first petitioner is entitled to **₹53,240** for the spousal consortium, the second, third and fourth petitioners are entitled to **₹1,59,720** (53,240x3) for the parental consortium. The fifth and sixth respondents are Benny's parents, but they died on 24.08.2025 and 06.11.2024, after filing this petition. Then, the question is whether the petitioners are entitled to a filial consortium on behalf of the deceased fifth and sixth respondents, the father and

mother. In *Kirti Vs. Oriental Insurance Co. Ltd, 2021 ACJ 1 (SC)* and *Paramjit Kaur V. Gurudev Singh, 2021 KHC 4905*, it is held that “*the subsequent death of the deceased’s dependent ought not to be a reason for reduction of the compensation, and the claims crystalize at the time of the accident and cannot be negated due to the subsequent death.*” So, the petitioners are also entitled to receive **₹53,240** each as a filial consortium on account of the fifth and sixth respondents.

Transportation, Medical & Clothing

30. Under a reasonable estimate, this court is inclined to award an amount of **₹6,000** for the transportation to the hospital, an amount of **₹5,000** for the medical expenses, and **₹3,000** for the head of damage to clothing.

Pain and suffering

31. In *Bhagyalakshmi V. Shriram General Insurance Co. Ltd, 2020 KHC 5446* and *Mable V. Lenoy Sebastian, 2024 KHC Online 112*, the Hon'ble High Court of Kerala held that in cases of instantaneous death, pain and suffering will be invariably present and a conventional amount in the range of ₹5,000 - ₹15,000 is reasonable compensation towards pain and suffering in such cases. Hence, this court is inclined to award **₹15,000** towards compensation for pain and suffering. Point no. 3 is answered in favour of the petitioner accordingly. The remaining claims are disallowed in the absence of evidence.

32. Given the above inputs, the following amounts are awarded.

SUMMARY OF CLAIMS IN OP(MV)659/2019

| No | Head of claim | Claimed ₹ | Awarded ₹ | Details in a nutshell |
|----|-------------------------|-------------------|-------------------|--|
| 1 | Loss of dependency | 20,00,000 | 24,89,877 | 21,281x12x13x3/4 |
| 2 | Loss of earning | 60,000 | Nil | No evidence |
| 3 | Damage to clothing | 1,000 | 3,000 | Reasonable estimate |
| 4 | Nourishment | Nil | Nil | No evidence |
| 5 | Transport to hospital | 10,000 | 6,000 | Reasonable estimate |
| 6 | Funeral expense | 30,000 | 19,965 | Praney Sethi case |
| 7 | Loss of estate | 2,00,000 | 19,965 | Praney Sethi case |
| 8 | Pain and suffering | 1,00,000 | 15,000 | BhagyaLakshmi case |
| 9 | Spousal consortium | 1,00,000 | 53,240 | Praney Sethi case |
| 10 | Parental consortium | | 1,59,720 | 53,240x3 |
| 12 | Medical expense | 25,000 | 5,000 | Reasonable estimate |
| 13 | Loss of care, etc. | 2,00,000 | Nil | No evidence |
| | Claim limited to | ₹25,00,000 | ₹28,78,247 | After the deduction of 50% = ₹14,39,124 |

Point No.2/ Cause of death in OP(MV) 12/2019

33. After the accident, the deceased Poulouse was taken to Government Medical College Hospital, Kannur, and he succumbed to death on the same day. The case of the petitioners that the deceased died as a result of the injuries sustained in the accident is substantiated with Ext.A1 FIR, Ext.A2 postmortem certificate and Ext.A7 final report. The postmortem certificate reveals that the death was *“Died of aspiration of blood into the air passages, following Head Injury”*. The same fact is not disputed by any of the respondents. Hence, the petitioners succeeded in proving that the deceased died as a result of the injuries sustained in the motor vehicle accident. Point No.2 is answered in favour of the petitioners accordingly.

Discussion on Point No.3 in OP(MV) 12/2019

34. The compensation under different heads has to be fixed in light of *Sarala Varma (Supra) and Pranay Sethi (Supra)*. According to the petitioners, the deceased was 51 years old at the time of the accident. The petitioners produced Ext.A5, the SSLC, to prove the deceased's age, which shows his date of birth as 15.03.1967. Since the accident was on 29.11.2018, the deceased was 51 years old at the time of the accident, and the multiplier to be applicable is '11', as per *Sarala Varma's case (supra)*.

Future prospects

35. The petitioners aver that the deceased was a milk market in society and a rubber tapper earning a monthly income of ₹40,000. The petitioners produced Ext.A6, a certificate issued by the President of the Kheerolpadana Sahakarana Sangam, Kozhichal, who was examined as PW1, and marked Ext.X1 to X4 documents to prove their income. This document shows that the deceased was a secretary at the time of the accident, and his monthly income was ₹11,500. However, there is no restriction on granting income higher than the amount claimed, as a matter of welfare legislation, as distinguished in *Sasidharan Namboothiri V. Rajeev Kesavan, 2025 KHC Online 85*.

36. Therefore, in light of the decision in *Gurpreet Kaur (Supra)*, the notifications under the Minimum Wages Act can be a guiding factor in cases to evaluate monthly income. Thus, this court is of the considered view that the notional income of the deceased can be fixed as ₹17,025, as per the Minimum Wages Act. Since the deceased was 51, an additional 10% of the monthly

income will be added towards *future prospects*, as per *Pranay Sethi's (Supra)* case. Hence, the monthly income of the deceased for assessing dependency will be **₹18,727 (17,025 + 1,702)**.

Loss of Dependency

37. According to the petitioners, the first petitioner is the wife, the second and third petitioners are the children of the deceased. To prove this, the petitioners have produced the family membership certificate issued by the Village officer, Pulingome, marked Ext.A4, which shows that the petitioners are the legal heirs of the deceased. All the petitioners contended that they depended upon the deceased at the time of his death, and the respondent did not dispute the same, and that the total number of dependents was three. Therefore, following the decision in *Sarala Varma (Supra)*, **1/3** of the deceased's income must be deducted to cover the deceased's personal and living expenses. After the deduction, the amount is multiplied by the multiplier of 11, which comes to **₹16,47,976 (18,727x12x11x2/3)**, and is awarded as compensation for the loss of dependency.

Funeral expenses and loss of estate

38. Following the decision of the Hon'ble Supreme Court in *Pranay Sethi (Supra)* and *Magna (Supra)*, the dependents of the deceased are entitled to compensation of **₹19,965** under the head of funeral expenses and an amount of **₹19,965** is granted towards the loss of estate.

Loss of consortium

39. The first petitioner is entitled to **₹53,240** for the spousal

consortium, the second and third petitioners are entitled to **₹1,06,480** (53,240x2) for the parental consortium.

Transportation, Medical & Clothing

40. Under a reasonable estimate, this court is inclined to award an amount of **₹6,000** for the transportation to the hospital, an amount of **₹5,000** for the medical expenses, and **₹3,000** for the head of damage to clothing.

Pain and suffering

41. In light of the decision *Mable (Supra)*, this court is inclined to award **₹15,000** towards compensation for pain and suffering. Point no. 3 is answered in favour of the petitioner accordingly. The remaining claims are disallowed in the absence of evidence.

42. Given the above inputs, the following amounts are awarded.

SUMMARY OF CLAIMS IN OP(MV)12/2019

| No | Head of claim | Claimed ₹ | Awarded ₹ | Details in a nutshell |
|----|-------------------------|-------------------|-------------------|---|
| 1 | Loss of dependency | 40,00,000 | 16,47,976 | 18,727x12x11x2/3 |
| 2 | Loss of earning | 30,00,000 | Nil | No evidence |
| 3 | Damage to clothing | 5,000 | 3,000 | Reasonable estimate |
| 4 | Nourishment | Nil | Nil | No evidence |
| 5 | Transport to hospital | 5,000 | 6,000 | Reasonable estimate |
| 6 | Funeral expense | 1,00,000 | 19,965 | Praney Sethi case |
| 7 | Loss of estate | Nil | 19,965 | Praney Sethi case |
| 8 | Pain and suffering | 1,00,000 | 15,000 | BhagyaLakshmi case |
| 9 | Spousal consortium | 5,00,000 | 53,240 | Praney Sethi case |
| 10 | Parental consortium | | 1,06,480 | 53,240x2 |
| 11 | Medical expense | Nil | 5,000 | Reasonable estimate |
| 12 | Love and affection | 5,00,000 | Nil | No evidence |
| 13 | Mental agony, shock | 1,00,000 | Nil | No evidence |
| | Claim limited to | ₹50,00,000 | ₹18,76,626 | After the deduction of 50% = ₹9,38,313 |

Liability/ Point No.4 in OP(MV) 659/2019

43. It has been found that the motorcycle riders, Benny and Poulouse, are equally responsible for the accident due to their rash and negligent driving. The deceased, Poulouse, is the owner of the vehicle, and he is liable to compensate the petitioner. Admittedly, the vehicle was insured with the fourth respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. Therefore, the fourth respondent, the insurer, is liable to indemnify the insured, Poulouse, and to compensate the petitioners. Point No.4 is answered accordingly.

Liability/ Point No.4 in OP(MV) 12/2019

44. It is contended by the respondent that the offending vehicle was uninsured, and the deceased did not have a valid driving licence at the time of the accident. However, Ext.A6 driving licence of Benny was produced by the legal heirs. The first respondent was the owner (died) of the motorcycle bearing No. KL.13. P.5410, and after his death, his legal heirs were impleaded as respondents six, seven and eight. They contended that the offending vehicle was transferred to the deceased on 30.05.2017 pursuant to Ext.B2, a photocopy of an agreement executed between them for ₹20,000, and that they have no liability to compensate the petitioners. Then, who is the legal owner of the offending vehicle at the time of the accident has to be ascertained.

45. According to **Section 2(30)** of the MV Act, the owner means the person whose name the motor vehicle is registered. As per **Section 50** of the Act,

the transfer of a vehicle shall be made in compliance with the Act. Without complying with the statutory mandates enumerated in the Act, the mere transfer of a vehicle by an agreement will not absolve the liability of the actual owner. Moreover, the owners have no case in which the matter was reported to the registering authority within thirty days as per **Section 50(1)(b)**. It is held in *Prakash Chand Daga V. Saveta Sharma, 2018 KHC 7011, Baby Varghese v. Anitha Roy, 2015 (3) KHC 281, and Surendra Kumar Bhilawe V. New India Insurance Co. Ltd, 2020 KHC 6430*, that

“A mere sale agreement or transfer of possession of the vehicle is not enough to transfer ownership. The RC owner remained the owner of the vehicle and could not have been repudiated on the ground of transfer”.

46. Hence, it can be concluded that even though the transfer has been made by way of Ext.B2, the registered owner of the vehicle is the first respondent, and he will not eschew the liability. Therefore, being the driver and the owner of the motorcycle, the deceased Benny and the first respondent are equally liable to compensate the petitioners. Since both have died, their legal heirs, respondents two to five and six to eight, are equally liable to compensate the petitioners. Point No.4 is answered accordingly.

Deduction on negligence

47. Based on the above scenario, the petitioners in OPMV 659/2019 are entitled to a compensation of **₹28,78,247** and in OPMV 12/2019, they are entitled to a compensation of **₹18,76,626**. Then, the question of contributory

negligence and deduction must be ascertained in this case. It has already been found that both the deceased, Benny and Poullose, are equally liable for the accident. Considering the contributory negligence of both drivers, this court of opinion that 50% of the total compensation has to be deducted, as settled by law and the decision in *Anthony TO V. Karvarnan, 2008 (2) KHC 80*.

Apportionment of compensation

48. The amount is ordered to be apportioned among the petitioners in OP(MV) 659/2019 as follows.

1. *The first petitioner (Wife): 40%*
2. *The petitioners, two to four (Children): 20% each*

49. The amount is ordered to be apportioned among the petitioners in OP(MV) 12/2019 as follows.

1. *The first petitioner (wife): 40%*
2. *The second and third petitioners (children): 30% each*

Point No.5

50. Thus, the petitioners are entitled to a compensation of ₹14,39,124, rounded to **₹14,39,500** in OPMV 659/2019 and ₹9,38,313, rounded to **₹9,38,500** in OPMV 12/2019. Point No.4 is answered in favour of the petitioners accordingly. Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, this court holds that the petitioners are entitled to recover the proportional costs of the proceedings from the fourth respondent in OPMV 659/2019 and the respondents

two to five and six to eight in OPMV 12/2019.

As a result, the OPMV 659/2019 is allowed in part as follows.

1. The petitioners are allowed to realize an amount of **₹14,39,500 (Rupees Fourteen Lakh Thirty-Nine Thousand and Five Hundred only)** as compensation from the fourth respondent, with interest @ **9%** per annum from **15.11.2019**, the date of application till deposit/realization.
2. The fourth respondent/insurer is ordered to deposit a cheque for ₹24,373 (Rupees Twenty-Four Thousand Three Hundred and Seventy-Three only), the balance of the court fee, payable in the name of this Tribunal.
3. The fourth respondent/insurer shall also furnish another cheque for ₹25,000 (Rupees Twenty-Five Thousand only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.

| 4. | Claimant | Bank | Brach | Account No | IFSC Code |
|----|---------------|--------------|------------|----------------|-------------|
| | Shyni Benny | Federal Bank | Cherupuzha | 1160010063676 | FDRL0001160 |
| | Dona kurian | Federal Bank | Cherupuzha | 11600100263551 | FDRL0001160 |
| | Delbin Kurian | Federal Bank | Cherupuzha | 11600100293095 | FDRL0001160 |
| | Ashna kurian | Federal Bank | Cherupuzha | 11600100294770 | FDRL0001160 |

As a result, the OP(MV) 12/2019 is allowed in part as follows.

1. The petitioners are allowed to realise an amount of **₹9,38,500 (Rupees Nine Lakh Thirty-Eight Thousand Five Hundred only)** as compensation from respondents two to five and six to eight, with interest @ **9%** per annum from **07.01.2019**, the date of application, till deposit/realisation.
2. The respondents two to five and six to eight are ordered to deposit a cheque for ₹49,368 (Rupees Forty-Nine Thousand Three Hundred and Sixty-Eight only), the balance court fee payable in the name of this Tribunal.
3. The respondents two to five and six to eight shall also furnish another cheque for ₹50,000 (Rupees Fifty Thousand only), the additional court

fee towards the legal benefit fund, in favour of MACT, Taliparamba.

4. The respondents two to five and six to eight are directed to deposit the entire balance amount due to the petitioners **within one month** into the petitioner's bank account listed below.

| Claimant | Bank | Brach | Account No | IFSC Code |
|----------------------------|------------------------|------------|----------------|-------------|
| Suja Denny | Federal Bank | Cherupuzha | 11600100252703 | FDRL0001160 |
| Sinto K Dennis | Federal Bank | Cherupuzha | 11600100267982 | FDRL0001160 |
| Aleena K Dennis (minor) | State Bank of India | Cherupuzha | 67246052677 | SBIN0070812 |

5. **The compensation amount for the minor shall be invested as a fixed deposit, with a lien marked on the face of the receipt, and shall be paid only on the date as directed by the Tribunal.**

Common directions in both petitions

1. The fourth respondent/insurer in OP(MV) 659/2019 and the respondents number two to five and six to eight in OP(MV) 12/2019 shall instruct their bank to ensure the deposit of the amount by direct transfer to the account mentioned above of this Tribunal containing the following information in the prescribed format by way of compliance with the award.

| | | |
|---|-----------------------------------|--|
| 1 | OP(MV)Number | |
| 2 | On the file of MACT | |
| 3 | Date of award | |
| 4 | Compensation Amount | |
| 5 | Income Tax Deduction at Source | |
| 6 | Bank Transaction Reference No/UTR | |

2. After depositing the compensation amount, the fourth respondent/insurer in OP(MV) 659/2019 and the respondents two to five and six to eight in OP(MV)12/2019 shall submit a statement of transfer details to this Tribunal, enclosing a copy of the bank advice, in the format prescribed in Circular No. 1/25 dated 19.09.2025 of the Hon'ble High Court of Kerala, and also serve a copy on **the petitioner and their counsel forthwith.**

3. The fourth respondent/insurer in OP(MV) 659/2019 and the respondents two to five and six to eight in OP(MV) 12/2019 are directed to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at the source.
4. **Since the third petitioner in OP(MV) 12/2019 is a minor, her portion of compensation, along with the interest and cost, shall not be withdrawn by any person without recording the majority of the minor by the court or complying with the provisions of the Guardian and Wards Act, 1890.**

(Dictated to the Confidential Assistant, transcribed and prepared by her, in computer, corrected and pronounced by me in open court on the 29th day of May 2026.)

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,

Petitioner's Exhibits in 659/2019

| | | |
|-----|------------|--|
| A1 | 18.05.2019 | FIR No. 171/2019 of Cherupuzha Police Station |
| A2 | 01.12.2018 | Postmortem Certificate |
| A3 | 29.11.2018 | Death Certificate |
| A4 | -- | Extract of School Admission Register |
| A5 | 09.03.2021 | Legal Heir Certificate |
| A6 | -- | Copy of Driving License |
| A7 | -- | Copy of ID Card (Kerala State Timber Merchant Association. |
| A8 | 20.09.2019 | Certified copy of Complaint |
| A9 | 19.06.2021 | Certified copy of Protest complaint |
| A10 | -- | Site plan |

Petitioner's Witness in 659/2019

PW1 Damodaran.T
 PW2 Raju.C.C.
 PW3 Bijoy.M.N
 PW4 Sijoy Mathew

Respondent's Exhibits in 659/2019

B1 29.11.2018 Certified copy of FIR No.334/2018 of Cherupuzha Police Station.
 B2 30.12.2018 Copy of Final report
 B3 29.11.2018 Certified copy of Charge abate report
 B4 20.09.2019 Copy of Charge sheet

Third Party Exhibits

X1 -- Scene mahazar

Respondent's Witness - Nil**Petitioner's Exhibits in OP(MV) 12/2019**

A1 29.11.2018 Copy of FIR No.334/2018 of Cherupuzha Police Station.
 A2 01.10.2018 Postmortem Certificate
 A3 29.11.2018 Death Certificate
 A4 19.12.2018 Family Membership Certificate
 A5 -- SSLC Book
 A6 15.12.2018 Certificate
 A7 29.11.2018 Certified copy of Final report

Petitioner's Witness in OP(MV) 12/2019

PW1 Ambili Thomas

Respondent's Exhibits in OP(MV) 12/2019

| | | |
|----|------------|-------------------|
| B1 | 15.12.2018 | Site plan |
| B2 | 30.05.2017 | Vehicle Agreement |

Third Party Exhibits

| | | |
|----|------------|---------------|
| X1 | 11.10.2019 | Authorisation |
| X2 | 31.03.2018 | Cash Voucher |
| X3 | 31.03.2018 | Cash Voucher |
| X4 | 31.03.2018 | Cash Voucher |

**Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA**