

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

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

Additional District and Sessions Judge

Saturday, the 4<sup>th</sup> day of April, 2026/ 14<sup>th</sup> Chaithra, 1948

**O.P.(MV) No. 204 OF 2022**

Mother of Deceased Akshay.K

1. Sobha.K.V, W/o.Valsan, aged 54 years,  
Kuttipurath House, Kanul (PO), Taliparamba  
Kannur Dist. 670562. A/c.No. 001001000051791  
IFSC IOBA000010, Indian Overseas Bank,  
Valapattanam Branch.

Petitioners

Wife of Deceased Akshay.K

2. Sruthi.T.C, D/o.Susheela.N.P, aged 25 years,  
Naduvile Purayil, Kunnaru, (PO) Palakkode,  
Ramanthali, Kannur Dist. 670305.  
A/c.No. 38447275126, IFSC SBIN0001000  
State Bank of India, Taliparamba Branch.

**Vs.**

1. Ameer Ahmed, S/o.Khalil Ahmed, Aged 45  
years, Mohalla Mansa Pura Vill, Kithore  
Meerut, Meerut - 250104  
Driver of vehicle No.UP 15 DA 3203
2. Asif Khan, S/o.Ansar Ahmed, Vill Khajuri,  
Aliyar pur, Meerut, Uttarpradesh - 260406  
RC Owner of vehicle No. UP 15 DA 3203
3. The Manager, Universal Sompo General  
Insurance Co.Ltd., 1<sup>st</sup> Floor, M 82, Sukh  
Shant Complex, Mangal Pandya Nagar, Meerut  
Uttarpradesh – 250 002.  
Insurer of vehicle No. UP 15 DA 3203  
Policy No. 2367/60145470/00/000

Respondents

This petition coming on this day for hearing before me in the presence of Sri.Rajesh Thomas, Advocate for the petitioner; and of Sri.S.Mammu, Advocate for the 3<sup>rd</sup> respondent; Respondent Nos.1 & 2 are being called absent set exparte and the tribunal passed the following:-

## AWARD

### SUMMARY OF THE CASE

| No | Heading            | Description  | Remarks                     |
|----|--------------------|--|-----------------------------|
| 1  | Details of parties | P1 – Mother, P2- Wife (Legal Heirs)<br>R1 - Driver, R2 - Owner, R3 - insurer |                             |
| 2  | Accident details   | A car hit a motorcycle, and the rider died - <b>Death Case</b>               |                             |
| 3  | Occurrence         | 09.10.2021 - Ext.A1  | FIR 438/2021, Dhaulana PS   |
| 4  | Final Report       | 12.12.2021 - Ext.A2  | U/s 279, 338, 304 of IPC    |
| 5  | Petition           | 24.05.2022   | U/s 166 of the MV Act       |
| 6  | Licence            | Admitted   | Complied                    |
| 7  | Insurance          | Insured  | Complied                    |
| 8  | Age                | 23   | Proved - Ext.A4             |
| 9  | Job                | Therapist  | Not proved                  |
| 10 | Income             | Claimed - ₹30,000  | MW Act - ₹18,225            |
| 11 | Dependency         | Multiplier - 18  | Future prospects - 40%      |
|    |                    | Dependents - 2   | Deduction - 1/3             |
| 12 | Death              | Died of head injuries - Ext.A3   |                             |
| 13 | Hospitalization    | 2 days   | Ext.A6                      |
| 14 | Evidence           | Ext.A1 to A6   | No oral evidence            |
| 15 | Compensation       | ₹45,00,000 - Claimed   | <b>₹38,63,000</b> - Allowed |

1. This petition is filed under **Section 166** of the Motor Vehicles Act, 1988, to seek compensation for the death of Akshay, who died in an accident.

#### Case of the petitioners

2. The petitioners are the wife, children and mother of Akshay, who died in a motor vehicle accident. On 09.10.2021 at about 6.30 pm., the deceased was riding a motorcycle bearing Regn. No. KL.59 R.9722, at Dhaulana, a car bearing Regn. No. KL.15. DA.3203, driven by the first respondent in a rash and negligent manner, hit the motorcycle, and the rider succumbed to death due to head injuries on the next day. The first respondent was the driver, the second

respondent was the owner, and the third respondent was the insurer of the offending vehicle. Therefore, the petitioners have claimed ₹45,00,000 as the compensation for the death.

3. The first and second respondents did not appear on summons and were set exparte. The third respondent entered into an appearance and filed a written statement.

### **Case of the respondent**

4. The respondent disputed the negligence, job, income, and vehicle's involvement in the accident, stating that the amount of compensation claimed in the petition under different heads is excessive and unreasonable. However, it is admitted that the car bearing Regn. No. KL.15. DA.3203 was insured with the third respondent.

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

### **Points for consideration**

- 1. Did the accident occur due to the first respondent's rash or negligent driving of the car bearing Regn. No. KL.15. DA.3203?*
- 2. Did the death of Akshay occur as a result of the injuries sustained in the motor vehicle accident involving the vehicle driven by the first respondent?*
- 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?*

6. Neither side has adduced any oral evidence. Exts.A1 to A6 documents were marked on the petitioners' side, and no document was marked on the third respondent's side.

**Point No.1/ Negligence**

7. These points are considered together for convenience. The petitioner relies on Ext.A1, the FIR, and Ext.A2, the final report, to prove the accident and negligence. These records show that the police had registered a case regarding the incident against the first respondent as Crime No. 438/2021, and after the investigation, a final report was filed under **Section 173(2) of Cr.P.C**, inculcating the first respondent. According to the final report, the bus driver has been charged under **Sections 279, 338 and 304A** of the **IPC** for rash and negligent driving that caused the accident.

8. It has been held by the Hon'ble High Court of Kerala 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. The respondents were unable to present rebuttal evidence to challenge the final report. No evidence, either oral or documentary, is attributed to prove any negligence on the part of the deceased. So, this court holds that the evidence adduced is sufficient to prove that the

accident occurred as a result of the rash and negligent driving of the first respondent. Point No.1 is answered in favour of the petitioners accordingly.

**Point No.2/ Cause of death**

9. After the accident, 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 final report and Ext.A3 postmortem certificate. The postmortem certificate reveals that the death was **“Died of head injuries”**. 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**

10. 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 23 years old at the time of the accident. They have produced the Ext.A4 SSLC copy to prove the deceased's age, and his date of birth is shown as 25.04.1998. Since the accident occurred on 09.10.2021, the deceased was 23 years old at the time of the accident, and the applicable multiplier is **‘18’**, as per *Sarala Varma's Case (Supra)*.

## **Discussion on income**

11. The petitioner contended that the deceased was a therapist, earning a monthly income of ₹30,000. However, they did not produce any documents to prove the income of the deceased. Therefore, the notional income of the petitioner will be assessed in accordance with judicial precedents and statutory obligations. This court holds that the commonly cited judgment in *Ramachandrappa V. Manager, Royal Sundaram Alliance Insurance Company Ltd, 2011 (13) SCC 236*, is not a binding precedent in the present scenario. The ratio decidendi applies only to the factual scenario of that case, and there was no discussion regarding the long-standing principles for evaluating income. It is a 2004 case from Karnataka, and the Hon'ble Apex Court delivered its judgment in 2011. The standard of living and the cost of living vary widely across states; for this reason, notifications under the Minimum Wages Act are issued by the State Government after analysing various factors.

12. 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.

13. As far as the State of Kerala is concerned, the Government has brought the minimum wage rates in **G.O.(P). No. 29/2021/Fin, w.e.f 11.02.2021**, for unskilled workers at ₹18,225 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 **₹18,225**. Since the deceased was below 40, an additional **40%** 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 **₹25,515 (18,225 + 7,290)**.

### **Loss of Dependency**

14. According to the petitioners, the first petitioner was the mother, and the second petitioner is the wife of the deceased. To prove this, they produced the Ext.A5 legal heirship certificate issued by the Tahsildar, Taliparamba, which shows that the petitioners are the legal heirs of the deceased. Both petitioners contended that they depended upon the deceased at the time of his death, and that the total number of dependents was two. Therefore, following the decision in *Sarala Varma (Supra)*, **1/3** of the deceased's income has to be deducted towards the personal and living expenses of the deceased. After the deduction, the amount is multiplied by the multiplier of 18, which comes to **₹36,74,160 (25,515x12x18x2/3)** as compensation for the loss of dependency.

### **Funeral expenses and loss of estate**

15. 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**

16. The first petitioner is entitled to ₹53,240 for the filial consortium, and the second petitioner is entitled to ₹53,240 for the spousal consortium.

### **Transportation & Clothing**

17. Under a reasonable estimate, I am inclined to award an amount of ₹5,000 for the transportation to the hospital and ₹3,000 for the head of damage to clothing.

### **Medical expenses**

18. The petitioners have produced an undisputed Ext.A6 series medical bill to the tune of ₹19,171. Considering the nature of the injuries and the medical bills, this court inclined to award an amount of ₹19,171 under the head of medical expenses.

### **Pain and suffering**

19. 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 also, 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 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.

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

**SUMMARY OF CLAIMS RAISED AND ALLOWED**

| No | Head of claim                            | Claimed ₹         | Awarded ₹         | Details in a nutshell    |
|----|--|-------------------|-------------------|--------------------------|
| 1  | Loss of dependency                       | 41,00,000         | 36,74,160         | 25,515x12x18x2/3         |
| 2  | Damage to clothing                       | 10,000            | 3,000             | Reasonable estimate      |
| 3  | Funeral expenses                         | 60,000            | 19,965            | Praney Sethi case        |
| 4  | Medical expenses                         |                   | 19,171            | Ext.A6                   |
| 5  | Transport to hospital                    | 30,000            | 5,000             | Reasonable estimate      |
| 6  | Loss of estate                           | 25,000            | 19,965            | Praney Sethi case        |
| 7  | Pain and suffering                       | 50,000            | 15,000            | BhagyaLakshmi case       |
| 8  | Spousal consortium                       | 1,00,000          | 53,240            | Praney Sethi case        |
| 9  | Filial consortium                        |                   | 53,240            | Praney Sethi case        |
| 10 | Love and affection                       | 1,00,000          | Nil               | No evidence              |
| 11 | Compensation for the expectation of life | 25,000            | Nil               | No evidence              |
|    | <b>Total</b>                             | <b>₹45,00,000</b> | <b>₹38,62,741</b> | <b>Just compensation</b> |

**Point No.4/ Liability**

21. It has been found that the rash and negligent driving of the first respondent, the car driver, caused the accident. The second respondent was the owner and was liable to compensate the petitioner. Admittedly, the vehicle was insured with the third respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. So, the third

respondent, the insurer, is liable to indemnify the second respondent and compensate the petitioner.

**Point No.5/ Interest and Cost**

22. According to **Section 171** of the Motor Vehicle Act, the Tribunal can direct a simple interest in addition to the compensation in motor vehicle accident cases. However, the rate of interest is not fixed by the Statute. Therefore, relying on the Judgment rendered by a three-bench of the Hon'ble Supreme Court in *Supe Dei V. National Insurance Co. Ltd, 2009 KHC 4551* and *Kaushnuma Begum V. New India Assurance Co. Ltd, 2001 (2) SCC 9*, it is reiterated that **9%** is the appropriate rate of interest in motor vehicle accident compensation cases. Upshot to the above discussion, the rate of interest is fixed accordingly.

23. Thus, the petitioners are entitled to a compensation of **₹38,62,741**, rounded to **₹38,63,000**. Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, I hold that the petitioner is entitled to recover the proportional costs of the proceedings from the third respondent.

24. The amount is ordered to be apportioned among the petitioners as follows.

***1. The first petitioner (mother): 40%***

***2. The second petitioner (wife): 60%***

**As a result, the petition is allowed in part as follows,**

1. The petitioner is entitled to realize an amount of **₹38,63,000 (Rupees Thirty-Eight Lakh Sixty-Three Thousand only)** as compensation from the third respondent, with interest @ **9%** per annum from **24.05.2022**, the date of application until deposit/realization.
2. The third respondent/insurer is ordered to deposit a cheque for ₹44,369 (Rupees Forty-Four Thousand Three Hundred and Sixty-Nine only), the balance court fee payable in the name of this Tribunal.
3. The third respondent/insurer shall also furnish an additional cheque for ₹45,000 (Rupees Forty-Five Thousand only), representing the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.
4. The third respondent/insurer is directed to deposit the entire balance due to the petitioner into the petitioner's bank account listed below within one month.

| <b>Claimant</b>         | <b>Bank</b>          | <b>Brach</b> | <b>Account No</b> | <b>IFSC Code</b> |
|-------------------------|----------------------|--------------|-------------------|------------------|
| Sobha kalamullavalappil | Indian Overseas Bank | Valapattanam | 001001000051791   | IOBA0000010      |
| Sruthi TC               | State Bank of India  | Taliparamba  | 38447275126       | SBIN0001000      |

5. The third respondent/insurer shall instruct their bank to ensure the deposit of the amount by direct transfer to the petitioner's account mentioned above, containing the following information in the prescribed format, in compliance with the award.

|   |                                   |  |
|---|-----------------------------------|--|
| 1 | OP(MV)Number                      |  |
| 2 | On the file of MACT               |  |
| 3 | Date of award                     |  |
| 4 | Amount deposited                  |  |
| 5 | Amount of FD/No                   |  |
| 6 | Name of the minor                 |  |
| 7 | Income Tax Deduction at Source    |  |
| 8 | Bank Transaction Reference No/UTR |  |

6. After depositing the compensation amount, the third respondent/insurer 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.**
7. The third respondent/insurer is directed to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at the source.

*(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on the 4<sup>th</sup> day of April 2026).*

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

**Petitioner's Exhibits**

|    |            |                            |
|----|------------|----------------------------|
| A1 | 09-10-2021 | Copy of FIR No. 438/2021   |
| A2 | --         | Copy of Final report       |
| A3 | 10-10-2021 | Postmortem Certificate     |
| A4 | --         | Copy of School Certificate |
| A5 | 20-05-2023 | Legal Heirship Certificate |
| A6 | --         | Duplicate OPD receipt      |

**Petitioner's Witness** - Nil

**Respondent's Exhibits & Witness** - Nil

**Third Party Exhibit** - Nil

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