

**IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA**

**Present:- Sri. K.P. Pradeep, The MACT**

**Tuesday, the 21<sup>st</sup> day of April, 2026**

**01<sup>st</sup> day of Vaisakha, 1948**

**OP (M.V) No.226/2021**

**Petitioners:-**

1. Sherly Sebastian, W/o Yohannan, Mecherikizhakkethil House, Thrikodithanam, Kottayam, Pin: 686 105
2. Tibin M Yohannan, S/o Yohannan, Mecherikizhakkethil House, Thrikodithanam, Kottayam, Pin: 686 105
3. Tintu M Yohannan, W/o Ajo Joseph, Prayil, Thrikodithanam, Changanassery, Kottayam, Pin: 686 105

By Adv.Jemmy George, Adv. Santhoshkumar K.S &

Adv. Jayasekhar C

**Respondents :-**

1. Manoj Kumar, aged 41 years, S/o P. C Maniyan, Thottipeedikayil House, Vazhoor P.O, Vazhoor Village
2. Aswathy P.S, W/o Sudhakaran, Pattupara Puthenpurackal House, 15<sup>th</sup> mile, K K road, Vazhoor
3. The Manager, Bajaj Alliance General Insurance Co Ltd, Vypana Buildings, Pala P.O, Kottayam District, Pin: 686 575

R1& R2 -By Adv. A.K Sebastian

R3- By Adv.Benoy Jose Mathew

This O.P. having been finally heard on 16.03.2026 and the Tribunal on 21.04.2026 passed the following :-

**AWARD**

This is an application filed under section 166 of the Motor Vehicles Act 1988. Petitioners are the wife, son and daughter of deceased (Yohannan M V, S/o. Varghese).

2. The averments in the petition are that, on 16.02.2021 at 6.00 p.m, the deceased (Yohannan M V, S/o. Varghese) was riding a motorbike bearing No. KL-33-K-3359 from Karukachal- Vazhoor and when the vehicles reached the place of occurrence a Mini lorry bearing Reg.No. KL-05-AE-7633 driven by the 1<sup>st</sup> respondent came in a rash and negligent manner from opposite direction and hit on the motorbike . As a result of which, the deceased had sustained severe injuries and succumbed to injuries on the same day itself. The accident occurred due to rash and negligent driving of the mini lorry bearing Reg.No. KL-05-AE-7633 by the 1<sup>st</sup> respondent.

3. Immediately after the accident he was taken to Taluk Head Quarters Hospital, Pampady and while he was in the hospital for treatment he died due to injury sustained. Respondents 1 to 3 are the driver, owner and insurer of the mini lorry bearing Reg.No. KL-05-AE-7633 . At the time of accident the deceased was a 'rolling shutter maintenance worker' and he would earn Rs.24,000/- per month as income.

4. Respondents 1 and 2 filed written statement by contending that the mini lorry bearing Reg.No. KL-05-AE-7633 had been insured with the 3<sup>rd</sup> respondent company. 1<sup>st</sup> respondent had valid driving license at the time of accident. The accident occurred not due to negligence of the 1<sup>st</sup> respondent . The age, occupation and income of the deceased mentioned in the petition are not correct. The amount claimed is highly exorbitant. The accident occurred due to negligence of the deceased.

5. 3<sup>rd</sup> respondent filed written statement by contending that the mini lorry bearing Reg.No. KL-05-AE-7633 had been insured with the 3<sup>rd</sup> respondent company. The respondent has disputed the alleged accident. The accident occurred due to negligence of the deceased. The deceased was riding 3 wheeler scooter and while he was riding the scooter was overturned and deceased fell down beneath the rear wheel of the mini lorry and sustained injury. There was no negligence on the part of the 1<sup>st</sup> respondent. The deceased was disabled person due to polio. The petitioners are not the dependence of the deceased. Since there was no negligence on the part of the 1<sup>st</sup> respondent. The company is not liable to pay compensation.

6. In view of the above said pleadings, the following issues have been raised for consideration:-

- (1) Whether the accident was occurred due to the rash and negligent driving of mini lorry bearing Reg.No. KL-05-AE-7633 by the 1<sup>st</sup> respondent?
- (2) Whether the petitioners are entitled to compensation and if so, what is the quantum?
- (3) Who is liable to pay compensation ?
- (4) Reliefs and costs ?

7. From the side of the petitioners, Exts A1 to A17 were marked. No oral and documentary evidence was adduced from the side of 3<sup>rd</sup> respondent.

8. Heard.

9. **Issue No.(1)**:- The case of the petitioners is that on 16.02.2021 at 6.00 p.m, the deceased (Yohannan M V, S/o. Varghese) was riding a motorbike bearing No. KL-33-K-3359 from Karukachal- Vazhoor and when the vehicles reached the place of occurrence a Mini lorry bearing Reg.No. KL-05-AE-7633 driven by the 1<sup>st</sup> respondent came in a rash and negligent manner from opposite direction and hit on the motorbike . As a result of which, the deceased had sustained severe injuries and succumbed to injuries on the same day itself. The accident occurred due to rash and negligent driving of the mini lorry bearing Reg.No. KL-05-AE-7633 by the 1<sup>st</sup> respondent.

10. To prove the alleged incident and negligence on the part of the 1<sup>st</sup> respondent, the petitioners have produced Exts.A1 to A3 and A6 . Ext.A1 is the copy of the FIR in crime No.208/2021 of Karukachal Police Station. Ext A2 is the copy of FIS. Ext. A3 is the copy of final report. Ext A6 is the MVI report. The offences alleged against the 1<sup>st</sup> respondent (accused in the final report) are punishable U/ss 279 & 304(A) of IPC. The Hon'ble High Court of Kerala in '**New India Assurance Company Ltd Vs. Pazhaniammal and Others**', cited in **2011(3) KHC 595**, has held as follows: *"Prima facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the indictee. If any one of the parties do not accept such charge sheet, the burden must be on such party to adduce oral evidence. If oral evidence is adduced by any party, in a case where charge sheet is filed, the tribunals should give further opportunity to others also to adduce oral evidence and in such a case the charge sheet will pale into insignificance and the dispute will have to be decided on the basis of the evidence."* In the absence of contra evidence, the above said evidence adduced by the petitioners, it is seen that the alleged incident took place due to rash and negligent driving of the mini lorry bearing Reg.No. KL-05-AE-7633 by the 1<sup>st</sup> respondent. Accordingly Issue No.(1) is answered.

11. **Issue Nos.(2)** :- Ext.A4 is the copy of postmortem certificate issued from MCH, Kottayam. Ext. A5 is the wound certificate issued from Taluk Hospital, Pampady.

12. Ext. A9 is the Family Membership Certificate issued by the Village Officer, Thrikodithanam village office. It reveals that petitioners are the wife and children of the deceased.

13. Ext. A8 is the SSLC copy of the deceased. Ext. A11 is the driving license of the deceased and in which the date of birth has been shown as 30.07.1962. Hence he was 58 years of age on the time of accident. Ext. A17 series are the copies of the pan cards of the petitioners. Ext. A10 series are the copies of passbooks of the petitioners. Ext. A12 is the certificate issued from Hotel Ashok International. Ext. A13 is the certificate issued from Kerala State Disaster Management Authority. Ext. A14 is the Service record issued from Kerala Shops and Commercial Establishment Rules 1961. Ext. A15 is the certificate issued from Radio media village. Ext. A16 was issued from employees provident Fund Organization Kerala, Bhavishyanithi Bhavan, Pattom, Trivandrum. The name of the person has been shown as Lalichen.

14. Petitioners claim that deceased was doing 'rolling shutter maintenance work' and he would earn Rs.24,000/- as income per month. But there is nothing on record to show how much he was earning at the time of accident. So, for the purpose of determining

the compensation payable under the head 'loss of dependancy' and the like, the only option left is to fix his monthly income notionally. In **Ramachandrappa's Case, the Hon'ble Supreme Court in 2011(13) SCC 236** had fixed ₹4,500/- as notional income of Coolie worker in the year 2004, when the victim was 37 years of age. In **Sayed Sadique Case [2014] 2 SCC 735**, the income of the victim aged 24 years in the year 2008, ₹6,500/-was fixed for Coolie worker.

15. In a motor accident cases to grant compensation for permanent disability notional income has to be fixed. At the time of fixing the notional income the Court has to consider the minimum wages Act applicable in Kerala. At the same time in the absence of any salary certificate the minimum wage notification can be yardstick, but at the same time it cannot be absolute one to fix the income. In the absence of documentary evidence on record some amount of guess work is required to done. But at the same time guess work for assessing the income should not be totally detached from the reality. Merely because claimant was unable to produce documentary evidence to show the monthly income same does not justifies adoption of lowest tier of minimum wage while computing the income. Here in this case the petitioners claim that the deceased was a 'rolling shutter maintenance worker' . Deceased has 58 years of age at the time of accident. Considering the age, nature of work and other relevant aspects I am of the view that notional income of

the deceased can be fixed as ₹19,000/- per month. Hence it is fixed as ₹19,000/-

16. As the deceased was 58 years of age, the multiplier applicable is 9 as per the decision rendered by the **Hon'ble Apex Court in 'Sarla Verma V Delhi Transport Corporation' cited in 2010(2) KLT 802.**

17. 1<sup>st</sup> petitioner is the wife of deceased and 2<sup>nd</sup> petitioner is the major son of the deceased and 3<sup>rd</sup> petitioner is the married daughter of the deceased and therefore 1<sup>st</sup> petitioner wife alone is considered as dependent of the deceased and therefore ½ of the monthly income is to be deducted towards personal and living expense of the deceased, while determining above said compensation, as per the decision of the Hon'ble Apex Court rendered in '**Sarla Varma's** case cited above.

18. As the deceased was 58 years of age, 10% addition of his income towards future prospects is warranted in determining the above said compensation in the light of decision rendered by the **Hon'ble Apex Court in 'National Insurance Company Ltd., Vs. Pranay Sethi cited 2017(4) KLT 662 = AIR 2017 SC 5157.** Thus the annual income of the deceased comes to the tune of ₹2,50,800/- $(19,000 + (19,000 \times 10\% ) \times 12]$  and compensation for loss of dependency, after deducting ½ of the amount towards personal and living expenses of the deceased and applying

multiplier 9, would be an amount of **Rs.11,28,600/-**[ 2,50,800 x 9 x 1/2].

19. As three years have passed since the pronouncement of judgment in '*Pranay Sethi*' case cited supra, enhancement of reasonable figures fixed therein on conventional heads viz., Loss of Estate, Loss of Consortium and Funeral expense, at the rate of 10% in every three year bloc is warranted as laid down therein by the Hon'ble Apex Court. Accordingly, **Rs.18,150/-** is granted as 'Funeral expense', and **Rs.18,150/-** is granted as compensation under the head 'Loss of Estate'. Petitioners are the wife and major children of the deceased and therefore **Rs. 48,400/-** each is granted to spousal consortium to 1<sup>st</sup> petitioner and as parental consortium to petitioners 2 and 3.

20. As it has been laid down by the **Hon'ble High Court of Kerala** in ***Kunjandi Vs. Rajendran*** reported in **2020 (2) KLT 315**, the Hon'ble High Court of Kerala has held as follows: "*Once the surviving spouse is awarded compensation towards spousal consortium, or the children of the deceased are awarded compensation towards parental consortium or the parents of the deceased child are awarded compensation towards filial consortium, they are not entitled for award of further compensation under the head loss of love and affection, as it would result in duplication or overlapping of compensation under the relevant heads*". As

petitioner had already been awarded compensation under the head 'Loss of Consortium', I am not inclined to award any amount under the head 'Loss of love and affection' in the light of above said decision of the Hon'ble High Court of Kerala.

21. The **Hon'ble High Court of Kerala in 'Jyni and Others Vs. Raphel P.T. and Others reported in 2016(2) KHC 870'**, has held as follows:- *'In cases of instantaneous death as well as cases where the deceased was unconscious between the time of accident and the time of his death, some notional amount is payable under the head pain and suffering. A slightly higher amount can be awarded under this head, if death is not instantaneous. Therefore, a conventional amount in the range of Rs.5,000/- to Rs.15,000/- could be awarded under the head pain and suffering in such cases.'* Ext.A3 final report reveals that the accident occurred on 16.02.2021 and the death was occurred on the same day. Considering the said fact, I am inclined to award an amount of **Rs.5,000/-** under the head 'Pain and suffering' in the light of the said decision reported in **2016 (2) KHC 870**.

22. An amount of **Rs.2,000/-** is further awarded as 'Compensation for damages to clothing'.

23. An amount of **Rs.6,000/-** is awarded as compensation under the head 'Transport expense'.

24. Thus, petitioner is entitled to get a total compensation of **₹13,23,100/- (Rupees Thirteen Lakhs Twenty Three Thousand and One Hundred Only)** is awarded as shown in the table below:-

Sl. No	Head of Claim	Amount Claimed ( in Rupees)	Amount Award ( in Rupees)	(In Paise)	Basis-Vital Details in a nutshell
<u>Part-1</u>					
1.	Loss of earning	Nil	Nil	-	-
2.	Transportation charge including Ambulance charges	30,000	6,000		Travel to and from the hospital
3.	Damage to clothing	2000	2000		Moderate rate
4.	Funeral Expenses	1,00,000	18,150		
5.	Bystanders expenses	Nil	Nil		
6	For extra nourishment	1000	Nil		
7	Hospital expenses	2,00,000	Nil		
<u>Part-11</u>					
8.	Pain and suffering	1,00,000	5,000		
9.	Compensation for Loss of dependency	50,00,000	11,28,600		$19000+(19,000 \times 10\%) \times 12 \times 9 \times \frac{1}{2}$
10.	Compensation for Loss of Estate	2,00,000	18,150		
11	Compensation for Loss of consortium	2,00,000	1,45,200		$48400 \times 3$
12	Compensation for loss of love and affection, expectancy of life, mental shock	2,00,000	Nil		

Claim is limited to ₹ 60,00,000/-	₹60,33,000/-	
<b>Total award amount</b>		<b>₹13,23,100/-</b> =====
<b>(Rupees Thirteen Lakhs Twenty Three Thousand and One Hundred Only)</b>		

25. In the matter of apportionment, 80% the award amount with interest and costs is apportioned in favour of the 1<sup>st</sup> petitioner wife of the deceased and 10% of the award amount with interest and costs is apportioned in favour of the petitioners 2 and 3 major children of the deceased. The issue No. 2 is answered accordingly.

26. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of the mini lorry bearing Reg.No. KL-05-AE-7633 by the 1<sup>st</sup> respondent. 2<sup>nd</sup> respondent is the owner of the vehicle. Therefore she is vicariously liable to pay compensation to the petitioners. It is admitted by the 3<sup>rd</sup> respondent that the said mini lorry had been insured with the 3<sup>rd</sup> respondent at the time of accident. Therefore, respondents 1 to 3 are liable to pay compensation. Since there is valid insurance policy, the company has to indemnify 2<sup>nd</sup> respondent and therefore, the company is liable to pay the compensation. Accordingly Issue No.(3) is answered.

27. **Issue No.(4):-** In view of my findings on issue Nos.1, 2 and 3, the petition is allowed in part and an award is passed as follows:-

- (1) The 3<sup>rd</sup> respondent shall pay **₹13,23,100/-(Rupees Thirteen Lakhs Twenty Three Thousand and One Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [17.03.2021] till realization, with proportionate costs.
- (2) The 3<sup>rd</sup> respondent is directed to deposit the award amount together with interest and costs to the account of the petitioners ie, the Savings Bank Account of the 1<sup>st</sup> petitioner, Account Number 8253022000020703 of Pala Urban Co-operative Bank, Pala Branch with IFSC: UTIB0SPUC50, 2<sup>nd</sup> petitioner, Account Number 920010055560621 of Axis Bank, Chingavanam Branch with IFSC: UTIS0004261 and 3<sup>rd</sup> petitioner, Account Number 8253022000020701 of Pala Urban Co-operative Bank, Pala Branch with IFSC: UTIB0SPUC50 as per the details produced by the petitioner and compliance of the same shall be reported to the MACT, Pala.
- (3) The 3<sup>rd</sup> respondent shall produce cheques for Rs.59,373/- and Rs.60,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.
- (4) The 3<sup>rd</sup> respondent is directed to file before the Tribunal a statement regarding compliance of the order along with a copy of transaction record certified by the bank concerned.
- (5) The office is directed to furnish a copy of said statement to the petitioner after due verification.
- (6) The office is directed to make necessary entries in the registers maintained in the office evidencing payment of amount to the claimant.

- (7) The 3<sup>rd</sup> respondent is directed to pay the amount within one month failing which the petitioner can recover the same in accordance with law.

*Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 21<sup>st</sup> day of April, 2026.*

*Sd/-*

**K.P.PRADEEP**

**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**

**APPENDIX**

**EXHIBITS MARKED FOR THE PETITIONER**

A1	16.02.2021	:	Certified copy of the FIR in Cr.No.208/2021 of Karukachal Police Station
A2	16.02.2021	:	Certified copy of FIS given by Tibin M
A3	29.03.2021	:	Certified copy of final report
A4	18.02.2021	:	Certified copy of postmortem certificate of Yohannan Varghese issued from MCH, Kottayam
A5	16.02.2021	:	Certified copy of accident register-cum-wound certificate issued from Taluk Head Quarters Hospital, Pampady
A6	20.02.2021	:	Certified copy of MVI report of motor cycle bearing Reg. No. KL-33-K-3359
A7	12.03.2021	:	Salary certificate in the name of Yohannan Varghese @ Lalachen issued from Pravas Engineering works, Cheeranchira
A8	-	:	Photocopy of the SSLC book of Yohannan M V
A9	12.03.2021	:	Family Membership certificate of deceased Yohannan Varghese issued by village officer, Thrikodithanam village office

A10	07.04.2025	True copy of the bank pass book of Sherly Sebastian, Tintu M Yohannan & Tibin Yohannan
A11	25.06.2019	Photocopy of the driving license of Yohannan M V
A12	18.03.2021	Certificate in the name of Yohannan Varghese issued by proprietor Hotel Ashok International, Thiruvalla
A13	-	Photocopy of the certificate in the name of Yohannan M V issued from Kerala State Disaster Management Authority
A14	02.06.1997	Service record in the name of Lalachen M V issued by Proprietor, Hotel Ashok International, Thiruvalla
A15	16.11.2021	Certificate in the name of Yohannan Varghese issued by Executive Director, Radio Media Village Hills, Kurisummood P.O, Changanassery
A16	04.05.2005	Provident Fund Receipt in the name of Yohannan issued from Employees Provident Fund Organisation
A17	-	Photocopy of the pan card of Sherly Sebastian, Tibin M Yohannan, Tintu Yohannan

EXHIBITS MARKED FOR THE RESPONDENTS:- Nil

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:- NIL

WITNESS EXAMINED FOR BOTH PARTIES:- NIL

Id/-

**MACT**

**STATEMENT OF COSTS**  
**OP(MV) No.226/2021**

Court Fee	:	12,604.00
Stamp for Vakkalath	:	6.00
Stamp for Exhibits	:	128.00
Stamp for petitions	:	185.00
Process	:	150.00
LBF	:	13,231.00
Advocate fee	:	68,555.00
Others	:	300.00
Total	:	Rs.95,159.00/-

Proportionate Costs =  $\frac{95,159 \times 13,231.00}{60,00,000} = \text{₹}20,984/-$  (Allowed)  
=====

// True copy//

Typed by : Greeshma.  
Compared by : Sreejith

Sd/-

**Motor Accidents Claims Tribunal**

"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 after twelve years from this date".

**COPY OF AWARD IN  
OP (M.V) No.226/2021  
DATED: 21.04.2026**