

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

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

Tuesday, the 04th day of March, 2025

13th day of Phalguna, 1946

OP (M.V) No.264/2020

Petitioners:-

1. Muraleedharan Nair, S/o Purushothaman Nair, Vrindavan house, Kayoor P.O, Bharananganam Village, Pin; 686 576.
2. Shanthakumari, W/o Muraleedharan Nair, Vrindavan house, Kayoor P.O, Pin; 686 576, Bharananganam Village.
3. Manju, W/o Madhu, Arackal House, Mattathippara P.O, Pin: 686595, Kadanadu Village

By Adv. Bijumon K & Adv. Joshy Abaraham

Respondent :-

The Manager, Cholamandalam, MS General Insurance Co Ltd., 2nd Floor, Acel Estate, Chittoor Road, Cochin, Pin; 682 011

By Adv.- T M Babu

This O.P. coming up for final consideration on 04.03.2025 and the Tribunal on same passed the following :-

AWARD

Petition filed under section 166 of the Motor Vehicles Act 1988. Petitioners 1 to 3 are the father, mother and sister of the deceased Manoj V.M.

2. The averments in the petition are that on 18.08.2019 at 9.00 p.m, while the deceased (Manoj V.M) was driving his autorikshaw bearing Reg. No KL-35-J/7332 through Edamaruku - Kayoor public road. When he reached at

the place of occurrence, he lost control and fell down and sustained severe injuries. Immediately after the accident he was taken to M.K.M Hospital, Pravithanam and after giving first-aid he was referred to Medical College Hospital, Kottayam and while continuing treatment, he succumbed to the injuries on 22.8.2019 at 3.30 p.m. Respondent is the insurer of the autorikshaw bearing Reg. No KL-35-J/7332. Therefore, the respondent is liable to pay compensation to the petitioner. At the time of accident, the deceased was an "auto driver" and he would earn Rs.20,000/- per month as income.

3. The respondent filed written statement by contending that the original petition is not maintainable as the petition is filed for getting personal accident coverage. Since the deceased was the insured of the vehicle claim of the legal heirs is not maintainable before this Tribunal. The deceased had consumed alcohol at the time of accident hence there is violation of terms and conditions of policy of insurance. The age, income and occupation of the deceased is not correct. The vehicle bearing Reg. No KL-35-J-7372 had been insured with respondent Company in the name of deceased. The compensation claimed is highly exorbitant.

4. 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 the autorikshaw bearing Reg. No KL-35-J/7332, by its driver.
- 2) Whether the petitioner is entitled to compensation and if so, what is the quantum
- (3) 3) Who is liable to pay compensation
- (4) 4) Reliefs and costs ?

5. From the side of the petitioner, no oral and documentary evidence was adduced. No oral and documentary evidence was adduced from the side of respondents.

6. Heard.

7. **Issue Nos.(1), (2), (3) and (4) :-** The case of the petitioner is that on 18.08.2019 at 9.00 p.m, while the deceased (Manoj V.M) was driving his autorikshaw bearing Reg. No KL-35-J/7332 through Edamaruku - Kayoor public road. When he reached at the place of occurrence he lost control and fell down and sustained severe injuries.

8. Though ample opportunities had been given to the petitioner to adduce evidence, no evidence was produced before the Court to prove the negligence of the 1st respondent. In view of the above findings Issue

Nos.(1), (2), (3) and (4)are not considered.

In the result, OP is dismissed without costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 4th day of March 2025.

Sd/-

K.P.PRADEEP

MOTOR ACCIDENTS CLAIMS TRIBUNAL

Appendix: NIL

// True copy//

Typed by : Jobi

Compared By : Sreeja

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.264/2020
DATED: 04.03.2025**