

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA

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

Thursday, the 26th day of March, 2026

05th day of Chaithra, 1948

OP (M.V) No. 395/2022

Petitioners:-

1. Usha Shaji, Madukkamukalel House, Vellaymkudy P.O, Kattappana, Pin: 685 515
2. Nishamol Shaji, W/o Anish, Kunnel House, Panamkutty, Kallarkutty P.O
3. Aneeshamol Shaji, W/o Jayan, Puthiyedathu House, Combayar, Parathodu, Pin: 685 562
4. Ashamol Shaji, Madathiparampil House, Kadayinikkad, Edayirikkapuzha P.O, Pin: 686 541

By Adv. Vinai Paul & Adv. Alexander Mathew

Respondents :-

1. Nibin P.B, Pathilparampil House, Kiliroor North P.O, Thiruvvarpu
2. Bineesh T.S, Thekkumparampil House, Near Parithrana Retreat Centre, Thellakam P.O. Kottayam
3. National Insurance Co Ltd, St. George Arcade, Pala P.O

R1 & R2 - Ex-parte

R3 - By Adv. George Pulicken.

This O.P. having been finally heard on 18.03.2026 and the Tribunal on 28.03.2026 passed the following :-

AWARD

This is an application filed under section 166 of the Motor Vehicles Act 1988. Petitioners are the wife and children of the deceased (Shaji M.N, S/o. Narayanan).

2. The averments in the petition are that, on 01.02.2022 at 12.50 p.m, the deceased (Shaji, S/o. Narayanan) was walking by the side of the M.C road and when he reached the place of occurrence, a motorcycle bearing Reg. No KL-5-AL-8454 ridden by 2nd respondent in a rash and negligent manner, came and hit the deceased. As a result of which the deceased fell down on the road and sustained severe injuries and succumbed to injuries on the same day. The accident occurred due to rash and negligent riding of the motorcycle by the 2nd respondent.

3. Immediately after the accident, the deceased was taken to Medical College Hospital, Kottayam and later he succumbed to injuries in the hospital on the same day. Respondents 1 to 3 are the owner, rider and insurer of the motorcycle bearing Reg. No KL-5-AL-8454 . At the time of accident the deceased was 'barber' and he would earn Rs.18,000/- per month as income.

4. Respondents 1 and 2 did not file written statement hence they were called absent and set ex-parte.

5. 3rd respondent filed written statement by contending that motorcycle bearing Reg. No KL-5-AL-8454 had been insured

with 3rd respondent Company at the time of accident. The accident occurred due to negligence of the deceased. The age, occupation and income of the deceased mentioned in the petition are not correct. The amount claimed by the petitioners under various heads is highly exorbitant. Immediately after the accident the insured should have intimated about the accident to the company but it was not done and since it was violation of a policy condition the company is not liable to pay the compensation to the petitioners. The petition was filed in collusion between petitioners and other respondents.

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 riding of the motorcycle bearing Reg. No KL-5-AL-8454 by the 2nd 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 A9 were marked. No documents were were marked from the side of 3rd respondent.

8. Heard.

9. **Issue No.(1)**:- The case of the petitioners is that, on 01.02.2022 at 12.50 p.m, the deceased (Shaji, S/o. Narayanan) was walking by the side of the M.C road and when he reached the place of occurrence, the motorcycle bearing Reg. No KL-5-AL-8454 ridden by 2nd respondent in a rash and negligent manner, came and hit the deceased. As a result of which the deceased fell down on the road and sustained severe injuries and succumbed to injuries on the same day.

10. To prove the alleged incident and negligence on the part of the 2nd respondent, the petitioners have produced Exts.A1, A3, A4 and A5. Ext.A1 is the copy of the FIR in crime No.120/2022 of Gandhinagar Police Station. Ext A3 is the copy of MVI report of the involved vehicle. Ext A4 is the copy of Scene Mahazar. Ext.A5 is the copy of Final Report. The offences alleged against the 2nd 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 inditree. 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 riding of the motorcycle bearing Reg. No KL-5-AL-8454 by the 2nd respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)** :- Ext.A2 is the copy of postmortem certificate issued from MCH, Kottayam.

12. Ext.A7 is the copy of the SSLC book of the deceased and in which the date of birth of the deceased has been shown as 09.01.1963 and the deceased was aged 59 years at the time of accident.

13. Ext.A6 is the Family Membership Certificate issued by the Village Officer, Kattappana. It reveals that petitioners are the wife and daughters of the deceased.

14. Ext.A8 series are the copies of passbook of the petitioners. Exts.A9 series are the copies of PAN cards of the petitioners.

15. Petitioners claim that deceased was a 'barber' So, for the purpose of determining the compensation payable under the head 'loss of dependency' 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.

16. 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 yard-stick, 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 be 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 justify adoption of lowest tier of minimum wage while computing the income. Here in this case the petitioners claim that the deceased was a 'barber' and he was 59 years of age at the time of accident. Considering the age, educational qualifications 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/-.

17. As the deceased was 59 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.**

18. 1st petitioner is the wife of the deceased. Petitioners 2 to 4 are the married daughters of the deceased. 1st petitioner wife of the deceased is considered as dependent. Therefore 1/2 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.

19. As the deceased was 59 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/- $(19000 + (19,000 \times 10\%) \times 12]$ and compensation for loss of dependency, after deducting $\frac{1}{2}$ of the amount towards personal and living expenses of the deceased

and applying multiplier 9, would be an amount of Rs.11,28,600/- [250800 x 9 x ½].

20. 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', Rs.48,400/- is granted to 1st petitioner as spousal consortium and Rs.48,400/- each is granted to petitioners 2 to 4 as parental consortium.

21. 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.

22. The **Hon'ble High Court of Kerala in 'Jyni and Others Vs. Raphael 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.A5 final report reveals that the accident occurred on 01.02.2022 and the death was occurred on the same day itself. 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**.

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

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

25. The deceased was not admitted in the hospital for treatment and therefore no compensation is granted as medical expense, bystander's expenses and Extra nourishment.

26. Thus, petitioners are entitled to get a total compensation of **₹13,71,500/-(Rupees Thirteen Lakhs Seventy-one Thousand and Five 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 nut shell
<u>Part-1</u>					
1.	Loss of earning	Nil	Nil	-	-
2.	Transportation charge including Ambulance charges	50,000	6,000		Travel to and from the hospital
3.	Damage to clothing	2,000	2,000		Moderate rate
4.	Funeral Expenses	50,000	18,150		
5.	Bystanders expenses	Nil	Nil		
6	For medical expenses	Nil	Nil		
<u>Part-11</u>					
7.	Pain and suffering	1,00,000	5,000		
8.	Compensation for Loss of dependency	16,20,000	11,28,600		19,000+(19,000x10%) x 12x9x1/2
9.	Compensation for Loss of Estate	4,00,000	18,150		
10	Compensation for Loss of consortium	Nil	1,93,600		48,400 x 4
11.	Compensation for loss of love and affection	1,00,000	Nil		

Claim is limited to Rs.25,00,00/-	₹25,22,000/-	
Total award amount		₹13,71,500/- =====
(Rupees Thirteen Lakhs Seventy-one Thousand and Five Hundred Only)		

27. In the matter of apportionment, 70% the award amount with interest is apportioned in favour of the 1st petitioner wife of the deceased and 10% each of the award amount with interest is apportioned in favour of the petitioners 2 to 4, children of the deceased. The issue No. 2 is answered accordingly.

28. **Issue No.(3):-** I have already found that the accident took place due to the negligent riding of motorcycle bearing Reg. No KL-5-AL-8454 by the 2nd respondent. 1st respondent is the owner of the vehicle and therefore he is vicariously liable to pay compensation to the petitioners. It is admitted by the 3rd respondent that the said motorcycle had been insured with the 3rd 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 1st respondent and therefore, the company is liable to pay the compensation. Accordingly Issue No.(3) is answered.

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

- (1) The 3rd respondent shall pay **₹13,71,500/- (Rupees Thirteen Lakhs Seventy-one Thousand and Five Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [23.04.2022] till realization, with proportionate costs.
- (2) The 3rd 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 petitioner No.1 Account Number 14260100186026 of Federal Bank, Kattappana Branch with IFSC: FDRL0001426, Petitioner No. 2 Account Number 67321826526 of State Bank of India, Adimali Town branch with IFSC: SBIN0070668, Petitioner No. 3 Account No. 40672101022267 of Kerala Gramin Bank, Nedumkandom, Idukki with IFSC: KLGB0040672, Petitioner No. 4 Account No 40580101027606 of Kerala Gramin Bank, Manimala branch with IFSC: KLGB0040580, as per the details produced by the petitioner and compliance of the same shall be reported to the MACT, Pala.
- (3) The 3rd respondent shall produce cheques for Rs.24,373/- and Rs.25,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.
- (4) The 3rd 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 3rd 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 26th day of March, 2026.

Sd/-

K.P.PRADEEP

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	02.02.2022	:	Photo copy of the FIR in Cr. No. 120/2022 of Gandhinagar Police Station.
A2	02.02.2022	:	Photo copy of the Postmortem Certificate of Shaji M N issued from MCH, Kottayam
A3	05.02.2022	:	Photocopy of the MVI report of the motor cycle bearing Reg. No. KL-05-AL-8454
A4	01.02.2022	:	Photocopy of scene mahazar
A5	11.03.2022	:	Photocopy of final report
A6	09.10.2025	:	Family membership certificate of deceased Shaji M N issued by village officer, Kattappana Village office
A7	-	:	Photocopy of the SSLC book of Shaji M N

A8 (series)	-	:	Photocopy of bank passbooks of Usha Shaji, Nishamol Shaji, Aneeshamol Shaji & Ashamol Shaji
A9	-	:	Photocopy of pan cards of Usha Shaji, Nishamol Shaji, Aneeshamol Shaji & Ashamol Shaji

EXHIBITS MARKED FOR THE RESPONDENTS:- NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-NIL

WITNESS EXAMINED FOR THE BOTH PARTIES:- NIL

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.395/2022

Court Fee	:	13,088.00
LBF	:	13,715.00
Stamp for documents	:	60.00
Stamp for petitions	:	50.00
Stamp for Vakkalath	:	6.00
Service of Process	:	120.00
Advocate fee	:	70,975.00
Others	:	300.00
Total	:	₹ 98,314.00

$$\text{Proportionate Costs} = \frac{98314 \times 1371500}{25,00,000} = \text{₹}53,935/- \text{ (Allowed)}$$

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// True Copy //

Typed by : Greeshma.
Compared by : Jobimol

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.395/2022
DATED: 26.03.2026**