

**IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA**  
**Present:- Sri. K.P. Pradeep, The MACT**

**Friday, the 27<sup>th</sup> day of March, 2026**  
**6<sup>th</sup> day of Chaithra, 1948**

**OP (M.V) No. 915/2022**

**Petitioners:-**

1. Madaswami, S/o. Chellayya, Muruka Vilasam, Mangathotty, Aruvilanchal, Kanthippara, Idukki, Pin: 685 619.
2. Rajeswary, W/o. Madaswami, Muruka Vilasam, Mangathotty, Aruvilanchal, Kanthippara, Idukki, Pin:685 619.
3. Anugraha M, D/o. Binumol E.V and Murukan, Ettenkunnel House, Kurumulloor, Moozhikulangara P.O, Kanakkary, Pin:686 601. Represented by Grandmother and next friend, Geethamma, Ettenkunnel House, Kurumulloor, Moozhikulangara P.O, Kanakkary, Pin: 686 601.

By Adv. Jemmy Geoge & Adv. Jayasekhar C.

**Respondents :-**

1. Sunil Ravi, aged 40 years, S/o. Ravi, Kunnumpurathu House, Rajakkadu P.O & Rajakkadu Kara, Rajakkadu Village, Idukki District, Pin: 685 566.
2. The Manager, Bajaj Allianz General Insurance Co. Ltd, Bajaj Allianz House, Airport Road, Yerwada, Pune- 411 006.

R1 - By Adv. Bijoy Mathew Madathil  
R2 - By Adv. C.J. Shaji

This O.P. having been finally heard on 16.03.2026 and the Tribunal on 27.03.2026 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 (Murukan, S/o Madaswami).

2. The averments in the petition are that, on 16.03.2022 at 07.30 p.m, the deceased (Murukan) was driving an autorikshaw bearing Reg. No KL-37-8033 through Rajakkadu - Chemmannar public road and when he reached the place of occurrence, a tipper lorry bearing Reg. No KL-07-BK-91 driven by 1<sup>st</sup> respondent in a rash and negligent manner came hit the autorikshaw. As a result of which the deceased sustained severe injuries and later succumbed to injuries on 21.03.2022. The accident occurred due to rash and negligent driving of tipper lorry by the 1<sup>st</sup> respondent.

3. Immediately after the accident, the deceased was taken to St. Johns Hospital, Rajakkadu and after the first aid he was referred to Taluk Hospital and from there he was taken to Medical College Hospital, Kottayam. Respondents 1 and 2 are the driver-cum-owner, and insurer of the tipper lorry bearing Reg. No KL-07-BK-91. At the time of accident the deceased was 'commercial driver' and he would earn Rs.30,000/- per month as income.

4. 1<sup>st</sup> respondent filed written statement by contending that the accident occurred due to negligence of the deceased. There was no negligence on the part of 1<sup>st</sup> respondent and he had valid driving license at the time of accident. 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. The vehicle bearing Reg. No KL-07-BK-0091 had been insured with 2<sup>nd</sup> respondent Company at the time of accident.

5. 2<sup>nd</sup> respondent filed written statement by contending that tipper lorry bearing Reg. No KL-07-BK-0091 had been insured with 2<sup>nd</sup> respondent Company at the time of accident. The death of the deceased was not due to the accident. The 1<sup>st</sup> respondent had no valid driving license at the time of accident. The petitioner was filed in collusion between petitioner and 1<sup>st</sup> respondent. Hence 2<sup>nd</sup> respondent Company is not liable to pay compensation to the petitioners.

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 tipper lorry bearing Reg. No KL-07-BK-0091 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 A14 were marked. No oral evidence were adduced from the side of respondents. Exts B1 to B6 were marked from the side of 1<sup>st</sup> respondent. No documentary evidence produced from the side of 2<sup>nd</sup> respondent.

8. Heard.

9. **Issue No.(1)**:- The case of the petitioners is that, on 16.03.2022 at 07.30 p.m, the deceased (Murukan) was driving an autorikshaw bearing Reg. No KL-37-8033 through Rajakkadu - Chemmannar public road and when he reached the place of occurrence, a tipper lorry bearing Reg. No KL-07-BK-91 driven by 1<sup>st</sup> respondent in a rash and negligent manner came hit the autorikshaw. As a result of which the deceased sustained severe injuries and later succumbed to injuries on 21.03.2022. The accident occurred due to rash and negligent driving of tipper lorry 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 and A7. Ext.A1 is the copy of the FIR in crime No. 172/2022 of Udumanchola Police Station. Ext A2 is the copy of FIS. Ext A3 is the copy of final report. Exts A6 and A7 are the AMVI reports of the involved vehicle involved in the accident. The offences alleged against the 1<sup>st</sup> respondent (accused in the final report) are punishable U/ss 279, 337, 338 & 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 tipper lorry bearing Reg. No No KL-07-BK-0091 by the 1<sup>st</sup> respondent. Accordingly Issue No.(1) is answered.

11. **Issue Nos.(2)** :- Ext.A4 is the copy of inquest report in Crime No 172/2022 of Udumbanchola P.S. Ext A5 is the copy of postmortem certificate issued from MCH, Kottayam. Ext A8 is the copy of treatment certificate issued from Medical College Hospital, Kottayam. Ext. A10 is the copy of driving license of deceased and in which date of birth of deceased has been shown as 19.11.1983 and hence he was 39 years of age.

12. Ext A9 is the Family Membership Certificate issued by Village Officer, Kanthippara. It reveals that petitioners are the father, mother and minor daughter of the deceased Murukan.

13. Ext A11 is the birth certificate of the 3<sup>rd</sup> petitioner, minor daughter of the deceased issued by Arpookkara Grama Panchayat.

14. Ext.A12 series are the copies of PAN cards of the petitioner 1 and 2. Ext A13 is the medical bills produced by the petitioners. Ext A14 is the copies of bank pass books of the petitioners 1 and 2.

15. Petitioners claim that deceased was a 'Commercial driver'. But, there is nothing on record to show how much the deceased was earning at the time of accident. 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 'Commercial driver'

and he was 39 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 ₹21,000/- per month. Hence it is fixed as ₹21,000/-.

17. As the deceased was 39 years of age, the multiplier applicable is 15 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. Petitioners are the father, mother and minor daughter of the deceased and they are considered as dependants of the deceased. Therefore 1/3 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 39 years of age, 40% 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 ₹3,52,800/- $(21,000 + (21,000 \times 40\%) \times 12]$  and

compensation for loss of dependency, after deducting 1/3 of the amount towards personal and living expenses of the deceased and applying multiplier 15, would be an amount of Rs.35,28,000/- [352800 x 15 x 2/3 ].

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 1<sup>st</sup> and 2<sup>nd</sup> petitioners as filial consortium and Rs.48,400/- is granted to 3<sup>rd</sup> petitioner, daughter of the deceased 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. 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 16.03.2022 and the death was occurred on 21.03.2022. Considering the said fact, I am inclined to award an amount of Rs.15,000/- 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. Since the deceased sustained grievous injury he was admitted in the hospital and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹3,000/- (500 x 6) as 'Bystander Expense for 6 days.

26. Considering the injuries sustained and hospitalization of the deceased, an amount of Rs.4,000/- is also granted under the head of extra nourishment.

27. Ext.A13 series are medical bills produced by the petitioners and they claims that ₹3,283/- was spent for the treatment of petitioner. It was admitted by 2<sup>nd</sup> respondent and hence medical expense is granted as ₹3,283/-.

28. Thus, petitioners are entitled to get a total compensation of **₹37,42,750/-(Rupees Thirty-seven Lakhs Forty-two Thousand Seven Hundred and Fifty 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	1,00,000	18,150		
5.	Bystanders expenses	Nil	3,000		500 x 6
6.	Extra nourishment	2,000	4,000		
7.	For medical expenses	50,000	3,283		As per Ext A13
<u>Part-11</u>					
8.	Pain and suffering	2,00,000	15,000		
9.	Compensation for Loss of dependency	60,00,000	35,28,000		21,000+(21,000x 40%) x 12x15x 2/3
10.	Compensation for Loss of Estate	5,00,000	18,150		
11.	Compensation for Loss of consortium	3,00,000	1,45,200		48,400 x 3
12.	Compensation for loss of love and affection		Nil		
	Claim is limited to Rs.60,00,000/-	₹72,04,000/-			
<b>Total award amount</b>			₹37,42,738/-		
<b>Rounded off</b>			₹37,42,750/-		
<b>(Rupees Thirty-seven Lakhs Forty-two Thousand Seven Hundred and Fifty Only)</b>					

29. In the matter of apportionment, 10% of the award amount with interest and costs is apportioned in favour of the petitioner No 1, father of the deceased, 30% of the award amount with interest and costs is apportioned in favour of the petitioner No 2, mother of the deceased and 60% the award amount with interest and costs is apportioned in favour of the 3<sup>rd</sup> petitioner, minor daughter of the deceased. The issue No. 2 is answered accordingly.

30. **Issue No.(3):-** I have already found that the accident took place due to the negligent driving of tipper lorry bearing Reg. No KL-07-BK-0091 by the 1<sup>st</sup> respondent who is the owner-cum-driver of the said vehicle and hence he is vicariously liable to pay compensation to the petitioners. It is admitted by the 2<sup>nd</sup> respondent that the said motorcycle had been insured with the 2<sup>nd</sup> respondent at the time of accident. Therefore, respondents 1 and 2 are liable to pay compensation. Exts B1 is the copy of the Aadhar card of the 1<sup>st</sup> respondent. Ext B2 is the copy of the driving license of the 1<sup>st</sup> respondent. Ext A3 is the copy of policy. Ext B4 is the copy of registration certificate. Ext B5 is the copy of goods carriage permit. Ext B6 is the copy of certificate of fitness. Since there is valid insurance policy, the company has to

indemnify 1<sup>st</sup> respondent and therefore, the company is liable to pay the compensation. Accordingly Issue No.(3) is answered.

31. **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 2<sup>nd</sup> respondent shall pay **₹37,42,750/-(Rupees Thirty-seven Lakhs Forty-two Thousand Seven Hundred and Fifty Only)** together with interest at the rate of 9% per annum from the date of petition [08.08.2022] till realization, with proportionate costs.

2. The 2<sup>nd</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 petitioner No.1 Account Number 735302010001195 of Union Bank of India, Senapathy Branch Idukki with IFSC: UBIN0573531 and Petitioner No.2 Account Number 735302120000036 of Union Bank of India, Senapathy Branch Idukki with IFSC: UBIN0573531 as per the details produced by the petitioner and compliance of the same shall be reported to the MACT, Pala.

3. The award amount due to the 3<sup>rd</sup> minor petitioner as apportioned above shall be deposited by the 2<sup>nd</sup> respondent before MACT, Pala and the office shall deposit the same in the savings Bank Account of the Minor petitioner. The minor petitioner can withdraw the amount on attaining majority.

4. The 2<sup>nd</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.

5. The 2<sup>nd</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.

6. The office is directed to furnish a copy of said statement to the petitioner after due verification.

7. The office is directed to make necessary entries in the registers maintained in the office evidencing payment of amount to the claimant.

8. The 2<sup>nd</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 27<sup>th</sup> day of March, 2026.*

*Sd/-*

**K.P.PRADEEP**  
**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**

### **APPENDIX**

#### **EXHIBITS MARKED FOR THE PETITIONER**

A1	18.03.2022	:	Photo copy of the FIR in Cr. No. 172/2022 of Udumbanchola Police Station.
A2	18.03.2022	:	Photo copy of FIS given by Mathew M.A
A3	31.05.2022	:	Photo copy of Final Report.
A4	21.03.2022	:	Photo copy of Inquest report of Murukan M
A5	21.03.2022	:	Photo copy of Postmortem Certificate of Murakan M issued from MCH, Kottayam.

A6	25.03.2022	:	Photo copy of AMVI report of Tipper Lorry bearing Reg. No. KL-07-BK-0091.
A7	25.03.2022	:	Photo copy of Autorikshaw bearing Reg. No. KL-37-8033.
A8	31.05.2022	:	Photo copy of treatment certificate of Murukan issued from MCH, Kottayam.
A9	23.02.2026	:	Photo copy of Family membership certificate of deceased Murukan issued from Village Officer, Kanthippara Village Office.
A10	06.02.2019	:	Attested copy of Driving Licence of Murukan M.
A11	25.02.2012	:	Photo copy of Birth Certificate of Anugraha M issued from Arpookara Grama Panchayat.
A12 (series)		:	Photo copy of Pan cards of Madaswami & Rajeswary.
A13 (series)		:	Medical Bills for Rs. 3,283/- (3 pages)
A14		:	Photo copy of Bank Pass books of Madaswami, Rajeswari & Geetha P.T @ Geetha Vishwambaran.

**EXHIBITS MARKED FOR THE RESPONDENTS:-**

B1	18.04.2013	:	True copy of the Aadhar card of Sunil Ravi.
B2	29.06.2009	:	True copy of Driving Licence of Sunil Ravi.
B3	07.02.2022	:	Photo copy of the POS- Liability only policy for commercil vehicle certificate cum policy schdule issued from Bajaj Allianz General Insurance Co. Ltd.
B4	10.11.2008	:	True copy of the certificate of Registration of Tipper Lorry bearing Reg. No.KL-07-BK-0091.

B5	27.04.2019	:	Attested copy of the Foods carriage permit of Tipper Lorry bearing Reg. No. KL-07-BK-91
B6	08.12.2022	:	Attested copy of certificate of fitness of Tipper Lorry bearing Reg. No. KL-07-BK-91

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-NIL

WITNESS EXAMINED FOR BOTH PARTIES:- NIL

Id/-  
**MACT**

**STATEMENT OF COSTS**  
**OP(MV) No.915/2022**

Court Fee	:	31,845.00
LBF	:	32,427.00
Stamp for Vakkalath	:	6.00
Stamp for exhibits	:	184.00
Stamp for Petitions	:	105.00
Service of Process	:	150.00
Advocate fee	:	164537.00
Others	:	300.00
Total	:	₹ 229554.00

$$\text{Proportionate Costs} = \frac{2,29,554 \times 32,42,750}{60,00,000} = \text{₹1,24,064/- (Allowed)}$$

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// True Copy//

Typed by : Jobimol  
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.915/2022  
DATED: 27.03.2026**