

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

Friday, the 27th day of March, 2026
06th day of Chaithra, 1948

OP (M.V) No. 993/2019

Petitioners:-

1. Biju P.A, S/o Augustine, Pallikkunnel House, Parathode P.O, Konnathaday, Idukki, Pin: 685 571
2. Neethu Biju, D/o Biju P.A, Pallikkunnel House, Parathode P.O, Konnathady, Idukki, Pin: 685 571
3. Nithin Biju , S/o Biju, Pallikkunnel House, Parathode P.O, Konnathaday, Idukki, Pin: 685 571

By Adv. Santhoshkumar K S & Adv. Jemmy George &
Adv. Jayasekhar C

Respondents :-

1. Aloshious Joseph, aged 31 years, S/o Joseph, Mundackattu House, Panickankudy, Udumbanchola, Konnathady, Idukki, Pin: 685 571
2. Biju Joseph, S/o Joseph, Kadavil House, Kallar Vattayar P.O, Idukki District
3. The Manager, United India Insurance Co. Ltd, Daivasahayam Buildings, Ponkunnam P.O, Kottayam district
4. Vinod, S/o Narayanan, Palathumkalackal House, Sengulam P.O, Vellathooval, Idukki District, Pin: 685 565
5. Sanilkumar, aged 45 years, S/o Thankappan, Vattachalil House, Kunchithanny P.O, Idukki District, Pin: 685 565
6. The Manager, United India Insurance Co. Ltd, Daivasahayam Buildings, Ponkunnam P.O, Kottayam District

R1,R2,R4 & R5 - Ex-parte
R3 & R6 - 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 husband, daughter and son of the deceased (Kunjammini, W/o Biju Augustine) respectively.

2. The averments in the petition are that, on 21.05.2018 at 06.30 p.m, the deceased (Kunjammini) was traveling as pillion rider on the motorbike bearing Reg. No. KL-68-1802 ridden by the 1st respondent. When the bike reached the place of occurrence, a car bearing bearing No. KL-06-F-5165 driven by the 5th respondent came in a rash and negligent manner. Due to rash and negligent riding of the motorbike by the 1st respondent and driving of car by the 5th respondent, both vehicles collided together. As a result of which the deceased fell down on the road and sustained severe injuries and she succumbed to injuries on the date. The accident occurred due to rash and negligent riding of the motorbike by the 1st respondent and driving of the car by the 5th respondent.

3. Immediately after the accident, the deceased was taken to St. Marys Hospital, Thodupuzha and while she was under treatment she died due to injuries sustained. Respondents 1 to 4 are the rider, owner, insurer and insured of the motorbike bearing Reg. No. KL-68-1802 respectively and 5th and 6th respondents are the owner cum driver and insurer respectively of

the car bearing bearing No.KL-06-F-5165. At the time of accident the deceased was 'House maid' and she would earn Rs.20,000/- per month as income.

4. Respondents 1, 2, 4 and 5 did not file written statement hence they were called absent and set ex-parte.

5. 3rd and 6th respondents filed written statement by contending that both the vehicles, bearing Reg.No.KL-06-F-5165 (car) and bearing Reg. No. KL-68-1802 (motorbike) had been insured with 3rd and 6th respondent Company at the time of accident. The accident occurred due to negligence of the rider of the motorbike. In the investigation conducted by the police it was found that there was no negligence on the part of driver of the car. The rider of the motorbike had no valid driving license on the date of accident. Since there is no statutory coverage for the pillion rider traveled on the motorbike the company is not liable to indemnify the owner of the motorbike. The rider of the motorbike had no valid driving license, since it is a violation of policy condition the Company is not liable to pay compensation. 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. 3rd respondent filed additional written statement by contending that the motorbike had only 'Act only Policy' in the name of 4th respondent and therefore the Company is not liable to indemnify the owner of the motorbike.

7. 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 car bearing No. KL-06-F-5165 by the 5th respondent and riding of the motorbike bearing Reg. No. KL-68-1802 by the 1st 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 ?

8. From the side of the petitioners, PW1 was examined and Exts.A1 to A12 were marked. RW1 and RW2 were examined and Exts. B1 and B2 were marked from the side of 3rd and 6th respondents.

9. Heard.

10. **Issue No.(1):-** The case of the petitioners is that, on 21.05.2018 at 06.30 p.m, the deceased (Kunjammuni) was

traveling as pillion rider on the motorbike bearing Reg. No. KL-68-1802 ridden by the 1st respondent. When the bike reached the place of occurrence, a car bearing bearing No. KL-06-F-5165 driven by the 5th respondent came in a rash and negligent manner. Due to rash and negligent riding of the motorbike by the 1st respondent and driving of car by the 5th respondent, both vehicles collided together. As a result of which the deceased fell down on the road and sustained severe injuries and she succumbed to injuries on the date. The accident occurred due to rash and negligent riding of the motorbike by the 1st respondent and driving of the car by the 5th respondent.

11. To prove the alleged incident and negligence on the part of the 1st and 5th respondent, the petitioners have produced Exts.A1, to A3, A6 and A7. Ext.A1 is the copy of the FIR in crime No.600/2018 of Pothanikkadu Police Station. Ext A2 is the copy of FIS. Ext A3 is the copy of Final Report. Ext.A6 and A7 are the copy of MVI Reports of both the vehicles involved in the accident. The offences alleged against the 1st 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.” Here, in this case though the Ext.A3 Final Report had been filed against the rider of the motorbike, the specific case of the petitioners is that the accident occurred due to negligence of rider of the motorbike as well as the driver of the car (5th respondent).

12. When PW1 was examined he deposed that he had seen the alleged road accident in this case. According to him a bike and car collided at Anathouzhi junction. At the place of occurrence main road is lying on the east-west direction. When Scene Mahazar was prepared by the police he was there in the place of occurrence and he did not have shown the place of occurrence to the police. The accident took place in the middle of the road and he was a witness in the scene mahazar. PW1 has specifically stated that he did not had given statement to the police to the effect that the accident took place on the northern side of the road. Thodupuzha - Oonnukallu road is lying in the

south-east direction. Thodupuzha - Vakkathi road is lying in the north-south direction. The bike which came from eastern side collided with car which came from southern side. The bike hit on the left side of the car. PW1 has categorically stated that he did not have given statement to the effect that the bike overtook other vehicles and hit on the car and the accident took place due to negligence of the rider of the motorbike and driver of the car. When he was cross-examined he deposed that though he had given statement to the police he did not have given statement to the effect that the bike came over there after overtook other vehicles. He gave statement to the police on the next day of the accident. Though he has put his signature in the scene mahazar he came over there after the preparation of the same by the police. Immediately after the accident police had come to the place of occurrence and they did not ask anything to anybody except him. On the bike there was rider and pillion rider. Though PW1 was cross-examined by the learned counsel for the 3rd and 6th respondent nothing was brought on record to disbelieve the version given by PW1, who is the occurrence witness.

13. When RW1 was examined he deposed that while he was S.I of Police, Pothanikkadu Police Station he conducted investigation of the Crime No.600/2018 of Pothanikkadu Police Station and filed Ext.A3 Final Report. According to him on

21.05.2018 at 06.30 p.m the accident took place in the Anathoozhi junction. The bike involved in the accident hit on the car at the junction. Ext.A2 FIS was given by husband of the deceased who did not have seen the incident. In Ext.A2 FIS, it has been stated that the bike was ridden by the son of the deceased at the time of accident but in the investigation it was revealed that one Alosious was the rider of the bike and he had no driving license. He prepared Ext.A10 scene mahazar on 22.05.2018 at 3 p.m. Ext.A1 FIR was registered against the driver of the car bearing No.KL-06-F-5165. Place of occurrence is the Anathoozhi junction. The car came from southern side. He understood that the bike came from eastern side after overtook two vehicles and hit on the car which came from southern side. PW1 has given statement to him to the effect that the accident took place on the northern side of the road. When he was cross-examined he deposed that he was not recorded width of the road going towards north. In Ext.A3 Final Report date of accident was mistakenly shown as 21.06.2018 instead of 21.05.2018. According to RW1 though the crime was registered against the driver of the car on the basis of the statements given by the witnesses his name was deleted and final report was filed against the 1st respondent. From the evidence adduced by RW1 it is not seen from anywhere that who gave the statement to remove the

driver of the car from the Ext.A3 Final Report and to incorporate name of the 1st respondent as accused.

14. When RW2, the driver of the car (5th respondent), was examined he deposed that on 21.05.2018 at 06.30 p.m while he was driving his car bearing No.KL-06-F-5165 hit on the motorbike. According to RW2 he was going to Thodupuzha to Adimali. The accident occurred on the junction and he was coming from south and turned the vehicle towards right to go to Adimali. According to RW2 he came from south and turned his vehicle towards right (east) to go to Adimali and when he was driving the vehicle by keeping the same on the left side of the road, the bike came from opposite side (east) after overtook a car and hit on his car. When he was cross-examined he deposed that he came from south up to the junction and then turned towards east and draw his vehicle 3-4 meters towards east and at that time the bike was seen at a distance of 12 meters. The learned counsel for the petitioner had suggested that the driver of the car (RW2) came from south and turned towards east from the Anathoozhi junction in a rash and negligent manner in over speed and therefore the accident took place but it was denied by RW2.

15. From the evidence on records it is seen that PW1 was the occurrence witness. According to him he saw the incident on 21.05.2018 at 06.30 p.m. He has given statement to the effect

that the accident took place at Anathoozhi junction due to the negligence of rider of motorbike as well as driver of the car. According to RW1 and RW2 the rider of the bike came to the place of occurrence from the east after overtook other vehicles and hit on the car which came from south and turned towards east from Anathoozhi junction. According to RW2 he had driven the vehicle 3-4 meters towards east from the Anathoozhi junction and at that time bike came from east after overtook other vehicles in a rash and negligent manner and hit on his car. It is seen from the records that there was damage on the left side of the car. According to RW2 he was keeping his vehicle on the left side of the road. No evidence was brought on record to show that the accused came from eastern side and after overtook other vehicles it hit on the car going towards east. PW1 is the only occurrence witness examined before the court. The presence of PW1 in the presence of occurrence has not been challenged by the learned counsel for the respondents 3 and 6. Since nothing was brought on record to disbelieve the version of PW1 his evidence cannot be discarded. In this case 5th respondent did not file written statement but when he was examined by the insurance company as RW2 he has deposed that the accident occurred due to negligence of the rider of the motorbike and there was no negligence on his part. If there was no negligence

on his part definitely he should have filed written statement by taking the contention. Without denying the allegations against him in the petition he has simply stated before the court that there was no negligence on his part. From the circumstances and from the evidence of PW1 and RW1 it is seen that the driver of the car (5th respondent) also has contributed to the accident and the rider of the motorbike and driver of the car are responsible for the accident.

16. Considering the facts and circumstances of the case and from the evidence adduced by PW1, RW1 and RW2, I am of the view that the accident occurred due to rash and negligent riding of the motorbike by the 1st respondent and driving of car bearing No.KL-06-F-5165 by the 5th respondent. Accordingly above issue is answered.

17. **Issue Nos.(2)** :- Ext.A4 is the copy of postmortem certificate issued from District Hospital, Thodupuzha. Ext. A5 is the copy of inquest report.

18. Ext.A9 is the copy of extract of school admission register issued from St. George High School, Parathodu. In which the date of birth of the deceased has been shown as 14.04.1973 and the deceased was aged 45 years at the time of accident.

19. Ext.A8 is the Family Membership Certificate issued by the Village Officer, Konnathadi. It reveals that petitioners are the husband, daughter and son of the deceased.

20. Exts.A11 series are the copies of pan card of the petitioners and Ext.A12 are the copies of passbook of the petitioners.

21. Petitioners claim that deceased was a 'housemaid' and she would earn 20,000/- per month as income. There is nothing on record to show that how much she was earning at the time her death. 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.

22. 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 'housemaid' and she was 45 years of age at the time of accident. Considering the age 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/-.

23. As the deceased was 45 years of age, the multiplier applicable is 14 as per the decision rendered by the **Hon'ble Apex Court in 'Sarla Verma V Delhi Transport Corporation' cited in 2010(2) KLT 802.**

24. Petitioners are the husband, daughter (aged 24 years) and son (aged 21 years) of the deceased. The 2nd and 3rd petitioners are considered as the dependents of the deceased and 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.

25. As the deceased was 45 years of age, 25% addition of her 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 ₹2,85,000/- $(19,000 + (19,000 \times 25\%) \times 12]$ and compensation for loss of dependency, after deducting 1/3 of the amount towards personal and living expenses of the deceased and applying multiplier 14, would be an amount of **Rs.26,60,000/-** $[2,85,000 \times 14 \times 2/3]$.

26. 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/- each is granted to 1st petitioner as spousal consortium and to 2nd and 3rd petitioners as the parental consortium.

27. 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.

28. 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 21.05.2018 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**.

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

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

31. The deceased was not admitted in the hospital for treatment and therefore no compensation is granted as medical expense and Extra nourishment.

32. Thus, petitioners are entitled to get a total compensation of **₹28,54,500/- (Rupees Twenty Eight Lakhs Fifty four 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)	(I n P a i s e)	Basis-Vital Details in a nut shell
<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	2,000	2,000		Moderate rate
4.	Funeral Expenses	1,00,000	18,150		
5.	Bystanders expenses	Nil	Nil		
6	For extra nourishment	1000	Nil		
<u>Part-11</u>					
7.	Pain and suffering	1, 00,000	5,000		
8.	Compensation for Loss of dependency	50,00,000	26,60,000		$(19,000+(19000 \times 25\%)) \times 12 \times 14 \times \frac{2}{3}$
9.	Compensation for Loss of Estate	2,00,000	18,150		
10	Compensation for Loss of consortium and Compensation for loss of love and affection	2,00,000	1,45,200		48400 x 3
	Claim is limited to Rs.50,00,000/-	₹56,83,000/-			
Total award amount			₹ 28,54,500/-		=====
(Rupees Twenty Eight Lakhs Fifty four Thousand and Five Hundred Only)					

33. In the matter of apportionment, 50% the award amount with interest and costs is apportioned in favour of the 1st petitioner husband of deceased and 25% each of the award amount with interest and costs is apportioned in favour of the petitioners 2nd and 3rd (daughter and son) of the deceased. The issue No.2 is answered accordingly.

34. **Issue No.(3):-** I have already found that the accident took place due to rash and negligent riding of the Motorcycle bearing

Reg. KL-68-1802 by the 1st respondent and driving of Car bearing No.KL-06-F-5165 by the 5th respondent. 2nd respondent is the owner of the Motorbike. Ext B2 is the insurance policy issue by 3rd respondent and it is seen by Ext B2 that it is liability only policy and therefore the pillion rider has no policy coverage. 5th respondent is the owner -cum-driver of the Car bearing No.KL-06-5165 and the Car had valid insurance policy with 6th respondent company. Here in the case the deceased was the pillion rider on the motorbike ridden by the 1st respondent and it was already found that the accident took place due to rash and negligent riding of the motorbike by the 1st respondent and driving of the Car by the 5th respondent. Since the deceased had sustained severe injuries in the accident and she succumbed to injuries due to the negligence of the 1st and 4th respondent and therefore it is a case of composite negligence and in such cases the petitioners/claimant are entitled to sue both or anyone of the joint tort feasons and to recover the entire compensation as liability of joint tort feasons is joint and several in ***Khenyei Vs New India Assurance Co. Ltd. and others (2015) 9 SCC 273*** wherein the Hon'ble Supreme Court has held:-

“ There is a difference between contributory and composite negligence. In the case of contributory negligence, a person who has himself contributed to the extent cannot claim compensation for the injuries sustained by him in the accident to the extent

of his own negligence; whereas in the case of composite negligence, a person who has suffered has not contributed to the accident but the outcome of combination of negligence of two or more other persons. This Court in T.O. Anthony v. Karvarnan and Ors.[MANU/SC/7181/2008MANU/SC/

'Composite negligence' refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrong doers, it is said that the person was injured on account of the composite negligence of those wrong-doers. In such a case, each wrong doer, is jointly and severally liable to the injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrong-doer separately, nor is it necessary for the court to determine the extent of liability of each wrong-doer separately. On the other hand where a person suffers injury, partly due to the negligence on the part of another person or persons, and partly as a result of his own negligence, then the negligence of the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely by reason of the negligence on his part but the damages recoverable by him in respect of the injuries stands reduced in proportion to his contributory negligence. Therefore, when two vehicles are involved in an accident, and one of the drivers claims compensation from the other driver alleging negligence, and the other driver denies negligence or claims that the injured claimant himself was negligent, then it becomes necessary to consider whether the injured claimant was negligent and if so, whether he was solely or partly responsible for the accident and the extent of his responsibility, that is his contributory negligence. Therefore where the injured is himself partly liable, the principle of 'composite negligence' will not apply nor can there be an automatic inference

that the negligence was 50:50 as has been assumed in this case. The Tribunal ought to have examined the extent of contributory negligence of the Appellant and thereby avoided confusion between composite negligence and contributory negligence. The High Court has failed to correct the said error.

35. It is seen from the evidence and records and from the decision of the Hon'ble Supreme Court it is seen that in a case all the joint tortfeasors have been impleaded and evidence is sufficient it is open to the Court or Tribunal to determine inter se extent of composite negligence of drivers. However, determination of extent of negligence between the joint tortfeasors is only for the purpose of their interse liability so that one may recover the sum from the other after making whole of payment to the claimant to the extent it has satisfied the liability of the other. In case both of them have been impleaded and apportionment/extent of their negligence has been determined by the Court/Tribunal, in main case one joint tortfeasor can recover the amount from other in execution proceedings.

36. Here in this case both tortfeasors have contributed equally (50:50 ratio) to the accident. In a case of composite negligence the injured can claim 100% compensation from one insured vehicles company, even if the other vehicle is uninsured, as liability is joint and several the claimant can recover full amount from one company as per his choice, leaving that

company to recover the uninsured portion from the other owner. Since the accident was caused due to composite negligence each tortfeasors are liable to the victim for the entire compensation amount. If one vehicle had no insurance, the insurer of the other vehicle cannot escape from liability. The injured person can pursue the insured company to recover the entire claim. The insurance company that pays the entire amount to the claimant can initiate separate, independent proceedings against the owner of the uninsured vehicle to recover that portion. Even if both parties have been impleaded the Tribunal cannot reduce the compensation amount due to one party being uninsured. Here in this case 6th respondent insurance company with whom the vehicle of the 5th respondent has been insured it is liable to indemnify the 5th respondent who is one of the tortfeasor along with 1st respondent (rider of the motorbike) who are equally responsible for the accident. 1st respondent's motorbike had only liability policy and therefore the pillion rider has no coverage. 2nd respondent is the owner of the motorbike and therefore he is also vicariously liable to pay compensation. At the same time the claimants are entitled to get entire compensation from 6th respondent company as insurer of 5th respondent's Car. After paid the entire compensation to the petitioners 6th respondent can recover half of the entire compensation awarded from 2nd

respondent who is the owner of the motorbike which had only liability policy with 3rd respondent company. Accordingly Issue No.(3) is answered.

37. **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 6th respondent shall pay ₹ **28,54,500/- (Rupees Twenty Eight Lakhs Fifty four Thousand and Five Hundred Only)** together with interest at the rate of 9% per annum from the date of petition [22.08.2019] till realization, with proportionate costs and 6th respondent shall be entitled to recover half of the amount ie, Rs.14,27,250 from R2.
- (2) The 6th respondent is directed to deposit the award amount together with interest and costs to the account of the petitioner ie, the Savings Bank Account of the petitioner No.1 Account Number- 8253022000019592 of Pala Urban Co-operative Bank Ltd., Pala Branch with IFSC: UTIB0SPUC50, Petitioner No.2 -Account Number 8253022000019594 of Pala Urban Co-operative Bank Ltd., Pala Branch with IFSC: UTIB0SPUC50 and Petitioner No.3 Account Number 8253022000019593 of Pala Urban Co-operative Bank Ltd., 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 6th respondent shall produce cheques for Rs.49,373/- and Rs.50,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.
- (4) The 6th 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 6th 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 27th day of March, 2026.

Sd/-

K.P.PRADEEP

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

APPENDIX

EXHIBITS MARKED FOR THE PETITIONER

A1	22.05.2018	:	Photo copy of the FIR in Cr. No. 600/2018 of Pothanikad Police Station.
A2	22.05.2018	:	Photo copy of the FIS given by Biju Augustine
A3	16.7.2019	:	Photo copy of the final report
A4	22.05.2018	:	Photo copy of the postmortem certificate of Kunjammini issued from District Hospital, Thodupuzhha
A5	-	:	Photo copy of the inquest report
A6	06.06.2018	:	Photo copy of the MVI reports of the car bearing Reg. No. KL-06-F-5165
A7	06.06.2018	:	Photo copy of the motorcycle bearing Reg. No. KL-68-1802

A8	23.09.2019	:	Family membership certificate of deceased Kunjammini issued by Village officer, Konnathady Village office
A9	-	:	Extract of School Admission Register of Kunjammini M K
A10	22.05.2018	:	Photocopy of the scene mahazar
A11	-	:	True copy of the pan cards of Biju PA, Neethu Biju & Nithin Biju
A12	19.08.2024	:	True copy of the bank passbook of Biju PA, Neethu Biju & Nithin Biju issued from Pala Urban Co-operative bank Ltd, Pala

EXHIBITS MARKED FOR THE RESPONDENTS:-

B1	22.05.2018	:	Photocopy of the 161 statement given by Ipe
B2	20.03.2018	:	Certified copy of the insurance policy certificate of motorcycle bearing Reg. No. KL-68-1802 issued from United India Insurance Co Ltd.

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-NIL

WITNESS EXAMINED FOR THE PETITIONERS:-

PW1	05.09.2023	:	Ipe Varkey
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WITNESS EXAMINED FOR THE RESPONDENTS:-

RW1	16.08.2024	:	Baiju R, S.I of police , Vattiyoor kavu
RW2	16.01.2026	:	Sunil Kumar V T

Id/-
MACT

STATEMENT OF COSTS
OP(MV) No.993/2019

Court Fee paid	:	27,918.00
LBF	:	28,545.00
Stamp for documents	:	22.00
Stamp for petitions	:	30.00
Service of process	:	90.00
Stamp for Vakkalath	:	6.00
Advocate fee	:	1,45,125.00
Others	:	300.00
Total	:	₹ 2,02,036.00

$$\text{Proportionate Costs} = \frac{202036 \times 2854500}{50,00,000} = \text{₹1,15,342/- (Allowed)}$$

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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.993/2019
DATED: 27.03.2026**