

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

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

Thursday, the 26<sup>th</sup> day of March, 2026

05<sup>th</sup> day of Chaithra, 1948

**OP (M.V) Nos.1147/2019 & 1531/2019**

**OP (M.V) No.1147/2019**

**Petitioner:-**

Nikhil, S/o Jacob, Parippallil House, Anakkara, Idukki  
District, Pin: 685 512

By Adv.Aji Joseph Mundamattom & Adv. Simi Thomas

**Respondents :-**

1. Reji Varghese, Eattickal House, Chellarcovil P.O, Idukki  
District, Pin: 685 512 (deleted)
2. The New India Assurance Co Ltd,  
Represented by its Branch Manager, Municipal Complex  
Buildings, Main Road, Pala-686 575

Addl Varghese, S/o Varghese Mathai, Ettickal House,  
R3. Chellarcovil P.O, Idukki District, Pin: 685 512

Petitioners next friend Jacob removed as per order in  
IA 2/23 dated 14.09.2023

1<sup>st</sup> respondent deleted from party array as per order in  
IA 9/25 dated 29.01.2025

Addl. 3<sup>rd</sup> respondent impleaded as per order in IA 8/24  
dated 19.09.2024

R1 -deleted

R2 - By Adv. Benoy Jose Mathew

Addl. R3 - Ex-parte

**OP (M.V) No.1531/2019**

**Petitioners:-**

1. Remya Mol, W/o Late Manoj Kumar, D/o Mohanan,  
Vechukkunnel House, Chakkupallom, Kumily, Pin: 685  
509

2. Aparna Manoj( minor)  
represented by next friend Remyamol, Vechukkunnel  
House, Chakkupallom, Kumily, Pin: 685 509
3. Archana Manoj ( minor)  
Represented by next friend Remyamol, Vechukkunnel  
house, Chakkupallom, Kumily, Pin: 685 509
4. Sreedharan, (died), S/o Madhavan , Srippally House,  
Chakkupallom, Kumily, Pin: 685 509
5. Maniyamma, W/o Sreedharan, Srippally house,  
Chakkupallom, Kumily, Pin: 685 509

Addl. P6 Sujatha S S, aged 44 years, W/o Sumesh, Thayyattu,  
Ambalappara Chinnar P.O, VTC Upputhara, Idukki  
district, Pin:685 501

Addl. P7 Sunitha,aged 38 years, W/o Sunil, Pallarimangalam,  
Ambalakavala, Kattappana south P.O, Idukki District,  
Pin; 685 515

Addl. 6<sup>th</sup> and Addl. 7<sup>th</sup> petitioner impleaded as per  
order in IA 1/2023 dated 04.08.2023

By Adv. Aji Joseph Mundamattom & Adv. Simi Thomas

### **Respondents :-**

1. Reji Varghese, Eattickal House, Chellarcovil P.O, Idukki  
District, Pin: 685 512(deleted)
2. The New India Assurance Co Ltd,  
Represented by its Branch Manager, Municipal  
Complex Buildings, Main Road, Pala- Pin: 686 575

Addl R3. Varghese, S/o Varghese Mathai, Ettickal House,  
Chellarcovil P.O, Idukki District, Pin: 685 512

1<sup>st</sup> respondent deleted from party array as per order  
in IA 5/25 dated 31.01.2025

Addl. 3<sup>rd</sup> respondent impleaded as per order in IA 3/24  
dated 19.09.2024.

R1 -deleted

R2 - By Adv. Benoy Jose Mathew

Addl. R3 - Ex-parte

These O.Ps having been finally heard on 23.01.2026 and the Tribunal on 26.03.2026 passed the following :-

**COMMON AWARD**

**1.** Petitions filed under section 166 of the Motor Vehicles Act 1988. O.P.(MV) 1147/2019 was filed by the petitioner, who was represented by his next friend Sri.Jacob since he was unconscious and fully bed-ridden. But as per the order in I.A.No.2/2023 dated 14.09.2023 next friend was removed. As per the order in IA 9/2025 dated 29.01.2025 name of 1<sup>st</sup> respondent was deleted from the party array. As per order in IA 8/2024 dated 19.09.2024 addl 3<sup>rd</sup> respondent owner-cum-driver was impleaded.

**2.** OP(MV) 1531/2019 was filed by the petitioners who are the wife, children, father and mother of the deceased ( Manojkumar, S/o Sreedharan). During the pendency of the original petition, 4<sup>th</sup> petitioner father of the deceased died and as per order in IA 1/2023 dated 04.08.2023 Addl. petitioners 6 and 7 were impleaded in party array. As per the order in IA 5/2025 dated 31.01.2025 1<sup>st</sup> respondent was deleted from the party array. As per order in I.A 3/2024 dated 19.9.2024 addl 3<sup>rd</sup> respondent owner-cum-driver was impleaded.

**OP(MV)1147/2019**

**3.** The averments in the petition are that on 01.07.2019 at 4.45 p.m, the petitioner (Nikhil, S/o. Jacob) was travelling in an auto rickshaw bearing Reg. No. KL-06-F-4843 driven by Addl 3<sup>rd</sup> respondent. When the auto rickshaw reached at the place of occurrence, due to rash and negligent driving of the same by the Addl 3<sup>rd</sup> respondent it hit on another autorikshaw bearing Reg. No. KL-69-3549. As a result of which, the petitioner sustained severe injuries. The accident occurred due to the rash and negligent driving of the auto rickshaw bearing Reg. No. KL-06-F-4843 by the Addl 3<sup>rd</sup> respondent.

**4.** Immediately after the accident, the petitioner was taken to Caritas Hospital, Kottayam and treated there as inpatient. Due to the accident the petitioner has become unconscious and he was fully bed-ridden. He was treated as inpatient for 29 days. The 2<sup>nd</sup> respondent is the insurer of the auto rickshaw bearing Reg. No. KL-06-F-4843. 3<sup>rd</sup> respondent is the owner-cum-driver of the autorikshaw bearing No. KL-69-3549. At the time of accident, the petitioner was Wax-up-cum metal technician and he used to earn Rs.18,000/- per month as income.

**5.** Respondents 1 and 3 did not file written statement and hence they were called absent and set ex-parte.

6. 2<sup>nd</sup> respondent filed written statement by contending that the autorickshaw bearing Reg. No.KL-06-F-4843 had been insured with 2<sup>nd</sup> respondent company. The vehicle had no valid fitness certificate on the date of accident and it is a fundamental breach of terms and conditions of the policy. The petition was filed in collusion between the petitioner and other respondent. Age, income and occupation of the petitioner mentioned in the petition are not correct. The amount of compensation claimed in the petition is exorbitant. The petitioner has not sustained any severe injuries and disability in the accident. Since there is violation of policy condition and collusion between petitioner and other respondent the company is not liable to pay compensation.

**OP(MV)1531/2019**

7. The averments in the petition are that on 01.07.2019 at 4.45 p.m, the deceased (Manojkumar, S/o.Sreedharan) was travelling in an auto rickshaw bearing Reg. No. KL-06-F-4843 driven by Addl 3<sup>rd</sup> respondent. When the auto rickshaw reached at the place of occurrence, due to rash and negligent driving of the same by the Addl 3<sup>rd</sup> respondent it hit on another autorikshaw bearing Reg. No. KL-65-3549. As a result of which, the deceased sustained severe injuries. The accident occurred due to the rash and negligent driving of the auto

rickshaw bearing Reg. No. KL-06-F-4843 by the Addl 3<sup>rd</sup> respondent.

**8.** Immediately after the accident, the deceased was taken to St. Johns Hospital, Kattappana and thereafter he was taken to MCH, Kottayam. On 18.08.2018 he succumbed to injuries after 48 days of accident. 2<sup>nd</sup> respondent is the insurer of the auto rickshaw bearing Reg. No. KL-06-F-4843. 3<sup>rd</sup> respondent is the owner-cum-driver of the autorikshaw bearing No. KL-69-3549. At the time of accident, the petitioner was auto driver and he used to earn Rs.30,000/- per month as income.

**9.** Respondent 3 did not file written statement and hence he was called absent and set ex-parte.

**10.** 2<sup>nd</sup> respondent filed written statement by contending that the autorickshaw bearing Reg. No. KL-06-F-4843 had been insured with 2<sup>nd</sup> respondent company. The vehicle had no valid fitness certificate on the date of accident and it is a fundamental breach of terms and conditions of the policy. The petition was filed in collusion between the petitioners and other respondent. Age, income and occupation of the deceased mentioned in the petition are not correct. The amount of compensation claimed in the petition is exorbitant. The deceased had not sustained any severe injuries and disability in the accident. Since there is

violation of policy condition and collusion between petitioners and other respondent the company is not liable to pay compensation.

**11.** 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 autorikshaw bearing registration No. KL-06-F-4843, by the Addl 3<sup>rd</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 ?

**12.** As per the order in IA.No.4/2023 in OP(MV) No 1147/2019 joint trial of OP(MV) No.1531/19 was ordered and accordingly the cases were tried together.

**13.** From the side of the petitioners PW1 was examined. In order to prove the alleged accident and negligence on the part of the Addl 3<sup>rd</sup> respondent, the petitioners have produced Exts.A1 to A23 and Exts. X1 and X2 are marked. No oral and documentary evidence adduced from the side of the 2<sup>nd</sup> respondent.

**14.** Heard.

**15. Issue Nos.(1) in both case :-** The case of the petitioners' is that on 01.07.2019 at 4.45 p.m, petitioner in OP(MV) No. 1147/2019 and deceased (Manojkumar, S/o.Sreedharan) were travelling in an auto rickshaw bearing Reg. No. KL-06-F-4843 driven by Addl 3<sup>rd</sup> respondent. When the auto rickshaw reached at the place of occurrence, due to rash and negligent driving of the same by the Addl 3<sup>rd</sup> respondent it hit on another autorikshaw bearing Reg. No. KL-69-3549. As a result of which petitioner in OP(MV).No.1147/2019 and the deceased sustained severe injuries. The accident occurred due to the rash and negligent driving of the auto rickshaw bearing Reg. No. KL-06-F-4843 by the Addl 3<sup>rd</sup> respondent.

**16.** To prove the alleged accident the petitioners have produced Exts.A1 to A5. Ext.A1 is the copy of the FIR in crime No.216/2019 of Vandanmedu Police Station. Ext A2 is the copy of FIS. Ext.A3 is the copy of Scene Mahazar. Ext A4 is the copy of AMVI report. Ext A5 is the copy of final report. The offences alleged against the Addl 3<sup>rd</sup> respondent (accused in the final report) are punishable U/ss. 279, 337, 338 and 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 inditee. 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 any contra evidence, from the above said evidence adduced by the petitioner, it is seen that the alleged incident took place due to rash and negligent driving of the autorikshaw bearing No.KL-06-F-4843 by the Addl 3<sup>rd</sup> respondent. Accordingly Issue No.(1) is answered.

**17. Issue No.(2) in OP (MV) 1147/2019**:- Ext.A6 is the copy of treatment certificate/discharge certificate. Ext A7 is the copy of discharge summary issued by Carithas Hospital, Thellakom. Ext.A8 is the copy of the MRI Scan reports. Ext.A9 is the C.T. Scan reports. Ext.A10 and A11 are the prescription issued by Dr.Sarish Kumar, Carithas Hospital, Thellakom. From the medical records it is seen that the petitioner has sustained, poly trauma, diffuse axonal injury, blunt trauma, chest, bilateral

lung contusion, segmental right lower lobe collapse and segmental left lower lobe collapse.

**18.** Ext X1 is the disability certificate issued from MCH Kottayam. Ext. X2 is the assessment report of medical board issued from MCH, Kottayam.

**19.** Ext A15 is the Driving license of the petitioner and in which the date of birth of the petitioner has been shown as 04.02.1993 and he was 26 years of age on the date of accident. Ext.A16 is the the copy of pass book of the petitioner.

**20.** The petitioner claims that he was Wax-up-cum metal technician. Ext. A14 is the salary certificate issued from Pioneer Dental Ceramics and he was getting salary as Rs.18,000/- per month. But it was admitted by the petitioner that he was getting Rs.18,000/- per month. 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.

**21.** 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 petitioner claims that he is wax-up-xum metal technician and 26 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 petitioner can be fixed as ₹19,000/- per month. Hence it is fixed as ₹19,000/-.

**22.** The above said injuries sustained by the petitioner prevented him from doing work atleast for 10 months because the petitioner was unconscious for a long period. Therefore, I am inclined to award an amount of ₹1,90,000/- (19,000 x 10 months) under the head 'loss of earning' for the said period of 10 months.

**23.** Considering his frequent visits to hospitals in connection with treatment, an amount of ₹10,000/- is awarded as

'Transportation expense'.

**24.** I am also inclined to award an amount of Rs.2,000/- as 'Damages to clothing'.

**25.** Considering the injury sustained by the petitioner, I feel it just and proper to award an amount of ₹20,000/- as Extra Nourishment expense.

**26.** Since the petitioner sustained grievous injury he was admitted in the hospital for 29 days and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹13,050/- (450 x 29) as 'Bystander Expense for 29 days.

**27.** Ext.A12 series are medical bills produced by the petitioner and he claims that ₹3,91,562/- was spent for the treatment of petitioner. 2<sup>nd</sup> respondent admitted the same hence medical expense is granted as ₹3,91,562/-.

**28.** Taking into account of the severeness of the injuries sustained by the petitioner and 29 days hospitalization, I am inclined to award an amount of ₹1,50,000/- under the head 'Pain and suffering'.

**29.** Considering the discomfort, unhappiness and inconvenience, the petitioner faced on account of the said injuries sustained in the accident, an amount of ₹1,25,000/- is

also awarded as compensation for 'loss of amenities of life'.

**30.** Ext X1 is the permanent disability certificate issued from the Medical Board of Government Medical College Hospital, Kottayam. Ext. X2 is the assessment report of disability issued by MCH, Kottayam. When PW1 was examined he deposed that he is clinical psychiatrist of psychiatry department MCH, Kottayam and he was member of the Medical Board, who issued Ext.X1 disability. According to him, he had examined the patient on 11.04.2024, 16.04.2024, 30.04.2024 and 01.05.2024 and due to the injury sustained in the accident the petitioner has cognitive disability as 38%. The disability affects his memory and learning capacity and he may have difficulty to have a married life and the disability will continue as life long. Though the learned counsel for the respondent had cross-examined the witness nothing was brought out to discard his version. In Ext.X1 the total disability has been assessed as 46%. Both parties admitted that 30% disability can be granted and therefore the disability of the petitioner is assessed as 30% as admitted by both parties at the time of hearing.

**31.** I have already fixed the notional income of the petitioner as ₹19,000/- per month. Thus, the annual income of the petitioner comes to the tune of ₹2,28,000/-(19,000 x 12). The

loss of earning due to said functional permanent disability would be 30% of ₹2,28,000/- which is ₹68,400/- per annum. Both parties admitted that petitioner was 26 years of age, the multiplier applicable is 17. Therefore, the loss of future earnings on account of said permanent disability would be **₹11,62,800/-** ( 68,400 x 17).

**32.** The petitioner is thus entitled to get a total compensation of **₹20,64,450/-(Rupees Twenty Lakhs Sixty-Four Thousand Four Hundred and Fifty Only)** , as shown in the table below:-

| <i>Sl. No.</i> | <i>Head of claim</i>                               | <i>Amount claimed (in Rupees)</i> | <i>Amount awarded (in Rupees)</i> | <i>(in Pa is e)</i> | <i>Basis-Vital Details in a nut shell</i>          |
|----------------|----------------------------------------------------|-----------------------------------|-----------------------------------|---------------------|----------------------------------------------------|
| <u>Part-I</u>  |                                                    |                                   |                                   |                     |                                                    |
| 1              | Loss of earning                                    | 90,000                            | 1,90,000                          | -                   | 19000 x 10                                         |
| 2              | Loss of earnings(partial)                          | Nil                               | Nil                               | -                   | -                                                  |
| 3              | Transportation charges including Ambulance charges | 50,000                            | 10,000                            | -                   | Travel to and from the hospital                    |
| 4              | Extra Nourishment                                  | 20,000                            | 20,000                            | -                   | Considering the injury sustained by the petitioner |
| 5              | Damage to Clothing                                 | 5,000                             | 2,000                             | -                   | -                                                  |
| 6              | Medical expenses                                   | 5,00,000<br>25,000                | 3,91,562                          | -                   | Ext A12 medical bills. Admitted amount             |

|                                                                              |                                                                  |                       |                                                                  |   |                                                    |
|------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------|------------------------------------------------------------------|---|----------------------------------------------------|
| 7                                                                            | By stander expenses                                              |                       | 13,050                                                           |   | 450 x 29                                           |
| 8                                                                            | Other incidental expenses                                        | 10,000                | Nil                                                              |   |                                                    |
| 9                                                                            | Compensation for future treatment                                | 5,00,000              | Nil                                                              |   |                                                    |
|                                                                              |                                                                  |                       |                                                                  |   |                                                    |
| 10                                                                           | Pain and suffering                                               | 5,00,000              | 1,50,000                                                         | - | Considering the injury sustained by the petitioner |
| 11                                                                           | Compensation for continuing or permanent disability              | 50,00,000             | 11,62,800                                                        | - | 19000 x 12 x 17 x 30%                              |
| 12                                                                           | Compensation for Loss of earning amenities of life, mental agony | 20,00,000             | 1,25,000                                                         | - | Considering the injury sustained by the petitioner |
| Claim is limited to ₹75,00,000/-                                             |                                                                  | ₹87,00,000/-<br>===== | <b>₹ 20,64,412/-<br/>=====</b><br><b>₹20,64,450 /-<br/>=====</b> |   |                                                    |
| <b>Total award amount</b>                                                    |                                                                  |                       |                                                                  |   |                                                    |
| <b>Rounded off</b>                                                           |                                                                  |                       |                                                                  |   |                                                    |
| <b>(Rupees Twenty Lakhs Sixty-Four Thousand Four Hundred and Fifty Only)</b> |                                                                  |                       |                                                                  |   |                                                    |

Accordingly Issue No.(2) is answered.

**33. Issue No.(2) in O.P.1531/2019:-** Ext.A18 is the copy of postmortem certificate issued from MCH, Kottayam.

**34.** Ext. A22 is the Legal Heirship Certificate issued by the Tahsildar, Udumbenchola. It reveals that petitioners are the wife, minor daughters, father and mother of the deceased respectively.

**35.** Ext.A21 is the driving license of the deceased has been shown as 10.05.1981 and hence he was 38 years of age.

**36.** Petitioners claims that deceased was an 'Autorikshaw Driver' and he would earn Rs.30,000/- as income per month. 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.

**37.** 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 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 claims that the deceased was an 'Auto Driver' and he was 38 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 ₹20,000/- per month. Hence it is fixed as ₹20,000/-.

**38.** As the deceased was 38 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.**

**39.** 1<sup>st</sup> petitioner is the wife, 2<sup>nd</sup> and 3<sup>rd</sup> petitioners are the minor daughters and 5<sup>th</sup> petitioner is the mother of the deceased respectively and therefore they are considered as dependents of the deceased and therefore 1/4 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.

**40.** As the deceased was 38 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 ₹3,36,000/-(20,000 + (20,000 x 40% ) x 12] and compensation for loss of dependency, after deducting 1/4 of the amount towards personal and living expenses of the deceased and applying multiplier 15, would be an amount of **Rs.37,80,000/-**[ 3,36,000 x 15 x 3/4].

**41.** 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' and **Rs.48,400/-** each is granted to 1<sup>st</sup> petitioner as spousal consortium, petitioners 2 and 3 as parental consortium and to 4<sup>th</sup> and 5<sup>th</sup> petitioners as filial consortium.

**42.** 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.

**43. 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.'* Here in this case the accident

occurred on 01.07.2019 and the death was occurred on 18.08.2019. Considering the said fact, I am inclined to award an amount of **Rs.25,000/-** under the head 'Pain and suffering'.

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

**45.** An amount of **Rs.7,000/-** is awarded as compensation under the head 'Transport expense'.

**46.** Ext. A19 series are medical bills produced by the petitioners and they claims that ₹ 68,470/- was spent for the treatment of the deceased. 2<sup>nd</sup> respondent admitted the same hence medical expense is granted as **₹ 68,470/-**.

**47.** Since the deceased was admitted in the hospital for 48 days and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹21,600/- (450 x 48) as 'Bystander Expense for 48 days.

**48.** Considering the injury sustained to the deceased and hospitalization of 48 days, I feel it just and proper to award an amount of **₹ 12,000/-** as Extra Nourishment Expense.

**49.** Thus, petitioner is entitled to get a total compensation of **₹41,94,400/-(Rupees Forty-one Lakhs Ninety- four Thousand and Four 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              |
|--------------------|-----------------------------------------------------------------|-----------------------------|---------------------------|------------|------------------------------------------------|
| Part-1             |                                                                 |                             |                           |            |                                                |
| 1.                 | Loss of earning                                                 | 15,000                      | Nil                       | -          | -                                              |
| 2.                 | Transportation charge including Ambulance charges               | 50,000                      | 7,000                     |            | Travel to and from the hospital                |
| 3.                 | Damage to clothing                                              | 5,000                       | 2,000                     |            | Moderate rate                                  |
| 4.                 | Funeral Expenses                                                | 1,00,000                    | 18,150                    |            |                                                |
| 5.                 | Bystanders expenses                                             | 10,000                      | 21,600                    |            | 48x450                                         |
| 6                  | For extra nourishment                                           | 20,000                      | 12,000                    |            |                                                |
| 7                  | Hospital expenses                                               | 1,00,000                    | 68,470                    |            | As per Ext. A19 series medical bills produced. |
| Part-11            |                                                                 |                             |                           |            |                                                |
| 8.                 | Pain and suffering                                              | 5,00,000                    | 25,000                    |            |                                                |
| 9.                 | Compensation for Loss of dependency                             | 40,50,000                   | 37,80,000                 |            | 20000+(20,000x x40%)x12x15x 3/4)               |
| 10.                | Compensation for Loss of Estate                                 | 2,00,000                    | 18,150                    |            |                                                |
| 11                 | Compensation for Loss of consortium                             | 5,00,000                    | 2,42,000                  |            | 48,400 x 5                                     |
| 12.                | Compensation for loss of love and affection, expectancy of life | 4,00,000<br>1,00,000        | Nil                       |            |                                                |
|                    | Claim is limited to ₹ 50,00,000/-                               | ₹60,50,000/-                |                           |            |                                                |
| Total award amount |                                                                 |                             | ₹41,94,370 /-<br>=====    |            |                                                |
| Rounded off        |                                                                 |                             | ₹41,94,400 /-<br>=====    |            |                                                |
|                    |                                                                 |                             |                           |            |                                                |

**(Rupees Forty-one Lakhs Ninety-four Thousand and Four Hundred Only)**

**50.** In the matter of apportionment, 60% the award amount with interest is apportioned in favour of the 1<sup>st</sup> petitioner, wife of the deceased and 15% of the award amount with interest is apportioned in favour of the 2<sup>nd</sup> & 3<sup>rd</sup> petitioners minor children of the deceased and 10% of the award amount with interest is apportioned in favour of 5<sup>th</sup> petitioner, mother of the deceased.

**51. Issue No.3:-** I have already found that the accident took place due to the negligent driving of the autorickshaw KL-06-F-4843 driven by Addl 3<sup>rd</sup> respondent who is the owner-cum-driver of the vehicle and therefore he is vicariously liable to pay compensation to the petitioner. It is admitted by the 2<sup>nd</sup> respondent that the said autorickshaw had been insured with the 2<sup>nd</sup> respondent at the time of accident. Therefore, the respondents 2 and 3 are liable to pay compensation. Since there is valid insurance policy, the company has to indemnify the Addl 3<sup>rd</sup> respondent and therefore, the 2<sup>nd</sup> respondent company is liable to pay the compensation. Accordingly Issue No.(3) is answered.

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

**OP(MV)1147/2019**

- (1) The 2<sup>nd</sup> respondent shall pay an amount of **₹20,64,450/- (Rupees Twenty Lakhs Sixty-Four Thousand Four Hundred and Fifty Only)**, together with interest at the rate of 9% per annum from the date of petition [25.09.2019) 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 petitioner ie, the Savings Bank Account of the petitioner, Account Number 8253022000019101 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 2<sup>nd</sup> respondent shall produce cheques for ₹ 74,373/- and ₹75,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.
- (4) The 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.
- (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 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.

**OP(MV) 1531/2019**

- (8) The 2<sup>nd</sup> respondent shall pay **₹41,94,400/-(Rupees Forty-one Lakhs Ninety-four Thousand and Four Hundred Only)**, together with interest at the rate of 9% per annum from the date of petition [5.12.2019] till realization, with proportionate costs.
- (9) The 2<sup>nd</sup> 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 1<sup>st</sup> petitioner, Account Number 8253022000015016 of Pala Urban Co-operative Bank Ltd., Pala Branch with IFSC: UTIB0SPUC50, and Bank account of 5<sup>th</sup> petitioner Account Number 8253022000019121 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.
- (10) The award amount due to the 2<sup>nd</sup> and 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.
- (11) The 2<sup>nd</sup> respondent shall produce cheques for ₹49,373/- and ₹50,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.

- (12) 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.
- (13) The office is directed to furnish a copy of said statement to the petitioner after due verification.
- (14) The office is directed to make necessary entries in the registers maintained in the office evidencing payment of amount to the claimant.
- (15) 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 the open court on this the 26<sup>th</sup> day of March 2026.*

Sd/-  
**K.P.PRADEEP**  
**MOTOR ACCIDENTS CLAIMS TRIBUNAL**

### **APPENDIX**

#### **Exhibits marked for the Petitioner:-**

|    |            |   |                                                                                                                       |
|----|------------|---|-----------------------------------------------------------------------------------------------------------------------|
| A1 | 02.07.2019 | : | Certified copy of the FIR in Cr. No. 216/2019 of Vandanmedu Police station                                            |
| A2 | 02.07.2019 | : | Photocopy of the FIS given by Sreejesh                                                                                |
| A3 | 03.07.2019 | : | Photocopy of the scene mahazar                                                                                        |
| A4 | 08.07.2019 | : | Photocopy of the MVI reports of Autorickshaw bearing Reg. No. KL-69-3549 & Autorickshaw bearing Reg. No. KL-06-F-4843 |
| A5 | 15.10.2019 | : | Photocopy of the final report                                                                                         |

|              |            |   |                                                                                                                            |
|--------------|------------|---|----------------------------------------------------------------------------------------------------------------------------|
| A6           | 20.08.2019 | : | Photocopy of the wound certificate of Nikhil issued from Caritas Hospital, Thellakom                                       |
| A7           | 01.08.2019 | : | Discharge summary of Nikhil issued from Caritas Hospital, Thellakom                                                        |
| A8           | 01.07.2019 | : | MRI Scan report of Brain                                                                                                   |
| A9           | -          | : | CT scan reports                                                                                                            |
| A10          | 12.05.2023 | : | Prescription issued by Dr. Sareesh Kumar Caritas Hospital, Thellakom                                                       |
| A11          | 19.09.2022 | : | Medical Certificate issued by Dr. Sareesh Kumar Caritas Hospital, Thellakom                                                |
| A12 (series) | -          | : | Medical Bills for Rs. 3,91,562/- ( 82 pages)                                                                               |
| A13 (series) | -          | : | Ambulance bills for Rs. 20,000/- ( 3 Nos)                                                                                  |
| A14          | 12.06.2023 | : | Salary certificate in the name of Nikhil issued from Pioneer Dental Ceramics, Theni                                        |
| A15          | 06.11.2017 | : | True copy of the driving license of Nikhil Jacob                                                                           |
| A16          | 16.06.2004 | : | True copy of bank passbook of Nikhil issued from Pala Urban Co-operative bank Ltd, Pala                                    |
| A17          | 08.05.2024 | : | Certificate in the name of Nikhil issued by Dr. Sareeshkumar, Mar Sleevea Medicity, Pala                                   |
| A18          | 18.08.2019 | : | Photocopy of the postmortem certificate of Manoj kumar issued from MCH, Kottayam                                           |
| A19 (series) | -          | : | Medical Bills of Manoj for Rs. 68,470/- ( 16 pages)                                                                        |
| A20          | 02.07.2020 | : | Certificate in the name of Manoj Kumar issued by Raju Baby, General Secretary and Office Secretary, Idukki District, Motor |

|     |                          |   |                                                                                                       |
|-----|--------------------------|---|-------------------------------------------------------------------------------------------------------|
|     |                          |   | Employees Congress, Puliyanmala Branch.                                                               |
| A21 | 06.11.2002               | : | Driving license of Manoj Kumar S.S                                                                    |
| A22 | 20.08.2020               | : | Legal Heirship certificate of deceased Manojkumar S S issued by Tahsildar, Taluk office, Udumbanchola |
| A23 | 06.07.2020<br>18.05.2024 | : | True copy of the bank pass book of Remyamol Maniyamma                                                 |

EXHIBITS MARKED FOR THE RESPONDENTS:- NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:-

|    |            |   |                                                                                                                                 |
|----|------------|---|---------------------------------------------------------------------------------------------------------------------------------|
| X1 | 22.04.2021 | : | Disability certificate of Nikhil issued by Standing Disability Assessment Board, MCH, Kottayam                                  |
| X2 | 11.09.2025 | : | The copy of Neuropsychological Assessment Report of Nikhil Jacob issued by Jomon K George, Clinical Psychologist, MCH, Kottayam |

WITNESS EXAMINED FOR THE PETITIONER:-

|     |            |   |                                                      |
|-----|------------|---|------------------------------------------------------|
| PW1 | 18.06.2025 | : | Jomon K George, Clinical Psychologist. MCH, Kottayam |
|-----|------------|---|------------------------------------------------------|

WITNESS EXAMINED FOR THE RESPONDENTS:- NIL

Id/-  
**MACT**

**STATEMENT OF COSTS**  
**OP(MV) No.1147/2019**

|                     |   |                  |
|---------------------|---|------------------|
| Court Fee paid      | : | 20,017.00        |
| Stamp for Vakkalath | : | 6.00             |
| Stamp for Exhibits  | : | 24.00            |
| Stamp for petitions | : | 30.00            |
| Process             | : | 90.00            |
| Advocate fee        | : | 1,05,622.00      |
| Others              | : | 300.00           |
| LBF                 | : | 20,644.00        |
| Total               | : | Rs.1,46,733.00/- |

Proportionate Costs =  $\frac{146733 \times 2064450}{75,00,000} = \text{₹ } 40,390/-$  **(Allowed)**  
=====

Cost memo delay petition is allowed as per order in IA 1/2026 dated . 17.04.2026.

**STATEMENT OF COSTS**  
**OP(MV) No.1531/2019**

|                     |   |                  |
|---------------------|---|------------------|
| C Court Fee paid    | : | 41,317.00        |
| Stamp for Vakkalath | : | 6.00             |
| Stamp for Exhibits  | : | 64.00            |
| Stamp for petitions | : | 30.00            |
| Process             | : | 90.00            |
| Advocate fee        | : | 2,12,120.00      |
| Others              | : | 300.00           |
| LBF                 | : | 41,944.00        |
| Total               | : | Rs.2,95,871.00/- |

Proportionate Costs =  $\frac{295871 \times 4194400}{50,00,000} = ₹2,48,200/-$   
 ===== (Allowed)

Cost memo delay petition is allowed as per order in IA 1/2026 dated 17.04.2026.

// 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 COMMON AWARD  
IN

OP(MV) 1147/2019 & 1531/2019

DATED:26.03.2026

