

**IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
IRINJALAKUDA**

Present:- Sri.Vinod Kumar N., Motor Accidents Claims Tribunal
Tuesday, 24th March 2026 / 03rd Chaitra, 1948

OP(MV) 581/2020

PETITIONERS:

1. Ratnavathi, aged 52 years, W/o. Late S Kumar,
Kollamparambil House, Konathukunnu Desom & P.O.,
Thekkumkara Village, Pin – 680 123.
2. Neethu, aged 30 years, (unmarried), D/o. Late S Kumar,
Kollamparambil House, Konathukunnu Desom & P.O.,
Thekkumkara Village, Pin – 680 123.
3. Navya, aged 18 years, D/o. Late S Kumar,
Kollamparambil House, Konathukunnu Desom,
Thekkumkara Village & P.O., Pin – 680 123.

By Advs. Jeejo Varghese & M.A.Kochappu

RESPONDENTS:

1. Mohammed P S, S/o. Saithu Mohammed, Parayil House,
Karoopadanna Desom, Thrissur, Pin – 680 670. (Died)
(Reg. Owner of KL-45-G7597 Scooter)
2. Muhammed Shan, S/o. Shihabudheen, Parayil House,
Karoopadanna Pallinada Desom, Thekkumkara Village,
Pin – 680 670.
(Rider of KL-45-G7597 Scooter)
3. The Manager, United India Insurance Co.Ltd.,
Irinjalakuda, Pin – 680 121.
(Insurer of KL-45-G7597 Scooter)
- Addl.4. Kadeeja, W/o. Mohammed P S, Parayil House,
Karoopadanna Desom & P.O.
- Addl.5. Shihab, S/o. Mohammed P S, Parayil House,
Karoopadanna Desom & P.O.
- Addl.6. Asha, D/o. Mohammed P S, Parayil House,
Karoopadanna Desom & P.O.
- Addl.7. Jemu, D/o. Mohammed P S, Parayil House,
Karoopadanna Desom & P.O.

(Additional respondent Nos. 4 to 7 are impleaded as per order
in IA 5/2023 dated 02/09/2024)

R1,R2,R4,R5, R6, R7: By Adv. V G Subhash Chandra Babu,
R3: By Adv. Vinson V J Vithayathil

This petition having come up before me for final hearing on 16/03/2026 and having stood over to this day for consideration this Tribunal passed the following:

AWARD

The above application is filed U/s 166(1)(c) of The Motor Vehicles Act, 1988 claiming compensation by the petitioners on account of the death of S.Kumar in a motor vehicle accident.

2. According to the petitioners, on 06/09/2019 at about 06.30 pm, when S.Kumar was pedaling a bicycle through Kodugallur-Irinjalakuda public road, a scooter No. KL-45-G-7597 ridden by respondent No.2 came in a rash and negligent manner and hit S.Kumar and as a result of which S.Kumar succumbed to the injuries on 07/09/2019. According to the petitioners, the respondent Nos.1 to 3 being the owner, rider and insurer of scooter No. KL-45-G-7597 are jointly and severally liable to pay the compensation of ₹30,00,000/-.

3. Notice was issued to the respondents. The respondent Nos.1 to 3 appeared and filed written statement. According to respondent Nos.1 and 2, the accident took place due to the negligence of deceased S.Kumar. It is admitted that respondent No.1 is the owner of the scooter No. KL-45-G-7597 and the vehicle had a valid insurance policy at the time of accident. During the pendency of the proceedings, the respondent No.1/owner died and hence his wife and children, being the legal representatives were impleaded as additional respondent Nos.4 to 7, as per order in I.A.5/2023. The respondent Nos.4 to 7 filed written statement adopting the contentions of the respondent Nos.1 and 2. The respondent No.3 filed written statement admitting the policy coverage of the scooter No. KL-45-G-7597 involved in the accident. It is further contended that the compensation claimed is highly excessive. The respondent No.3 disputed the age, occupation and income etc of the deceased as stated in the petition and the petitioners are not entitled to get compensation as claimed in the petition. It is further contended that respondent No.2 had

no valid driving licence at the time of accident and police charge sheeted him u/s 3(1) r/w 181 of M.V Act.

4. On the basis of the above pleadings, the following issues were framed for consideration.

(1) Whether the accident was caused due to the rash and negligent riding of respondent No.2 ?

(2) Whether S.Kumar succumbed to the injuries in the accident and the petitioners are entitled to get the compensation and if so what is the quantum of compensation ?

(3) Who is liable to pay compensation to the petitioners?

(4) Relief and cost?

5. In order to prove the case of the petitioners, Exts. A1 to A12 documents were marked. No oral evidence was adduced by the petitioners. On the side of the respondent No.3, Ext.B1 was marked.

6. Heard both sides.

7. **Issue No.1** : - According to the petitioners, the accident took place due to the rash and negligent riding of respondent No.2. To prove the same, the petitioners relied on Ext.A4 final report which would show that the accident took place due to the rash and negligent riding of the respondent No.2 and he committed the offences punishable u/s.279 and 304(A) of IPC and u/s 3(1) r/w 181 of M V Act. In *New India Assurance Company Limited Vs Pazhaniammal and Other 2011(3) KHC 595*, the Hon'ble High Court of Kerala held that, *the final report submitted by the police can be considered as a prima facie case of negligence in a claim for compensation under the Motor Vehicles Act*. Considering the evidence available before the Tribunal, I find that the accident took place due to the rash and negligent riding of respondent No.2. Issue No. 1 is found in favour of petitioners.

8. **Issue No.2:-** Ext.A2, the copy of postmortem certificate would show that the alleged cause of death of S. Kumar was due to head injury and its complications. According to the petitioners, they are the legal representatives of the deceased. Copy of family membership certificate would show that the petitioner No.1 is the wife, petitioner Nos. 2 and 3 are the daughters of deceased S. Kumar. Now the question to be decided is the quantum of compensation to be awarded to the petitioners.

9. The petitioners claimed ₹50,000/- towards transportation charge. Transportation charges would have been incurred when the deceased was taken to hospital and also when his body was brought back home. Considering these aspects, I am inclined to allow ₹8,000/- as compensation for transportation to hospital.

10. The petitioners claimed ₹5,00,000/- under the head pain and suffering and ₹5,00,000/- under the head mental agony and unhappiness. By virtue of Section 2 of *the Kerala Torts (Miscellaneous Provisions) Act 1977*, the cause of action on account of the personal claim would survive to the legal heirs. In ***Ali (Late) v. Sumesh (2010 (3) KLT 70)***, the Hon'ble High Court of Kerala held that *Section 2 of the above Act is incorporated to undo the restriction introduced by S. 306 of the Indian Succession Act*. Further, in the decision reported in ***Anuradha Varma v. State of Kerala (1993 KHC 419)***, The Hon'ble High Court of Kerala held that *legal representatives are entitled to initiate action for such damages or to proceed with the claim already made by the injured and that they are entitled to claim compensation under the head 'pain and suffering' of the deceased apart from other amounts payable to the injured as his legal heirs*. In ***Oriental Insurance Co. Ltd. and Ors. vs. Vijayamma and Ors. (23.12.2021 - KERHC) : MANU/KE/3398/2021*** the Hon'ble High Court of Kerala held that, "*in Satinder Kaur, the Hon'ble Supreme Court held that in death cases, compensation can be awarded under the heads loss of estate, loss of consortium and funeral expenses*

alone. It was held that no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased. However, there is no detailed enquiry in the judgment as to whether the pain and sufferings of the deceased from the time of the accident till the time of his death is to be compensated as an addition to his estate. Since the Hon'ble Supreme Court in *Satinder Kaur (supra)* did not specifically state that no amount should be paid for pain and suffering of the deceased, I am of the opinion that going by the decisions referred above, there is justification for the claim made by the claimants". As per the legal principles settled in ***Jyni and others Vs. Raphael P.T and others reported in 2016 (2) KHC 870, the Hon'ble High Court of Kerala*** held that "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 the death is not instantaneous. Therefore, a conventional amount in the range of ₹5,000/- to ₹15,000/- could be awarded under the head pain and suffering in such cases". Considering all these aspects, I am inclined to award ₹15,000/- towards compensation for pain and suffering.

11. The petitioners claimed ₹50,00,000/- towards loss of dependency. According to the petitioners, the deceased was doing lottery business and was earning ₹30,000/- per month. The petitioners did not produce any documents to prove the income of the deceased S. Kumar. But, going by the law laid down in *Ramachandrappa vs. Manager, Royal Sundaram Alliance Insurance Company Ltd. (2011) 13 SCC 236*], and in *Soman v. Jinesh James and Others 2020 (4) KHC 623*, the notional monthly income of the deceased is fixed at ₹12,000/-, considering the fact that the accident occurred in the year 2019.

12. Ext.A10 copy of aadhaar card would show that the year of birth of the deceased is 1958. The date of accident is 06/09/2019 and S. Kumar succumbed to the injuries on 07/09/2019. Hence relying on

Ext.A10, the age of the deceased is taken as 61 years at the time of death. Since the age of the deceased is above 60 years, no future prospects is added to the monthly income as per the dictum in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157*. Accordingly the annual income of the deceased is arrived at as ₹1,44,000/- ie. [(12,000x12)].

13. According to the petitioners, they were depending on the income of the deceased. The petitioner No.1 is the wife and petitioner Nos.2 and 3 are the daughters aged 30 years and aged 17 years respectively of the deceased S. Kumar. The petitioners can primarily be treated as dependents. According to the petitioners, the deceased was the sole earning member of the petitioner's family. In ***United India Insurance Company Limited v. Shalumol and others (2021 (5) KHC 28)***, wherein the Hon'ble High Court of Kerala held that '*even if dependency is a relevant criterion to claim compensation for loss of dependency, it does not mean financial dependency is 'the ark of covenant'. Dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth which can never be equated in terms of money.* The dependents are three in numbers and hence 1/3rd of the income has to be deducted towards his personal/living expenses. Thus the income which the deceased would have spent for his dependents annually would be ₹96,000/-.

14. For the age group between 61 and 65, the applicable multiplier is '7' as per the dictum in ***Sarla Verma and Others Vs Delhi Transport Corporation and another reported in AIR 2009 SC 3104***. Thus the compensation for loss of dependency is arrived at as ₹6,72,000/- ie. (annual income x multiplier).

15. The petitioners claimed an amount of ₹1,00,000/- towards funeral expense, ₹5,00,000/- towards loss of estate and ₹5,00,000/- towards compensation for loss of consortium. The Hon'ble Supreme

Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi and others*** has set out various amounts to be awarded as compensation under the conventional heads viz., loss to estate, loss of consortium and funeral expense in case of death. In ***Magma General Insurance Company limited Vs. Nanu Ram and others reported in 2018 ACJ 2782***, the Hon'ble Supreme Court held that "*in legal parlance consortium is a compendious term which encompasses spousal consortium, parental consortium and filial consortium. It is further held that the amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under the loss of consortium as laid down in Pranay Sethi case.*" The Apex Court in *Pranay Sethi* while fixing reasonable figures on conventional heads namely loss of estate, loss of consortium and funeral expenses had also directed that the figures fixed should be enhanced at the rate of 10% in every three years. The judgment in *Pranay Sethi* having been rendered by the Apex Court in the year 2017 and the current year being 2026, the compensation payable to the claimants under the conventional heads would be as follows: ₹18,150/- towards loss of estate and ₹18,150/- towards funeral expenses.

16. Now the question to be decided is whether the petitioner No.2 is entitled to get compensation under the head loss of consortium. In ***United India Insurance Co. Ltd. v. Satinder Kaur***, the Hon'ble Supreme Court held that, "*Parental consortium is awarded to the children who lose the care and protection of their parents in motor vehicle accidents*". ***Magma General Insurance Company limited Vs. Nanu Ram and others reported in 2018 ACJ 2782***, the Hon'ble Supreme Court held that *parental consortium is granted to the child upon the premature death of a parent, for loss of parental aid, protection, affection, society, discipline, guidance and training. In Rossy and Ors. vs. Balan P.R. and Ors. (MANU/ KE/ 1383 / 2022)*, the Hon'ble High Court of Kerala held that *a major son aged 27 years is not entitled to get any amount towards parental consortium. In Jiuti Devi and others v.*

ManojKumar Rai and others, 2022/KHC/4737, the Hon'ble Allahabad High Court, held that *the impact of loss of parental consortium upon the deceased's children, in the very nature of that loss, is dependent upon the children's age. The loss of parent is a disheartening and emotional event for the child at any age of his maturity, but by the nature of the principle governing award of compensation under the head of loss of parental consortium, the deprivation, that is suffered by a child or a minor, appears to be the determinative and entitling fact. A child, who has advanced into matured adulthood, is married or otherwise in the mainstream of life, would not be entitled to compensation under that head. It is also observed that the loss of a parent at any age is a painful event. But, going by the principles so far evolved, loss of consortium, in case of an adult losing his parent, does not seem to be approved by the law.* Considering the entire facts, I am not inclined to grant compensation under the head consortium to the petitioner No.2 who is aged 30 years. Thus, the petitioner No.1 and 3, the wife and minor child respectively are entitled to get ₹96,800/- towards consortium.

17. The petitioners claimed ₹5,00,000/- towards compensation under the head love and affection. In ***United India Insurance Company Ltd Vs Satinder Kaur alias Satvinder Kaur and others(AIR 2020 SC 3076)*** the Hon'ble Apex Court approved the interpretation given to the expression consortium to include spousal consortium, parental consortium as well as filial consortium. It is further laid down that loss of love and affection is comprehended in loss of consortium and hence there is no justification to award compensation towards loss of love and affection as a separate head.

18. The compensation claimed by the petitioners and the compensation payable to the petitioners under different heads are summarized in the table below.

Sl. No.	Head of claim	Amount claimed	Amount awarded	Basis
Part. I				
a	Transport to hospital	50,000	8,000	
b	Others:			
	(i) Compensation for the treatment and medicine	2,00,000	Nil	
	(ii) Bystander's expenses	2,00,000	Nil	
Part. II				
c	Compensation for pain and suffering	5,00,000	15,000	
d	Compensation for funeral expense	1,00,000	18,150	
e	Loss of estate	5,00,000	18,150	
f	Compensation for loss of consortium	5,00,000	96,800	Pranay Seth's case Magma General insurance case
g	Compensation for loss of love and affection	5,00,000	Nil	
h	Compensation for shock and mental agony	5,00,000	Nil	
i	Compensation for the loss of dependency	50,00,000	6,72,000	
	Total	₹80,50,000/- claim is limited to ₹30,00,000/-	₹8,28,100/-	

19. Therefore I find it just and reasonable to award ₹8,28,100/- as compensation. Issue No.2 is answered in favour of the petitioners in respect of the compensation awarded as referred to above.

20. **Issue No.3:-** According to the petitioners, all the respondents are jointly and severally liable to pay the compensation.

Ext.A8 copy of registration certificate would show that respondent No.1 is the owner of scooter No. KL-45-G-7597. Respondent No.3 entered appearance and filed written statement admitting that the scooter No. KL-45-G-7597 was insured during the period of accident. But respondent No.3 contended that respondent No.2 had no valid driving licence at the relevant time of accident. The burden is on the insurer to prove the violation of the policy conditions. Respondent No.3 filed an application as IA 07/2024 to direct the respondent No.2 and the additional respondent Nos.4 to 7 to produce the driving licence of respondent No.2 and this Tribunal directed the respondent No.2 and the additional respondent Nos. 4 to 7 to produce driving licence of respondent No.2, but they did not comply with the direction to produce the driving licence of respondent No.2. So, the contention of the respondent No.3 that the respondent No.2 was not having valid driving licence at the time of accident stands un-controverted. Ext.A4 final report would show that the respondent No.2/rider was a minor aged 16 years at the time of accident. So, there is merit in the contention raised by respondent No.3 regarding the violation of policy conditions. It is already found that the accident took place due to the rash and negligent riding of respondent No.2. The respondent Nos. 4 to 7 are the legal representatives of the deceased respondent No.1/owner. Hence respondent No.2 and respondent Nos.4 to 7 are jointly and severally liable to pay compensation to the petitioners and the respondent No.3 being the insurer is liable to indemnify the insured and pay the compensation to the petitioners and the respondent No.3/insurer can recover the amount awarded from the additional respondent Nos.4 to 7 after discharging liability to the claim petitioners. The issue No.3 is answered accordingly.

21. **Issue No.4** :- In view of the findings on issue Nos.1 to 3, I hold that petitioners are entitled to get the compensation of ₹8,28,100/- with interest at the rate of 7.5% per annum from the date of filing of the petition ie. 20/05/2020 till the realization with proportionate cost and that the respondent No.3 being the insurer of the vehicle shall pay the

amount within thirty days from the date of this award. The petitioner No.1 is entitled to get 60% and petitioner Nos.2 and 3 are entitled to get 20% each of the compensation amount. Issue No. 4 is answered accordingly.

In the result, the petition is allowed in part as follows :

1. Respondent No.3 shall pay an amount of ₹8,28,100/- (Rupees eight lakh twenty eight thousand and one hundred only) with interest @ 7.5% per annum from the date of filing of petition i.e 20/05/2020 till realization with proportionate cost and the petitioner No.1 is entitled to get 60% and petitioner Nos.2 and 3 are entitled to get 20% each of the compensation amount.
2. Respondent No.3 shall produce a cheque for ₹29,368/- (Rupees twenty nine thousand three hundred and sixty eight only) being the court fee payable by the petitioners in favour of Motor Accidents Claims Tribunal, Irinjalakuda.
3. Respondent No.3 is directed to deposit the balance amount with interest and proportionate cost in the bank account of the petitioners, the details of which is specifically mentioned below through NEFT or RTGS or any other electronic mode.

Sl. No	Name	Bank Account Number	Name of Bank and Branch	IFS Code
1	Ratnavathi	054505300000 7181	The South Indian Bank Ltd., Konathukunnu	SIBL000 0545
2	Neethu	110162390570	Canara Bank, Konathukunnu	CNRB00 01001
3	Navya K K	1001108179850	Canara Bank, Konathukunnu	CNRB00 01001

4. After depositing the amount as aforesaid, the respondent No.3/ insurer can recover the amount awarded from the additional respondent Nos.4 to 7.

5. Upon deposit being made, the respondent No.3 shall submit to this Motor Accidents Claims Tribunal, a copy of the bank payment advice and a memo in the prescribed format. A copy of the payment advice along with the memo shall be served on the contesting parties and their respective counsels in compliance with the Circular No.1/2025 dated 19/09/2025 of the Hon'ble High Court of Kerala.
6. The respondent No.3 shall provide Form -16 A under the Income Tax Act 1961 to the petitioners.
7. The office shall make necessary entries in the registers of the Tribunal evidencing the payment of the amount to the petitioners.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this 24th day of March, 2026).

Sd/-

Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

<u>A P P E N D I X</u>			
<u>PETITIONER'S EXHIBITS:-</u>			
A1	:	07/09/2019	Copy of FIR No. 0749/2019 P S : Irinjalakuda
A2	:	08/09/2019	Copy of Postmortem Certificate
A3	:	28/09/2019	Copy of Death Certificate
A4	:	29/10/2019	Copy of Final Report
A5	:	08/09/2019	Copy of Scene Mahazar
A6	:	21/09/2019	Copy of AMVI Report
A7	:	08/09/2019	Copy of Inquest Report
A8	:	--	Copy of RC Book
A9	:	--	Copy of Insurance Policy
A10	:	--	Copy of Aadhaar Card
A10(a)	:	--	Copy of Aadhaar Card

A10(b)	:	--	Copy of Aadhaar Card
A10(c)	:	--	Copy of Aadhaar Card
A11	:	--	Copy of Bank Passbook
A11(a)	:	--	Copy of Bank Passbook
A11(b)	:	--	Copy of Bank Passbook
A12	:	--	Copy of PAN Card
A12(a)	:	--	Copy of PAN Card
A12(b)	:	--	Copy of PAN Card
<u>RESPONDENTS</u>			
<u>EXHIBITS:</u>			
B1	:	--	Copy of Insurance Policy
<u>COURT'S EXHIBITS :</u>			
<u>PETITIONER'S</u>			
<u>WITNESS:</u>			
<u>RESPONDENTS</u>			
<u>WITNESS:</u>			

COSTS:

Court Fee	:	7,654.00
Vakalath	:	25.00
Stamp for Document	:	50.00
Process Batta	:	50.00
Writing fee for Plaint copies	:	50.00
Writing fee for process	:	50.00
Fee for certified copies	:	50.00
Senior Adv.Fee	:	43,805.00
Junior Adv.Fee.	:	21,903.00
Stamp for petitions	:	25.00
Writing fee for petitions	:	50.00
Paper publication	:	-----

Total	:	73,712.00 (Allowed)

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Id/-

Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

By order

Sheristadar

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