

**IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, IR-
INJALAKUDA**

Present:- Sri.Vinod Kumar N., Motor Accidents Claims Tribunal
Thursday, 30th April 2026 / 10th Vaisakha, 1948

OP(MV) 1052/2022

PETITIONERS:

1. Jessy, aged 55 years, Widow of Henry K.A. @ Thomas, Kadeparambil House, Kozhikkada Desom, Pullut Village & P.O., Kodungallur Taluk, Thrissur District, Pin 680 683.
2. Godwin Henry, aged 24 years, S/o. Late Henry K.A. @ Thomas, Kadeparambil House, Kozhikada Desom, Pullut Village & P.O., Kodungallur Taluk, Thrissur District, Pin 680 683.
3. Godson K H, aged 22 years, S/o. Late Henry K.A. @ Thomas, Kadeparambil House, Kozhikada Desom, Pullut Village & P.O., Kodungallur Taluk, Thrissur District, Pin 680 683.

By Adv. Sunny Gopuran

RESPONDENTS:

1. Saravanapandi.R., S/o. Rajendran, No.4FA, Ramakrishnapuram, Coimbatore, Tamil Nadu, Pin 641 001.
(Owner: TN-66-AF-1793 Motor Cab)
2. Moulidharan.M., S/o. Muthusamy, 49/56 B Krishnamma Nayaker Lay out, Singanallur, Varatharajapuram Medu, Uppilipalayam, Coimbatore South, Coimbatore, Tamil Nadu, Pin 641 015.
(Driver: TN-66-AF-1793 Motor Cab)
3. The New India Assurance Co.Ltd, 594, Obli Towers, 1st Floor, D.B.Road, R.S.Puram, Coimbatore, Tamil Nadu, Pin 641 002.
(Driver: TN-66-AF-1793 Motor Cab)

R1 & R2: – Exparte

R3: Adv. C.G.Janardhanan

This petition having come up before me for final hearing on 29/04/2026 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 Henry K.A @ Thomas in a motor vehicle accident.

2. According to the petitioners, on 11/05/2022 at about 02.15 am, when Henry K.A @ Thomas was riding a motorcycle No. KL-47-F-9198, a motorcab No.TN-66-AF-1793 driven by the respondent No.2 came in a rash and negligent manner and hit the motorcycle and as a result of which Henry K.A @ Thomas succumbed to the injuries on 12/05/2022. The respondent Nos.1 to 3 being the owner, driver and the insurer respectively of the motorcab No. TN-66-AF-1793 are jointly and severally liable to pay the compensation of ₹50,00,000/-.

3. Notice was issued to the respondents. The respondent No.1 remained absent and he was set exparte. The respondent No.2 filed written statement admitting that respondent No.1 is the registered owner and the respondent No.2 was the driver of the vehicle and having a valid driving licence at the time of accident. It is also admitted that the vehicle had a valid insurance policy at the time of accident. The respondent No.3 filed written statement admitting the policy coverage of the motorcab No.TN-66-AF-1793 involved in the accident. It is further contented 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 also contented that the vehicle had no valid fitness certificate and permit at the time of accident.

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 driving of respondent No.2 ?
- (2) Whether Henry K.A @ Thomas 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 A20 documents were marked. No oral evidence was adduced by the petitioners. Ext.B1 was marked on the side of the respondent No.3.

6. Heard both sides.

7. **Issue No.1** : - To prove the rashness and negligence of the respondent No.2, the petitioners relied on Ext.A4 final report which would show that the accident took place due to the rash and negligent driving of the respondent No.2 and he committed the offences punishable u/s 279 and 304(A) of IPC. 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 driving of the 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 Henry K.A @ Thomas was due to injuries sustained to left lower limb. Ext.A3 is the inquest report. According to the petitioners, they are the legal representatives of the deceased. Ext.A6 family membership certificate issued by village officer, Pulloottu would show that petitioner No.1 is the wife and petitioner Nos.2 and 3 are the sons aged 24 years and 22 years respectively of the deceased Henry K.A @ Thomas. Now the question to be decided is the quantum of compensation to be awarded to the petitioners.

9. The petitioners claimed ₹10,000/- towards transportation charges and ₹10,000/- towards damage to clothing and other articles. 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. ₹1,000/- is awarded for damage to clothing and other articles.

10. The petitioners claimed ₹1,00,000/- towards medical expenses and ₹10,000/- towards extra nourishment. Ext.A9 death summary issued by Elite Mission Hospital, Thrissur would show that the deceased was treated as an inpatient from 11/05/2022 to 12/05/2022. Ext.A10 series medical bills would show that an amount of ₹88,258/- was incurred towards medical expense. Considering the nature of injuries and the period of treatment, I am inclined to allow ₹88,258/- towards medical expense, ₹1,400/- towards extra nourishment and ₹1,200/- towards by-stander's expenses.

11. The petitioners claimed ₹10,00,000/- under the head pain and suffering, ₹10,00,000/- under the head compensation for shock and mental anxiety, ₹10,00,000/- under the head compensation for loss of expectation of life and ₹10,00,000/- under the head compensation for the loss of invaluable and gratuitous services rendered to the family. 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. Raphel 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.

12. The petitioners claimed ₹50,00,000/- towards compensation for loss of dependency and benefit to the legal representatives of the deceased including loss of computation of future prospects. According to the petitioners, the deceased was running own business, named Carmel Glass House at Puthenchira and was earning ₹30,000/- per month. Ext.A12 is the lease agreement. Ext.A13 series are the licences issued by Secretary, Puthenchira Gramapanchayat for

Carmel Glass House for the years 2020-2021, 2021-2022 and 2022-2023. Ext.A14 is the profession tax receipt. Ext.A15 is the certificate issued from Kerala State Co-operative Bank Ltd., Kodungallur. In Ext.A15, it is certified that the deceased had availed a term loan of ₹10,00,000/- on 28/10/2020 from Kerala State Co-operative Bank Ltd., Kodungallur vide A/c No.80014816664 and he made the repayment regularly till 30/04/2022. Ext.A16, the bank statement would show that the deceased was making repayment at the rate of ₹16,000/- per month from November, 2020 onwards. According to the counsel for the petitioner, these documents would establish the earning capacity of the deceased. In *Gurpeet Kaur and others vs. United India Insurance Company and others (2022 (6) KHC 601)*, the deceased had availed a loan from Kodak Mahindra bank and was regularly paying the monthly installments of ₹11,550/- towards tractor loan. Keeping in mind, the rate at which EMI was being paid, the Tribunal held that the deceased must be earning at least ₹25,000/- per month. In the said facts and circumstances, *the Hon'ble Supreme Court held that the Tribunal's approach is quite justified in law as well as in facts.* In this case, the deceased was making repayment of ₹16,000/- per month and presupposes the existence of an income substantially higher than the liability discharged. Considering Ext.A12 to Ext.A16 documents, I am of the opinion that the notional monthly income of the deceased can be fixed at ₹25,000/-.

13. Ext.A17, copy of driving licence would show that the date of birth of the Henry K.A @ Thomas is 29/12/1963. The date of accident was 11/05/2022 and Henry K.A @ Thomas died on 12/05/2022. Hence relying on Ext.A17, the age of the deceased is taken as 58 years at the time of death. For the age group between 50 and 60, 10% enhancement is to be added to the monthly income for future prospects 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 ₹3,30,000/- ie. [(25,000+10% of 25,000)12] .

14. According to the petitioners, the deceased was the sole earning member of their family. Ext.A6 family membership certificate issued by village officer, Pulloottu would show that petitioner No.1 is the wife and petitioner Nos.2 and 3 are the sons aged 24 years and aged 22 years respectively of the deceased Henry K. A @ Thomas. The Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Birender, - 2020 ACJ 759 (SC)***, held that the compensation to the legal representatives of the deceased who are major is not limited only to conventional heads and they may be entitled to compensation for loss of dependency even if they are earning members. 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.* In ***Vasu and Ors. vs. United India Insurance Company Limited (MANU/KE/2354/2021.)***. The Hon'ble High Court of Kerala held that *the dependency need not necessarily a mere financial dependency. It can also be an emotional dependency, dependency of personal care and attention, love etc. While considering an application under section 166 for death of a person, the attempt of the court is to make good the loss suffered by them on all grounds on account of the death of the victim, to the extent possible in terms of monetary compensation. In that view of the matter, all the appellants have to be treated as dependents for the purpose of computing the compensation for loss of dependency.*

15. Considering the entire facts, the petitioner Nos.1 to 3 can be treated as dependents. Since the dependents are 3 in numbers, 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 ₹2,20,000/-.

16. For the age group between 56 to 60, the applicable multiplier is '9' 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 ₹19,80,000/- ie. (annual income x multiplier).

17. The petitioners claimed an amount of ₹50,000/- towards funeral expense, ₹10,00,000/- towards compensation for loss to the estate of the deceased and ₹10,00,000/- towards compensation for the 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.*”

18. 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.

19. Now the question to be decided is whether the all the petitioners are entitled to get compensation under the head loss of consortium. The petitioner No.1 is the wife of the deceased. The petitioner Nos. 2 and 3 are the sons aged 24 years and 22 years respectively of the deceased Henry K.A @ Thomas. 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*". 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 inclined to grant compensation of ₹48,400/- under the head loss of consortium to the petitioner No.1/wife alone.

20. The petitioners claimed ₹10,00,000/- under the head compensation for 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.

21. 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	10,000	8,000	
b	Damage to clothing and other articles	10,000	1,000	
c	Extra nourishment	10,000	1,400	
d	Others: Compensation for the treatment and medical expenses (i)by-standers expenses	1,00,000	88,258 1,200	Ext.A10 series
Part. II				
e	Compensation for pain and suffering	10,00,000	15,000	
f	Compensation for funeral expense	50,000	18,150	
g	Loss of estate	10,00,000	18,150	
h	Compensation for loss of consortium	10,00,000	48,400	Pranay Sethi's case Magma General insurance case
i	Compensation for loss of love and affection	10,00,000	Nil	

j	Compensation for the loss of dependency	50,00,000	19,80,000	
k	Compensation for loss of expectation of life	10,00,000	Nil	
l	Compensation for shock and mental anxiety	10,00,000	Nil	
m	Compensation for the loss of invaluable and gratuitous services rendered to the family	10,00,000	Nil	
	Total	₹1,21,80,000/- claim is limited to ₹50,00,000/-	₹21,79,558/- is rounded of to ₹21,79,600/-	

22. Therefore, I find it just and reasonable to award ₹21,79,600/- as compensation. Issue No.2 is answered in favour of the petitioners in respect of the compensation awarded as referred to above.

23. **Issue No.3:-** According to the petitioners, all the respondents are jointly and severally liable to pay the compensation. The respondent 2 filed written statement admitting that the respondent No.1 is the registered owner of the motorcab No. TN-66-AF-1793. The respondent No.3 entered appearance and filed written statement admitting that the motorcab No. TN-66-AF-1793 was insured during the period of accident. But respondent No.3 contended that the vehicle has no valid fitness certificate and permit at the relevant time of accident. The burden is on the insurer to prove the violation of the policy conditions. Respondent No.3 filed application in IA 6/2025 to direct the respondent No.1 to produce fitness certificate and permit of the motorcab No. TN-66-AF-1793 and this Tribunal directed the respondent No.1 to produce the fitness certificate and permit, but respondent No.1 did not comply with the direction to produce the fitness certificate and permit of the vehicle. So, the contention of the respondent No.3 that the motorcab had no fitness certificate and permit at the time of accident stands un-controverted. 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 driving of respondent No.2. Hence respondent No.1 and 2 are jointly and severally liable to pay compensation to the petitioners. The respondent No.3 being the insurer is liable to indemnify the insured and pay compensation to the petitioners and the respondent No.3/insurer can recover the amount awarded from the respondent No.1/owner after discharging liability to the claim petitioners. The issue No.3 is answered accordingly.

24. **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 ₹21,79,600/- with interest at the rate of 7.5% per annum from the date of filing of the petition ie. 02/09/2022 till the realization with proportionate cost and that the respondent No.3 being the insurer shall pay the amount within thirty days from the date of this award. The petitioner No.1/wife is entitled to get 80% and petitioner Nos.2 and 3 are the sons are entitled to get 10% 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 ₹21,79,600/- (Rupees twenty one lakh seventy nine thousand and six hundred only) with interest @ 7.5% per annum from the date of filing of petition ie. 02/09/2022 till realization with proportionate cost and the petitioner No.1/wife is entitled to get 80% and petitioner Nos.2 and 3 are the sons are entitled to get 10% each of the compensation amount.
2. Respondent No.3 shall produce a cheque for ₹49,368/- (Rupees forty nine thousand three hundred and sixty eight only) being the court fee payable by the petitioners in favour of Motor Accidents Claims Tribunal, Irinjalakuda and produce cheque for ₹50,000/- (Rupees fifty thousand only) being the LBF payable by the petitioners in favour of Motor Accidents Claims Tribunal, Irinjalakuda.
3. Respondent No.3 is directed to deposit the amount due to the respective petitioners 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	Jessy	62790100003 145	Bank of Baroda, Kodungallur	BARB0VJK OGR
2	Godwin Henry	62790100007 719	Bank of Baroda, Kodungallur	BARB0VJK OGR
3	Godson K.H	20184925663	State Bank of India, Cranganore (Kodungallur)	SBIN0070169

4. After depositing the amount as aforesaid, the respondent No.3/insurer can recover the amount awarded from the respondent No.1/owner.
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. 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 30th day of April, 2026).

Sd/-

Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

<u>APPENDIX</u>			
<u>PETITIONER'S EXHIBITS:-</u>			
A1	:	12/05/2022	Copy of FIR No.0526/22, Chalakudy P.S.
A2	:	13/05/2022	Copy of Postmortem Report
A3	:	12/05/2022	Copy of Inquest Report
A4	:	31/03/2022	Copy of Final Report
A5	:	21/05/2022	Copy of Death Certificate
A6	:	02/06/2022	Family Membership Certificate
A7	:	13/05/2022	Copy of Scene Mahazar
A8	:	27/06/2022	Treatment Certificate
A9	:	11/05/2022	Death Summary
A10	:	--	Medical Bills
A11	:	22/08/2022	One and the same certificate
A12	:	05/09/2020	Lease Agreement
A13	:	--	Licenses issued from Puthenchira Grama Panchayath
A14	:	05/05/2022	Profession Tax Receipt
A15	:	26/07/2022	Certificate issued from Kerala State Co.Operative Bank, Kodungallur
A16	:	--	Bank Statement
A17	:	--	Copy of Driving Licence
A18	:	--	Copy of Pan Card
A18(a)	:	---	Copy of Pan Card
A18(b)	:	--	Copy of Pan Card
A19	:	--	Copy of Aadhaar Card
A19(a)	:	--	Copy of Aadhaar Card
A19(b)	:	--	Copy of Aadhaar Card
A20	:	--	Copy of Bank Passbook
A20(a)	:	--	Copy of Bank Passbook
A20(b)	:	--	Copy of Bank Passbook
<u>RESPONDENTS EXHIBITS:</u>			
B1	:	--	Copy of Insurance Policy

<u>COURT'S EXHIBITS :</u>	:	Nil	
<u>PETITIONER'S WITNESS:</u>	:	Nil	
<u>RESPONDENTS WITNESS:</u>	:	Nil	

COSTS:

Court Fee	:	21,169.00
LBF	:	21,796.00
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	:	1,11,380.00
Junior Adv.Fee	:	55,690.00
Stamp for petitions	:	50.00
Writing fee for petitions	:	50.00
Paper Publication	:	2,415.00

Total	:	2,12,825.00 (Allowed)
		=====

/True copy /

Id/-
Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.
By order

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