

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

Present:- Sri.Vinod Kumar N., Motor Accidents Claims Tribunal
Wednesday, 25th March 2026 / 04th Chhaitra, 1948

OP(MV) 1247/2021

PETITIONERS:

1. Anitha, aged 40 years, Widow of Santhosh (D/o. Vasu, Kolavalli Paudussery, Cheruthuruthy), Nambi House, residing at Nambikadavu Desom, Thalikulam Village, Thalikulam P.O., Chavakkad Taluk, Thrissur District, Pin – 680 569.
 2. Govindan (Died), aged 69 years, S/o. Kandan, Nambi House, residing at Nambikadavu Desom, Thalikulam Village, Thalikulam P.O., Chavakkad Taluk, Thrissur District, Pin – 680 569.
 3. Santha, aged 64 years, W/o. Govindan, Nambi House, residing at Nambikadavu Desom, Thalikulam Village, Thalikulam P.O., Chavakkad Taluk, Thrissur District, Pin – 680 569.
- Addl. Sandhya, aged 47 years, D/o. Late Govindan,
4. Nambi House, residing at Nambikadavu Desom, Thalikulam Village, Thalikulam P.O., Chavakkad Taluk, Thrissur District.
- Addl. Sindhu, aged 44 years, (D/o. Late Govindan,
5. Nambi House, Thalikulm), C/o. Sajeev, Chembanadan House, residing at Thanbankadavu Desom, Thalikulam Village, Thalikulam P.O, Chavakkad Taluk, Thrissur District.

(Addl. Petitioners 4 and 5 are impleaded as per order in IA. 1/2026 dated 05/02/2026)

By Advs. Ebin Gopuran & Joseph Gopuran

RESPONDENTS:

1. Vishnu Jayanendran, S/o. Jayanendran, Chenengattu House, Mechira Kodassery, Pariyaram P.O., Pin – 680 721.
(Owner : KL-31-L-8653 motorcycle)

2. Acko General Insurance Ltd., Unit No.301, 3rd Floor, E-wing, Lotus Corporation Park, Goregaon (E), Mumbai – 400063. (Insurer :KL-31-L-8653 motorcycle)

R1 – By Adv. Sunny Gopuran.

R2 -- By Adv. Binoy Balakrishnan

. This petition having come up before me for final hearing on 18/03/2026 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 Santhosh in a motor vehicle accident.

2. According to the petitioners, on 31/05/2021 at about 07.20 pm, when Santhosh was riding a motorcycle No. KL-8-AQ-20, another motorcycle No. KL-31-L-8653 ridden by the Adithiyan came in a rash and negligent manner and hit the motorcycle No. KL-8-AQ-20 and as a result of which Santhosh succumbed to the injuries on the same day. The respondent Nos.1 and 2 being the owner and the insurer respectively of motorcycle No. KL-31-L-8653 are jointly and severally liable to pay the compensation of ₹50,00,000/-. During the pendency of the proceedings, petitioner No.2 died and the legal representatives of the deceased petitioner No.2 is impleaded as petitioner Nos. 4 and 5 as per order in I.A.01/2026.

3. Notice was issued to the respondents. The respondent No.1 filed vakalath, but no written statement is filed. The respondent No.2 filed written statement admitting the policy coverage of the motorcycle No. KL-31-L-8653 involved in the accident, but denied the allegation of negligence on the part of the rider of the motorcycle No. KL-31-L-8653. It is further contented that the compensation claimed is highly excessive. The respondent No.2 disputed the age, occupation and income etc of the deceased Santhosh as stated in the petition and the petitioners are not entitled to get compensation as claimed in the petition.

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 deceased Adithiyan ?
- (2) Whether Santhosh 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 A14 documents were marked. No oral evidence was adduced by the petitioners. On the side of the respondents, no evidence was adduced.

6. Heard both sides.

7. **Issue No.1** : - According to the petitioners, the accident took place due to the rash and negligent riding of deceased Adithiyan. To prove the same, the petitioners relied on Ext.A6 final report. Ext.A6 would show that the accident took place due to the rash and negligent riding of Adithiyan the rider of motorcycle No. KL-31-L-8653 and he committed the offences punishable u/s.279, 338 and 304(A) of IPC. It would further show that since Adithiyan died, charge sheet was closed as abated. No contrary evidence to disprove the negligence on the part of the deceased Adithiyan was adduced. 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 deceased Adithiyan. 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 Santhosh was due to head injury following road traffic accident. According to the petitioners, they are the legal representatives of the deceased. Ext.A3 copy of family membership certificate would show that the petitioner No.1 is the wife, petitioner No.2 is the father and petitioner No.3 is the mother of deceased Santhosh. During the pendency of proceedings, the petitioner No.2/father died. Ext.A5 is the copy of death certificate of deceased petitioner No.2. Ext.A4 copy of family membership certificate would show that the petitioner Nos.4 and 5 are daughters of deceased petitioner No.2. Now the question to be decided is the quantum of compensation to be awarded to the petitioners.

9. The petitioners claimed ₹5,000/- towards transportation charge and ₹5,000/- towards damage to clothing and 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 and ₹1,000/- towards damage to clothing and articles

10. The petitioners claimed ₹1,00,000/- under the head pain and suffering, ₹2,00,000/- under the head shock and anxiety, ₹5,00,000/- under the head loss of expectation of life and ₹2,00,000/- under the head loss of gratuitous services rendered to parents. 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 ₹10,000/- towards compensation for pain and suffering.

11. The petitioners claimed ₹35,00,000/- towards compensation for loss of benefit to the legal representatives of the deceased. According to the petitioners, the deceased was a painter and was earning ₹27,000/- per month. The petitioners did not produce any documents to prove the income of the deceased Santhosh. 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 ₹13,000/-, considering the fact that the accident occurred in the year 2021.

12. Ext.A14, transfer certificate issued from Rahmaniya school for handicapped, Calicut would show that the date of birth of the deceased Santhosh is 25/05/1978. The date of accident was 31/05/2021 and Santhosh died on the same day. Hence relying on Ext.A14, the age of the deceased is taken as 43 years at the time of death. For the age group between 40 to 50, 25% 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 ₹1,95,000/- ie. $[(13,000 + 25\% \text{ of } 13,000) \times 12]$.

13. According to the petitioners, they were depending on the income of the deceased and the deceased was the sole earning member of the petitioner's family. The petitioner No.1 is the wife and petitioner No.3 is the mother of the deceased Santhosh. The petitioner Nos.4 and 5 are the children of the deceased petitioner No.2. In the absence of evidence that the petitioner No.2 was dependent of the deceased, the petitioner Nos.1 and 3 can primarily be treated as dependents.

14. The dependents are two 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 ₹1,30,000/-.

15. For the age group between 41 and 45, the applicable multiplier is '14' 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 ₹18,20,000/- ie. (annual income x multiplier).

16. The petitioners claimed an amount of ₹50,000/- towards funeral expense, ₹10,00,000/- 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."*

17. 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 and ₹1,45,200/- towards consortium to the petitioner Nos.1 to 3.

18. The petitioners claimed ₹2,00,000/- 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.

19. 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	5,000	8,000	
b	Damage to clothing and articles	5,000	1,000	
Part. II				
c	Compensation for pain and suffering	1,00,000	10,000	
d	Compensation for funeral expense	50,000	18,150	
e	Loss of estate	10,00,000	18,150	
f	Compensation for loss of consortium	5,00,000	1,45,200	Pranay Seth's case Magma General insurance case
g	Compensation for loss of love and affection	2,00,000	Nil	
h	Compensation for shock and anxiety	2,00,000	Nil	
i	Compensation for the loss of benefit to the legal representatives of the deceased	35,00,000	18,20,000	
j	Loss of expectation of life	5,00,000	Nil	
k	Loss of gratuitous services rendered to parents	2,00,000	Nil	

	Total	₹62,60,000/- claim is limited to ₹50,00,000/-	₹20,20,500/-	
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20. Therefore, I find it just and reasonable to award ₹20,20,500/- as compensation. Issue No.2 is answered in favour of the petitioners in respect of the compensation awarded as referred to above.

21. **Issue No.3:-** According to the petitioners, all the respondents are jointly and severally liable to pay the compensation. Respondent No.2 entered appearance and filed written statement admitting that the motorcycle No. KL-31-L-8653 was insured during the period of accident. The respondent No.2 has not pointed out any violation of policy conditions. It is already found that the accident took place due to the rash and negligent riding of deceased Adithiyan. Hence the respondent No.1 is liable to pay compensation to the petitioners. The respondent No.2 being the insurer of the vehicle is liable to indemnify the insured and to pay the compensation to the petitioners. The issue No.3 is answered accordingly.

22. **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 ₹20,20,500/- with interest at the rate of 7.5% per annum from the date of filing of the petition ie. 22/10/2021 till the realization with proportionate cost and that the respondent No.2 being the insurer of the vehicle shall pay the amount within thirty days from the date of this award. The petitioner No.4 and 5 being the children of deceased petitioner No.2, are entitled to get ₹25,000/- each and from the balance amount, the petitioner No.1 is entitled to get 75% and petitioner No.3 is entitled to get 25% of the compensation. Issue No.4 is answered accordingly.

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

1. Respondent No.2 shall pay an amount of ₹20,20,500/- (Rupees twenty lakh twenty thousand and five hundred only)

with interest @ 7.5% per annum from the date of filing of petition i.e 22/10/2021 till realization with proportionate cost. Out of the award, the petitioner No.4 and 5 being the children of deceased petitioner No.2 are entitled to get ₹25,000/- each and from the balance amount, the petitioner No.1 is entitled to get 75% and petitioner No.3 is entitled to get 25% of the compensation.

2. Respondent No.2 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.
3. Respondent No.2 is directed to deposit the balance amount with interest and proportionate cost in the bank account of the petitioner Nos.1, 3 to 5, 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	Anitha	32180588643	State Bank of India, Cheruthuruthy	SBIN0070 971
2	Santha	1062101060 812	Canara Bank, Vadanappally	CNRB000 1062
3	Sandhya	67383743805	State Bank of India, Vatanapally	SBIN0070 641
4	Sindhu	14250100058 572	Federal Bank, Triprayar	FDRL0001 425

4. Upon deposit being made, the respondent No.2 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.

5. The respondent No.2 shall provide Form -16 A under the Income Tax Act 1961 to the petitioners.
6. 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 25th day of March, 2026).

Sd/-

Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

<u>APPENDIX</u>			
<u>PETITIONER'S EXHIBITS:-</u>			
A1	:	31/05/2021	Copy of FIR in Crime No.0353/21, Chalakudy P.S.
A2	:	01/06/2021	Copy of Postmortem certificate
A3	:	28/08/2021	Copy of Family Membership Certificate
A4		21/01/2026	Copy of Family Membership Certificate
A5		31/12/2025	Copy of Death certificate
A6	:	26/07/2021	Copy of Final report
A7	:	01/06/2021	Copy of Inquest Report
A8	:	16/06/2021	Copy of AMVI report
A9	:	--	Copy of RC book
A10 Series	:	--	Copy of Aadhaar Card
A10(a)		--	Copy of Aadhaar Card
A10(b)	:	--	Copy of Aadhaar Card
A10(c)	:	--	Copy of Aadhaar Card
A11 Series	:	--	Copy of Bank pass book

A11(a)	:	--	Copy of Bank pass book
A11(b)	:	--	Copy of Bank pass book
A11(c)	:	--	Copy of Bank pass book
A12 Series	:	--	Copy of PAN card
A12(a)	:	--	Copy of PAN card
A12(b)	:	--	Copy of PAN card
A12(c)	:	--	Copy of PAN card
A13	:	--	Copy of Aadhaar card
A14	:	--	Copy of school transfer certificate
<u>RESPONDENTS EXHIBITS:</u>		Nil	
<u>COURT'S EXHIBITS :</u>	:	Nil	
<u>PETITIONER'S WITNESS:</u>	:	Nil	
<u>RESPONDENTS WITNESS:</u>		Nil	

COSTS:

Court Fee	:	19,578.00
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
Expenses for certified copies	:	50.00
Senior Adv.Fee	:	1,03,425.00
Junior Adv.Fee	:	51,713.00
Stamp for petitions	:	50.00
Writing fee for petitions	:	50.00

Total	:	1,75,091.00 (Allowed)
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Id/-

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

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