

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

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

OP(MV) 2064/2019

PETITIONERS:

1. Abdul Majeed, aged 51 years, S/o. Mamutty, Kandathvalappil House, Chiramanengad P.O., Marathamkode, Thrissur District, Pin – 680 604.
2. Fousiya T., aged 38 years, W/o. Abdul Majeed, Kandathvalappil House, Chiramanengad P.O., Marathamkode, Thrissur District, Pin – 680 604.
3. Jinsiya K.M., aged 23 years, D/o. Abdul Majeed, Kandathvalappil House, Chiramanengad P.O., Marathamkode, Thrissur District, Pin – 680 604.
4. Rahanas K.M., aged 17 years (Minor), S/o. Abdul Majeed, Kandathvalappil House, Chiramanengad P.O., Marathamkode, Thrissur District, Pin – 680 604.
(Rep.by his father Abdul Majeed)
5. Fathima Rinsiya K.M., aged 4 years (Minor), D/o. Abdul Majeed, Kandathvalappil House, Chiramanengad P.O., Marathamkode, Thrissur District, Pin – 680 604.
(Rep.by her father Abdul Majeed)

By Advs. P.K.John, Sobha John & Simi.P.E.

RESPONDENTS:

1. Dilshad K.K., S/o. Khalid K.M., Kinattingal House, Adhoor Vellarakkad P.O., Thrissur District, Pin – 680 584.
(Owner of KL-70-B-1901 M.Cycle)
2. United India Insurance Company Ltd., Alengadan Building, Tana Irinjalakuda, Thrissur District, Pin – 680 121.
(Insurer of KL-70-B-1901 M.Cycle)
3. Addl. Muhammed Irfan V.N., Aged 18 years, S/o. Navas, Vakayil House, Nirkkad, Chovannur Village.

(Addl.Respondent No.3 is impleaded as per order in IA.3/2020 dated 18/03/2022)

R1: By Adv. V.S.Arunraj, R2: By Adv. C.G.Janardhanan.
R3: Exparte

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 Favas K.M in a motor vehicle accident.

2. According to the petitioners, on 19/10/2019 at about 01.50 pm, when Favas K.M was pedaling a bicycle, a motorcycle No. KL-70-B-1901 ridden by the respondent No.3 came in a rash and negligent manner and hit Favas K.M and as a result of which he succumbed to injuries on 20/10/2019. According to the petitioners, the respondent Nos.1 to 3 being the owner, insurer and the rider respectively of the motorcycle No. KL-70-B-1901 are jointly and severally liable to pay the compensation of ₹30,00,000/-.

3. Notices was issued to the respondents. The respondent No.1 filed written statement admitting that he is the registered owner of the vehicle and the vehicle had a valid insurance policy. The respondent No.2 entered appearance and filed written statement admitting the policy coverage of the motorcycle No. KL-70-B-1901 involved in the accident. 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 as stated in the petition and that the petitioners are not entitled to get compensation as claimed in the petition. It is further contented that the respondent No.3 had no valid driving licence at the time of the accident and police charge sheeted him u/s 279 and 304(A) of IPC.

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.3 ?

(2) Whether Favas K.M 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. Ext.B1 was marked on the side of the respondent No.2.

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.3. To prove the same, the petitioners relied on Ext.A3 the final report r/w FIR and Ext.A12 police report which would show that the accident took place due to the rash and negligent riding of the respondent No.3 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 riding of respondent No.3. Issue No. 1 is found in favour of petitioners.

8. **Issue No.2**:- Ext.A2, copy of postmortem report would show that the alleged cause of death of Favas K.M was due to injury sustained to head. According to the petitioners, they are the legal representatives of the deceased. Ext.A5 the relationship certificate would show that petitioner No.1 is the father, petitioner No.2 is the mother, petitioner No.3 to 5 are the siblings of the deceased Favas K.M. Now the question to be decided is the quantum of compensation to be awarded to the petitioners.

9. The petitioners claimed ₹20,000/- towards transportation charges. 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 ₹10,000/- towards damage to clothing and articles and ₹20,000/- towards medical expenses. Ext.A6 series medical bills would show that an amount of ₹40,815/- was incurred towards medical expense. Considering the nature of injuries and the period of treatment, I am inclined to allow ₹1,000/- under the head damage to clothing and articles and ₹40,815/- under the head medical expenses.

11. The petitioners claimed ₹2,00,000/- under the head compensation for pain and suffering and ₹1,00,000/- under the head compensation for loss of expectation of life. 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 ₹25,00,000/- under the head compensation for loss of dependency and ₹15,00,000/- under the head compensation for future prospects. According to the petitioners, the deceased was a welder and was earning ₹20,000/- per month. The petitioners did not produce any documents to prove the income of the deceased Favas K.M. 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.

13. Ext.A11 copy of aadhaar card would show that the date of birth of the deceased is 31/12/1999. The date of accident is 19/10/2019 and Favas K.M succumbed to the injuries on 20/10/2019. Hence relying on Ext.A11, the age of the deceased is taken as 19 years at the time of death. For the age group below 40 years, 40% 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 ₹2,01,600/- ie.[(12,000+40% of 12,000)12].

14. According to the petitioners, they were depending on the income of the deceased. The petitioner No.1 is the father, petitioner No.2 is the mother, petitioner No.3 to 5 are the siblings of the deceased Favas K.M. In the absence of evidence to the effect that the petitioner Nos.1, 3 to 5 were depending on the deceased, the petitioner No.2, the mother of the deceased alone will be considered to be a dependent of the deceased. The deceased was a bachelor. In ***Sarla Verma and Others Vs Delhi Transport Corporation and Another reported in AIR 2009 SC 3104***, the Hon'ble Apex Court held that where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependent and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependent, and 50% would be treated as the personal and living

expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one third and contribution to the family will be taken as two third. Since the deceased was a bachelor, 50% of the income is deducted towards his personal and living expenses. Thus, the income which the deceased would have spent for his dependent annually would be ₹1,00,800/-.

15. For the age group between 15 and 20, the applicable multiplier is '18' 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 ₹18,14,400/- ie. (annual income x multiplier).

16. The petitioners claimed ₹1,00,000/- towards funeral expense, ₹10,00,000/- under the head compensation for loss of estate and ₹2,00,000/- under the head 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 2025, the compensation payable to the claimants under the conventional heads would be as follows: ₹18,150/- towards loss of estate, ₹18,150/- towards funeral expenses and ₹96,800/- towards consortium to the petitioner Nos.1 and 2. In ***Kunjandy L. and Others v. Rajendran and others(2019-KHC-962)***, the Hon'ble High Court of Kerala held that *siblings are not entitled for compensation under the head consortium*. Hence the petitioner Nos.3 to 5 being the sibling of the deceased, are not entitled to get compensation under the head consortium.

18. The petitioners claimed ₹10,00,000/- 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	Loss of earning	Nil	Nil	
b	Partial loss of earning	10,000	Nil	
c	Transport to hospital	20,000	8,000	
d	Extra nourishment	10,000	Nil	

e	Damage to clothing and other articles	10,000	1,000	
f	Medical expenses	20,000	40,815	Ext.A6 series
g	By-stander's expenses	10,000	Nil	
h	Funeral expenses	1,00,000	18,150	
Part. II				
i	Compensation for pain and suffering	2,00,000	15,000	
j	Loss of estate	10,00,000	18,150	
k	Compensation for loss of consortium	2,00,000	96,800	Pranay Sethi's case Magma General insurance case
l	Compensation for loss of love and affection	10,00,000	Nil	
m	Compensation for loss of expectation	1,00,000	Nil	
n	Compensation for the loss of dependency	25,00,000	18,14,400	
o	Compensation for future prospects	15,00,000	Nil	
	Total	₹66,80,000/- claim is limited to ₹30,00,000/-	₹20,12,315/- rounded of to ₹20,12,400/-	

20. Therefore, I find it just and reasonable to award ₹20,12,400/- as compensation and 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. The respondent No.1 filed written statement admitting that he is the registered owner of the motorcycle No. KL-70-B-1901. Respondent No.2 entered appearance and filed written statement admitting that the motorcycle No.

KL-70-B-1901 was insured during the period of accident. But the respondent No.2 contended that the respondent No.3 was not having valid driving licence at the time of accident. The burden is on the insurer to prove the violation of the policy conditions. Respondent No.2 filed an application as IA 01/2020 to direct the respondent Nos.1 and 3 to produce the driving licence of the respondent No.3 and this Tribunal directed the respondent Nos.1 and 3 to produce the driving licence of the respondent No.3, but they did not comply with the direction to produce the driving licence. So, the contention of the respondent No.2 that the respondent No.3 was not having valid driving licence at the time of accident stands un-controverted. Further Ext.A3 would show that at the time of accident, the respondent No.3/rider of the motorcycle was a minor aged 17 years. So, there is merit in the contention raised by respondent No.2 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.3. Hence respondent Nos.1 and 3 are jointly and severally liable to pay compensation to the petitioners and the respondent No.2 being the insurer is liable to indemnify the respondent No.1/owner and pay the compensation to the petitioner Nos.1 and 2, and the respondent No.2/insurer can recover the amount awarded from the respondent No.1/owner after discharging liability to the claim petitioner Nos.1 and 2. 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 petitioner Nos.1 and 2 are entitled to get the compensation of ₹20,12,400/- with interest at the rate of 7.5% per annum from the date of filing of the petition ie. 28/12/2019 till the realization with proportionate cost and that the respondent No.2 being the insurer shall pay the amount within thirty days from the date of this award. The petitioner No.1, the father of the deceased is entitled to get ₹50,000/- and the petitioner No.2, the mother of the deceased is entitled to get balance amount of the compensation. Issue No.4 is answered accordingly.

In the result, the petition is allowed in part accordingly.

1. Respondent No.2 shall pay an amount of ₹20,12,400/- (Rupees twenty lakh twelve thousand and four hundred only) with interest @ 7.5% per annum from the date of filing of petition ie. 28/12/2019 till realization with proportionate cost and the petitioner No.1, the father of the deceased is entitled to get ₹50,000/- and the petitioner No.2, the mother of the deceased is entitled to get balance amount of the compensation.
2. Respondent No.2 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.2 is directed to deposit the amount due to petitioner Nos.1 and 2 with interest and proportionate cost in their respective bank account, 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	Abdul Majeed	673067515 34	State Bank of India, Marathancode	SBIN007038 2
2	Fousiya .T	5017001703 2757	ESAF Small Finance Bank, Perumpilavu- Akkikavu	ESMF00015 17

4. After depositing the amount as aforesaid, the respondent No.2/insurer can recover the amount awarded from the respondent No.1/owner.
5. 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.

6. Respondent No.2 shall provide Form -16 A under the Income Tax Act 1961 to the petitioner Nos.1 and 2.
7. The office shall make necessary entries in the registers of the Tribunal evidencing the payment of the amount to the petitioner Nos.1 and 2.

(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	:	20/10/2019	Copy of FIR No. 1011/2019 P S : Kunnamkulam
A2	:	04/12/2019	Copy of Postmortem certificate
A3	:	25/02/2020	Copy of Final report
A4	:	26/10/2019	Copy of Death certificate
A5	:	25/02/2023	Relationship certificate
A6	:	01/04/2022	Medical bills
A7	:	19/10/2019	Scan Reports
A8	:	--	Copy of Aadhaar Card
A8(a)	:	--	Copy of Aadhaar Card
A8(b)	:	--	Copy of Aadhaar Card
A8(c)	:	--	Copy of Aadhaar Card
A8(d)	:	--	Copy of Aadhaar Card
A9	:	--	Copy of Pan Card
A9(a)	:	--	Copy of Pan Card
A9(b)	:	--	Copy of Pan Card
A9(c)	:	--	Copy of Pan Card
A9(d)	:	--	Copy of Pan Card

A10	:	--	Copy of Bank Passbook
A10(a)	:	--	Copy of Bank Passbook
A10(b)	:	--	Copy of Bank Passbook
A11	:	--	Copy of Aadhaar Card
A12	:	08/02/2026	Police report
<u>RESPONDENTS</u> <u>EXHIBITS:</u>	:		
B1	:	16/07/2019	Copy of Policy
<u>COURT'S EXHIBITS :</u>	:	Nil	
<u>PETITIONER'S</u> <u>WITNESS:</u>	:	Nil	
<u>RESPONDENTS</u> <u>WITNESS:</u>	:	Nil	

COSTS:

Court Fee	:	19,497.00
Vakalath	:	25.00
Stamp for Document	:	50.00
Stamp for petitions	:	50.00
Process Batta	:	50.00
Senior Adv.Fee	:	1,03,020.00
Junior Adv.Fee.	:	51,510.00
Writing Fee	:	50.00
Writing fee for process	:	50.00
Expenses for registered notice	:	50.00
Fee for certified copies	:	50.00

Total	:	1,74,402.00 (Allowed)
		=====

Id/-

Vinod Kumar N.
Motor Accidents Claims Tribunal,
Irinjalakuda.

By order

/True copy /

Sheristadar