

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, OTTAPALAM

Present :- Smt. Gosha C.G., M.A.C. Tribunal

Thursday 17th day of July 2025

(26th day of Ashadha, 1947 S.E.)

ORIGINAL PETITION (MV) No. 718/2022

Petitioner's

- 1) MUSTHAF A, C/o. Muhammad, 60 Years, Painting Work, Kulakkattil House, Kappu, Thelakkad. P.O. Vettathur, Malappuram - 679 325, Kerala.
- 2) SULAIKHA. T.K. W/o, Muhammed Musthafa. K. 51 Years- Thampalakodan House, Kappu, Vettathur, Thelakkad, Malappuram-679 325.
- 3) SHAMSUDHEEN, S/o. Musthafa. K. 30 Years. Kolakkattil, Kappu, Vettathur, Malappuram - 679 325.
- 4) SHAMSEENA, D/o. Muhammed Musthafa. K. 28 Years, Kolakkattil House, Vettathur, Thelakkad, Kappu, Malappuram - 679 325.
- 5) RAMSEENA, C/o. Muhammed Musthafa, 26 Years, Thachankunna House, Chemmaniyode. P.O. Vettathur, Malappuram - 679 325,

By advocate : Adv. P.S Shonith, P.D Jose & K.P Abdul Hakkim
V/s

Respondent's

- 1) MUHAMMED SADIQUE. K. 38 Years, S/o, Hamsa, Kalathumpady House, Pallikurup. P.O, Mannarkkad, PALAKKAD - 678 582.
(Driver cum R.C.Owner of KL-50/F 3862 Omni Van -
D/L.50/1126/2008, Valid from 27.05.2008 to 26.05.2028

- 2) The New India Assurance company Ltd., Div Office, Tariff Bazar, Opp. Town Hall, Tirur-676101. Malappuram District (Policy no. 98000031210311344937 Valid from 23.03.22 to 22.03.23)
- 3) Salim.A S/o Moidu age not known Akkara House, Beemanad P.O Kottopadam-1, Mannarkad, Palakkad-678601(Insured)

R1 :Exparte

R2 :Adv.P Rajasankar

R3 :Exparte

This petition having been finally heard on 09/07/2025 and the Tribunal on 17/07/2025 passed the following.

AWARD

This is an application for compensation filed by the legal heirs of deceased Shamseer K, S/o.Muhammed Musthafa, who died in a motor vehicle accident under section 166(1) (c) of the Motor Vehicles Act, 1988.

2. The 1st petitioner is the father of the deceased, 2nd petitioner is the mother, 3rd petitioner is the brother, 4th and 5th petitioners are the sisters. Case of the petitioners in brief is that on 08.07.2022 at about 5.30 p.m., while the deceased was riding the motor cycle bearing registration No.KL-53/D-9876 through Vettathur – Kariyavattom public road and when he reached in front of Tholakkad Grace English Medium School, a Maruti Omni van bearing registration No.KL-

50/F-3862 driven by the 1st respondent in a rash and negligent manner hit the deceased's vehicle thereby Shamseer K was sustained serious injuries and further succumbed to the injuries. Hence the petition for a total compensation of ₹70,00,000/- by the dependents/legal heirs of deceased.

3. The 1st respondent, driver cum RC owner and 3rd respondent insured of the offending vehicle bearing registration No.KL-50/F-3862 remained exparte.

4. The 2nd respondent filed written statement denying the petition averments. At the same time this respondent admits that at the material time of accident the vehicle bearing registration No.KL-50/F-3862 was insured with this respondent. As per the first information statement filed by the witness it is stated that while the two wheeler driven by the deceased lost control and dashed on an autorickshaw bearing registration No.KL-53/E-9087 and after that hit against the Omni van. According to this respondent, there was no negligence on the part of the 1st respondent as alleged in the petition. In fact negligence of the deceased who was not having valid driving licence to drive a two wheeler and the driver of the autorickshaw bearing registration No.KL-53/E-9087 was the reason for the accident. The deceased was not wearing helmet at the time of accident. The owner, driver and insurer of the above autorickshaw shall be made party to the petition. The petitioners have to prove that they are the dependents of the deceased. The

age, occupation and income of the deceased have to be proved by the petitioners. The amount claimed in the petition is highly excessive and exaggerated. Therefore, the petition has to be disposed accordingly.

5. To prove the case of the petitioners PW1 was examined and Exts.A1 to A18 were marked. No oral or documentary evidence has been adduced on the side of the respondents.

6. Heard both sides.

7. Now the issues that arise for consideration in this petition are:

1. Whether the 1st respondent was driving the vehicle bearing registration No.KL-50/F-3862 in a negligent manner thereby caused the accident?
2. Whether Shamseer K, S/o.Muhammed Musthafa, died due to the injuries sustained in the accident and if so, whether the petitioners are entitled to get compensation as claimed?
3. If so, what is the quantum to be awarded?
4. Reliefs and costs?

8. Issue No.1:- It is the case of petitioners that on 08.07.2022 at about 5.30 p.m., while the deceased was riding the motor cycle bearing registration No.KL-53/D-9876 through Vettathur – Kariyavattom public road and when he reached in front of Tholakkad Grace English Medium School, a Maruti Omni van

bearing registration No.KL-50/F-3862 driven by the 1st respondent in a rash and negligent manner hit the deceased's vehicle thereby Shamseer K was sustained serious injuries and further succumbed to the injuries. To prove the negligence of the 1st respondent copy of FIR with FIS was marked as Ext.A2, copy of scene mahazar was marked as Ext.A4, copy of AMVI report was marked as Ext.A5 and copy of final report was marked as Ext.A6.

Ext.A1 is the salary certificate, Ext.A3 is the postmortem certificate, Ext.A7 is the copy of SSLC certificate, Ext.A8 series are the copies of Aadhar card and PAN card of 1st petitioner, Ext.A9 is the copy of bank passbook of 1st petitioner, Ext.A10 are the copy of Aadhar card and PAN card of 2nd petitioner, Ext.A11 is the copy of bank passbook of 2nd petitioner, Ext.A12 are the copy of Aadhar card and PAN card of 3rd petitioner, Ext.A13 is the copy of bank passbook of 3rd petitioner, Ext.A14 are the copy of Aadhar card and PAN card of 4th petitioner, Ext.A15 is the copy of bank passbook of 4th petitioner, Ext.A16 are the copy of Aadhar card and PAN card of 5th petitioner, Ext.A17 is the copy of bank passbook of 5th petitioner and Ext.A18 is the copy of family membership.

9. A perusal of Ext.A6 shows that the then Sub Inspector of Police, Melattur police station, conducted investigation of the case, completed the investigation and submitted the final report with finding that on 08.07.2022 at 17.30

hours, the 1st respondent being the driver of the Omni van bearing registration No.KL-50/F-3862, drove the vehicle in a rash and negligent manner through Vettathur – Aryambavu public road and when it reached near KMT Tiles godown, it hit on the motor cycle bearing registration No.KL-53/D-9876 ridden by the deceased thereby he was sustained serious injuries and further succumbed to the injuries. Therefore, I find that the 1st respondent had committed the offences punishable under Sections 279 and 304(A) of IPC. It is well settled that final report is the sufficient prima facie evidence to prove negligence in a claim for compensation under Section 166 of the Motor Vehicles Act (**New India Assurance Company Limited v. Palani Ammal and others – I.L.R 2011 (3) Kerala 677**). So I find that the petitioners have successfully proved their case that the accident was occurred solely due to the negligent driving of the offending vehicle by the 1st respondent with the aid of Exts.A2, A4, A5 and A6. Issue No.1 is answered accordingly.

10. Issue Nos.2 & 3:- It is the case of the petitioners that as a result of the rash and negligent act of the 1st respondent, deceased was sustained grievous injuries, immediately taken to Alshifa Hopsital, Perinthalmanna and further succumbed to the injuries on the way to hospital. As per Ext.A3 copy of postmortem certificate, cause of death is ‘post mortem findings are in consistent with death due to injuries sustained to head, chest and abdomen’ following road

traffic accident'. Therefore, I find that Shamseer K died due to the injuries sustained in the accident involved in this case.

11. Ext.A18 is the copy of family membership certificate dated 25.08.2022 issued from Vettathur village office produced and marked by the petitioners. As per this, the 1st petitioner is the father of the deceased aged 60 years, 2nd petitioner is the mother aged 51 years, 3rd petitioner is the brother aged 30 years, 4th and 5th petitioners are the sisters aged 28 and 27 years respectively. Therefore, I find that the petitioners who are the dependents/legal heirs of the deceased are entitled to get compensation.

12. According to the petitioners at the time of accident and death the deceased was aged 23 years, doing painting work under various employers and his monthly income was of ₹50,000/-. To prove the occupation of the deceased PW1 was examined and Ext.A1 salary certificate issued by PW1 was marked. PW1 deposed that he is the owner of the Nest Civil Engineering Consultancy and the deceased Shamseer was having daily wages of ₹2,000/-. The learned counsel for the 2nd respondent challenged Ext.A1 and pointed out that the evidence of PW1 would indicate that no document has been kept in their office in order to prove that the deceased was having monthly salary of ₹50,000/-. During examination PW1 deposed that name of the deceased was not registered before Labour Department.

According to PW1 the deceased a painting staff and his daily wage is ₹2,000/-. During cross examination he admitted that about 16 staffs are working permanent in their company on daily wages basis and his annual turnover is ₹15,00,000/-. At the same time, he deposed that he did not pay income tax and professional tax. The learned counsel for the 2nd respondent contended that without bonafide Ext.A1 issued in order to help petitioners. Therefore, the said contention of the 2nd respondent is probable one. Moreover, in the petition also the petitioners have no consistent case about the institution in which the deceased was working. Whereas, in the petition the deceased was working as painting worker under various employers. That would also arise doubt with regard to permanent employee in the institution of PW1. However, it has come out in evidence that the deceased was a painter by profession. Therefore, I am of the view that the deceased is entitled to have his notional income fixed in terms of the notification issued under the provisions of the Minimum Wages Act, 1948 and accordingly, the notional income is fixed at ₹17,325/-. Ext.A7 is the copy of S.S.L. Certificate of the deceased. As per Ext.A7, date of birth of deceased was 25.10.1998. Therefore, I find that at the time of accident and death the deceased was aged 24 years. It has come out in evidence that at the time of accident the deceased was a bachelor. The deceased being aged 24 years at the time of accident and death the proper multiplier is 18. In view of the dictum laid

by the Hon'ble Apex Court in **National Insurance Company v. Pranay Sethi - 2017(4)KLT 662 (SC)**, the deceased being aged 24 years, 40% of the monthly income is to be added for future prospects. By adding so the monthly income comes to ₹24255/- (17325+6930). It has come out in evidence that at the time of accident, the deceased was a bachelor. Therefore, deduction towards personal and living expenses should be 1/2 in the light of the decision reported in **Sarla Verma v. Delhi Transport Corporation - 2010(2) KLT 802** and **National Insurance Company v. Pranay Sethi**. So the annual loss to the dependents is assessed as $24255 \times 12 \times 18 \times 1/2 = 2619540/-$. Petitioners 3 to 5 brother and sisters of the deceased attained majority and they were not depending on the deceased. The 1st and 2nd petitioners being the father and mother of the deceased, they are entitled to get consortium.

It has held by the Hon'ble Apex Court in **Rajwati @ Rajjo & Others v. United India Insurance Company Ltd. & Others 2023(1) KLJ 12** in paragraph 31 thus:-

“The deceased left behind four dependants, i.e, the present appellants. In view of this, the grant of 40,000/- by the Tribunal towards loss of consortium is insufficient in our view, and deserves interference.

Placing reliance on the Satinder Kaur @ Satwinder Kaur (Supra), the grant of ₹40,000/- towards loss of consortium is increased to ₹44,000/- to each appellant, amounting to a total of ₹1,76,000/-. Along with this, ₹15,000/- each for the heads of 'funeral expenses' and 'loss of estate' is also increased to ₹20,000/- each.”.

*As held by the Hon'ble Apex Court, in **Rojalini Nayak vs. Ajit Sahoo** there should be 10% enhancement in every three years. In view of the above dictum, I find that the 1st and 2nd petitioners being the father and mother of the deceased they are entitled to get ₹48,400/- each towards loss of consortium. The petitioners are also entitled to get ₹20,000/- towards loss of estate and ₹20,000/- towards funeral expenses.*

13. The learned counsel for the 2nd respondent contended that interest cannot be allowed to future prospects. That is a contention sustainable in law, in view of the decision of the Hon'ble Apex Court as **R.D.Hattangadi v. Pest Control (India) Private Limited (AIR 1995 SC 755.**

Considering the entire facts and circumstances of the case, I find that the following can be fixed as just and reasonable compensation in this case.

Sl. No.	Head of Claim	Amount claimed in	Amount awarded	Basis-vital details in a nut shell
1	Loss of earning	50000	0	Died on the same day
2	Transport to hospital	50000	4000	Considering the distance between the place of accident, hospital and home
3	Extra nourishment	25000	0	
4	Damages to clothing and articles	10000	1000	Nominal amount
5	Compensation for loss of dependency	6000000	2619540	24255x12x18x1/2
6	Funeral expenses	40000	20000	2023(1) KLJ 12
7	Loss of estate	40000	20000	2023(1) KLJ 12
8	Compensation for loss of consortium	500000	96800	(48400x2) 2023(1) KLJ 12
9	Medical expenses	50000	0	No medical bills produced
10	Pain and suffering	100000	0	
11	Compensation for loss of love and affection	500000	0	
12	Compensation for loss of future prospects	2000000	0	
	Total	91,40,000	27,61,340	
	Limited to	70,00,000		

14. Issue No.4.:- The 2nd respondent has admitted the insurance coverage of the vehicle bearing registration No.KL-50/F-3862. This Tribunal found that the accident occurred due to the negligence on the side of the 1st respondent. Therefore, I find that the 2nd respondent is liable to indemnify the other respondents. The issue is answered accordingly.

In the result, the application is allowed in part and an award is passed for ₹27,61,340/- (Rupees twenty seven lakh sixty one thousand three hundred and forty only) with interest @ 8% per annum from the date of filing of the application on 28.11.2022 till realisation with proportionate cost except for future prospects as the

same relates to an income to be given in the future, in view of the ruling of the Apex Court in **R.D.Hattangadi v. Pest Control (India) Private Limited (AIR 1995 SC 755)**.

The 2nd respondent is directed to furnish cheques for ₹69,368/- being court fee and ₹70,000/- being Legal Benefit Fund payable by the petitioners in the name of the Motor Accidents Claims Tribunal, Ottapalam.

35% each of the award amount shall be paid to the 1st and 2nd petitioners and 10% each to 3rd, 4th and 5th petitioners.

(1) R2/insurer shall deposit the balance Award amount within one month to the credit of the Bank Account of Motor Accidents Claims Tribunal, Ottapalam shown below, directly by National Electronic Fund Transfer (NEFT) / Real Time Gross Settlement (RTGS) or any other electronic mode.

Name of Account Holder	Name of Bank	Name of Branch	Account Number	IFSC Code
Ottapalam MACT	State Bank of India	Ottapalam	42798164060	SBIN0000257

(2) R2/insurer shall instruct their bank to ensure deposit of the Award amount by way of Direct Bank Transfer to the account of the Motor Accidents Claims Tribunal, Ottapalam shown above containing following informations in the prescribed format (which is already circulated) by way of compliance of the Award.

1	OP(MV) Number	
2	On the file of (Motor Accidents Claims Tribunal Name)	
3	Date of Award	
4	Compensation Amount	
5	Income Tax Deduction at Source, if any, in accordance with law.	
6	Bank Transaction Reference No./Unique Transaction Reference (UTR) No.	

(3) On such deposit being made R2/insurer shall submit a letter to this Tribunal enclosing a copy of said bank advice in the prescribed format (which is already circulated) as per which deposit was made to the bank account of this Tribunal.

(4) R2/insurer shall also send a copy of payment advice to the Motor Accidents Claims Tribunal concerned and serve a copy of the same on the claimants or their counsels.

(5) The Office of this Tribunal shall ensure that as and when the Award amount is received in the Bank account of MACT, it shall be disbursed to the credit of the bank accounts of claimants shown below directly by way of NEFT/ RTGS or any other electronic mode.

Name of petitioner		Name of Bank	Name of Branch	Account Number	IFSC Code
P1	MUSTHAFA K	The Vettathur Service Co-operative Bank Ltd No.M.397	KAPPU	VTR0030050000967	ICIC0000103
P2	SULAIKHA T K	Kerala State Co-operative Bank Ltd	Ayyanthole	146512301230543	KSBK0001465
P3	SHAMSUDEEN K	Kerala State Co-operative Bank Ltd	Ayyanthole	146512301230561	KSBK0001465
P4	SHAMSEENA K	Kerala State Co-operative Bank Ltd	Ayyanthole	146512301230570	KSBK0001465
P5	RAMSEENA K	Kerala State Co-operative Bank Ltd	Ayyanthole	146512301230589	KSBK0001465

(6) The office is further directed to make necessary entries in the Cheque Issue Register or any other Registers concerned, evidencing payment of above amount to the petitioners.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 17th day of July, 2025.

APPENDIXPetitioner's Witness Examined :

PW1 : Aneesh M

Petitioner's Exhibits Marked :

A1	:	Nil	:	Salary Certificate
A2	:	09.07.2022	:	Copy of FIR & FIS
A3	:	09.07.2022	:	Postmortem Certificate
A4	:	10.07.2022	:	Copy of Scene Mahazar
A5	:	20.07.2022	:	Copy of AMVI Report copy
A6	:	12.08.2022	:	Copy of Final Report
A7	:	Nil	:	Copy of SSLC Certificate
A8	:	Series	:	Aadhar card Pancard copy of 1 st petitioner
A9	:	07.11.2011	:	Bank account copy of 1 st petitioner
A10	:	Series	:	Aadhar card and Pancard copy of 2 nd petitioner
A11	:	06.06.2025	:	Bank account copy of 2 nd petitioner
A12	:	Series	:	Aadhar card and Pancard copy of 3 rd petitioner
A13	:	06.06.2025	:	Bank account copy of 3 rd petitioner
A14	:	Series	:	Aadhar card and Pancard copy of 4 th petitioner
A15	:	06.06.2025	:	Bank account copy of 4 th petitioner
A16	:	Series	:	Aadhar card Pancard copy of 5 th petitioner
A17	:	06.06.2025	:	Bank account copy of 5 th petitioner
A18	:	25.08.2022	:	Copy of family Membership Certificate

Respondent's Witness examined : NilRespondent's Exhibits Marked : Nil

MEMO OF COST

Petitioner's Cost : Allowed. Cost list filed

Sl No	Particular	Amount
1	Court fee	26,985.00
2	Stamp on vakkalath	5.00
3	Writing fee	200.00
4	Advocate Fee	140,467.00
5	Process fee	137.00
6	Stamp on document	100.00
7	Stamp on Petition	100.00
8	Witness batta	680.00
9	Total	168,674.00

Respondents Cost : Not Allowed.

Motor Accidents Claims Tribunal

Note :- "The parties should apply as soon as possible for the return of all documents which they may wish to preserve, as the records will be liable to be destroyed after twelve years from this date."

Typed by :Deepa K S

Compared by. :Aswathy P

Fair/Copy of Award
in OP (MV) No.718/2022
Dated 17/07/2025

(1+3)