

IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY

Present :- Smt. Nirmala T.K., Judge, Motor Accidents Claims Tribunal,

Saturday, 15<sup>th</sup> day of November, 2025

**OP(MV)No.1382/2022**

- |                                                |   |             |
|------------------------------------------------|---|-------------|
| 1. Jayanandhan.E.,                             | ] |             |
| S/o N.Krishnan, 69 years, Akshay,              | ] |             |
| Kilachaparambath, Dharmadam amsom,             | ] |             |
| P.O.Palayad, Kannur 670661. (Died)             | ] |             |
| 2. <b><u>Suppl.petitioners</u></b>             | ] |             |
| Lalithambika.P.,                               | ] |             |
| W/o Jayanandhan, 61 years,                     | ] |             |
| Akshay, P.O.Palayad, Vellozhukku,              | ] |             |
| Dharmadam amsom, Palayad Desom.                | ] |             |
| 3. Lajesh.E.P.,                                | ] |             |
| S/o Jayanandhan, 36 years,                     | ] |             |
| Akshay, P.O.Palayad, Vellozhukku,              | ] | Petitioners |
| Dharmadam amsom, Palayad Desom..               | ] |             |
| 4. Abhilash.E.P.,                              | ] |             |
| S/o Jayanandhan, 33 years                      | ] |             |
| Akshay, P.O.Palayad, Vellozhukku,              | ] |             |
| Dharmadam amsom, Palayad Desom.                | ] |             |
| 5. Akshay.E.P.,                                | ] |             |
| S/o Jayanandhan, 28 years                      | ] |             |
| Akshay, P.O.Palayad, Vellozhukku,              | ] |             |
| Dharmadam amsom, Palayad Desom.                | ] |             |
| <b>(Impleaded and amended as per order in</b>  | ] |             |
| <b>IA 05/23 &amp; 06/23, dated 11.12.2023)</b> | ] |             |
| <b>Vs</b>                                      |   |             |
| 1. Muneer.M,                                   | ] |             |
| S/o Mubeena, 29 years, Maliyakkal House,       | ] |             |
| Valiyanur, Varam, Kannur 670594. (Driver)      | ] |             |
| 2. Shabeer Ali,                                | ] |             |
| Thazhekunnath House, Puratheel, Varam.P.O.,    | ] | Respondents |
| Kannur 670594. (Owner)                         | ] |             |
| 3. The United India Insurance Co.Ltd,          | ] |             |
| Chovva, Fashion Tower, N.H.Road,               | ] |             |
| Caltex Junction, Kannur 670002. (Insurer)      | ] |             |

This petition coming on 20<sup>th</sup> day of September 2025 for final hearing before me in the presence of S/Sri.T.Sunil Kumar and Athira.K.P., Advocates for the petitioner; respondents No.1 and 2 remained exparte; and of Sri.M.C.Prasanna Kumar, Advocate for the 3<sup>rd</sup> respondent; having stood over for consideration till this day, the Tribunal passed the following:-

**AWARD**

This is an application filed u/s 166 of the Motor Vehicles Act, 1988.

2. The case of the petitioner is that on 06.04.2022 at about 12.30 pm, the petitioner was riding his motorcycle from Vellozukku Anganvadi to Melur Shiva Temple and when he reached near Palayad University bus stop, a motorcycle bearing registration number KL-13 AD 7926 driven by R1 in a rash and negligent manner came from opposite side and hit against the motorcycle in which the petitioner was travelling. As a result, petitioner sustained grievous injuries. The accident occurred solely due to the rash and negligent riding of the motorcycle KL 13 AD 7926 by the 1<sup>st</sup> respondent. The second respondent is the owner and third respondent is the insurer of the motorcycle driven by first respondent and therefore all the three respondents are liable to pay compensation to the petitioner for the injuries sustained.

3. Respondent Nos.1 and 2 are not appeared and hence they were set exparte.

4. The third respondent appeared and filed written statement admitting that the motorcycle bearing number KL 13 AD 7926 was insured with R3 at the relevant time. But the allegation of negligence against 1<sup>st</sup> respondent is denied. It is further stated that the accident occurred due to the rash and negligent riding of the motorcycle by the petitioner himself. The third respondent also disputed the amount of compensation claimed by the petitioner under various heads and stated that the compensation claimed is highly exaggerated and without any basis. Therefore, the third respondent prayed for passing dismissal of the petition with costs.

5. On going through the contentions raised by both sides, following issues arise for consideration:-

1. What is the reason for the accident?
2. Whether the petitioner sustained injuries in the accident?
3. Whether the petitioner is entitled to get compensation and if so, who is liable to pay the same?
4. If issue Nos.1 to 3 are decided in favour of the petitioner, what should be the quantum?
5. Reliefs and costs?

6. While the petition was pending, the original petitioner died and his legal heirs are impleaded as supplemental petitioners No.2 to 5 as per order in IA No.5/ 2023.

7. No oral evidence is adduced by either side. Exts.A1 to A17 documents were marked on the side of the petitioner. No documents produced on the side of 3<sup>rd</sup> respondent.

8. Heard both sides.

9. **Issue No. 1:-** According to petitioners, the accident occurred due to the rash and negligent riding of the motorcycle KL 13 AD 7926 by the 1<sup>st</sup> respondent. To prove the negligence alleged against R1, petitioners produced copy of FIR in Crime No.235/2022 and copy of final report filed in that crime and those documents are marked as Exts.A1 and A9 respectively. Exts.A1 and A9 documents shows that Sub Inspector of Dharmadom Police station registered Crime No.235/2022 and police after investigation submitted a final report against the 1<sup>st</sup> respondent herein, alleging commission of offences punishable under sections 279 and 338 IPC. It is settled principle of law that unless the contrary is proved, the final report has to be taken as a prima facie evidence of negligence. No contra evidence is adduced by the respondents. Therefore, the documents produced by the petitioner proves that the accident occurred due to the rash and

negligent riding of 1<sup>st</sup> respondent. Hence this, issue is answered accordingly.

10. **Issue Nos.2 to 4:-** The documents produced by the petitioners shows that the original petitioner sustained injuries due to the accident. The petitioner allege that the motorcycle KL 13 AD 7926 ridden by 1<sup>st</sup> respondent was owned by 2<sup>nd</sup> respondent and insured with 3<sup>rd</sup> respondent at the time of accident and therefore all the respondents are liable to pay compensation to the petitioner for the injuries sustained. R1 and R2 remained exparte. R3 appeared and filed written statement admitting that the motorcycle KL 13 AD 7926 ridden by 1<sup>st</sup> respondent was owned by 2<sup>nd</sup> respondent and insured with 3<sup>rd</sup> respondent at the time of accident. Since the accident occurred due to the rash and negligent riding of the motorcycle by the 1<sup>st</sup> respondent, the 2<sup>nd</sup> respondent being the owner became vicariously liable. Since the vehicle was validly insured with 3<sup>rd</sup> respondent at the time of accident, the 3<sup>rd</sup> respondent is liable to indemnify the 2<sup>nd</sup> respondent for the compensation to be paid to the petitioner. In short, all the three respondents are jointly and severally liable to pay compensation to the petitioner for the injuries sustained and payment of compensation shall be made by 3<sup>rd</sup> respondent, the insurer.

11. The documents produced by the petitioner shows that immediately after the accident he was taken to Tellicherry Co-operative Hospital, Thalassery and from there he was taken to Aster Mims Hospital, Kannur and treated there as inpatient. Petitioner produced copy of Wound Certificate issued from Tellicherry Co-operative Hospital, Thalassery and it is marked as Exhibit A2. Petitioner also produced five discharge summaries issued from Aster Mims Hospital, Kannur and those discharge summaries are marked as Exhibit A7 series. Medical documents shows that petitioner sustained following injuries in the accident.

**1. Fracture left tibia**

**2. Tenderness contusion left leg upper 1/3rd and knee**

**3. Bicondylar fracture left proximal tibia**

**4. Compartment syndrome left leg.**

12. The discharge summary shows that petitioner was initially admitted at Aster Mims Hospital, Kannur on 06.04.2022 and discharged on 09.04.2022. Exhibit A7 shows that petitioner was again admitted in the same hospital on 15.04.2022 and discharged on the same day. Exhibit A7(b) shows that petitioner was admitted on 20.04.2022 and discharged on 29.04.2022 and Exhibit A7(c) shows that petitioner was again admitted in the same hospital on 04.06.2022 and discharged on the same day. Exhibit A7(d) shows that petitioner was again admitted on 24.05.2022 and discharged on 27.05.2022. Therefore Exhibit A7

series reveals that petitioner was treated as an inpatient for a total period of 20 days and therefore an amount of **₹20,000/- (20x1,000)** is awarded as expenses for bystander.

13. Considering the nature of injuries suffered by the petitioner an amount of **₹1,50,000/-** is awarded as compensation for pain and sufferings and **₹60,000/-** as compensation for loss of amenities for life. An amount of **₹25,000/-** is awarded as expenses for extra nourishment and **₹4,000/-** as damage to clothing and articles.

14. To prove the transportation expenses incurred, petitioner produced Exhibit A6 series ambulance bills for **₹17,300/-** and therefore the said amount is ordered to be granted as transportation expenses.

15. To prove the medical expenses incurred petitioners produced Exhibit A5 series medical bills for **₹5,57,983/-** and therefore the said amount is ordered to be granted as medical expenses.

16. As stated earlier, petitioner died after the filing of this claim petition. Copy of death certificate of the original petitioner is produced and marked as Ext.A3. The Ext.A3 shows that he died on 27.10.2022. Medical documents produced by the petitioner shows that he was completely laid up from the date of accident till the date of death and therefore the assistance of a

full time attender was required for the petitioner for a period of six months. A minimum amount of Rs.10,000/- per month is required for getting the assistance of an attender in the year 2022 and therefore an amount of **Rs.60,000/- (6x10,000)** is awarded as attendance charges.

17. Petitioners stated that the deceased petitioner was an agriculturist, earning monthly income of Rs.25,000/-. But the petitioners has not produced any documents to prove the monthly income of the petitioner. Therefore notional income is to be assessed as per the principles laid down in **Ramachandrappa Vs. Manager Royal Sundaram Alliance Insurance Company LTD, [2011 KHC 4675] and Soman Vs. Jinesh James and others [ILR Kerala 2020(3) page 1003]** Since the accident occurred in the year 2022, monthly income of the petitioner is assessed to ₹13,500/- per month. Since the petitioner died after six months of the accident an amount of **Rs.81,000/- (6x13,500)** is awarded as compensation for loss of income.

18. Supplemental petitioners No.2 to 5 produced family membership certificate issued by Village Officer, Dharmadam Village Office and it is marked as Ext.A4. The Ext. A4 shows that supplemental petitioner No.2 is the wife and supplemental petitioner Nos.3 to 5 are the children of the deceased. Therefore supplemental petitioner Nos.2 to 5 are entitled to get the

compensation amount that would have been granted to the petitioner for the injuries sustained in the accident. In other words, supplemental petitioner Nos.2 to 5 are entitled to get the compensation amount in equal proportions.

19. In view of the above inputs, following amounts are awarded:-

**SUMMARY OF CLAIMS RAISED AND ALLOWED**

| Sl. No.          | Head of claim                                                                                                                        | Amount Claimed<br>₹ | Amount Awarded<br>₹ | Basis-vital details in a nut shell |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|------------------------------------|
| 1                | Loss of Income & partial loss of earning                                                                                             | 3,00,000/-          | 81,000/-            | (6x13,500)                         |
| 2                | Transport to hospital                                                                                                                | 50,000/-            | 17,300/-            |                                    |
| 3                | Extra nourishment                                                                                                                    |                     | 25,000/-            |                                    |
| 4                | Damage to clothing and articles                                                                                                      | 7,00,000/-          | 4,000/-             |                                    |
| 5                | Bystander's expenses                                                                                                                 |                     | 20,000/-            | (20x1,000)                         |
| 6                | Medical expenses                                                                                                                     |                     | 5,57,983/-          |                                    |
| 7                | Compensation for Pain and suffering.                                                                                                 | 4,00,000/-          | 1,50,000/-          |                                    |
| 8                | Compensation for continuing and permanent disability                                                                                 | 2,00,000/-          |                     |                                    |
| 9                | Compensation for loss earning, capacity, earning power, loss of future prospects, facial disfiguration and loss of enjoyment of life | 3,00,000/-          |                     |                                    |
| 10               | Compensation for Loss of amenities of life                                                                                           |                     | 60,000/-            |                                    |
| 11               | Compensation for attendance charges                                                                                                  |                     | 60,000/-            | (6x10,000)                         |
| <b>T O T A L</b> |                                                                                                                                      | <b>20,00,000/-</b>  | <b>9,75,283/-</b>   |                                    |

Thus the supplemental petitioner Nos.2 to 5 are entitled to get an amount of **₹9,75,283/-** and the same is rounded to **₹9,75,500/- (Rupees Nine Lakhs Seventy Five Thousand Five Hundred only)** as compensation. Issues answered accordingly.

20. **Issue No.5:-** In view of the above findings, this petition is allowed in part. Supplemental petitioner Nos.2 to 5 are entitled to get an amount of **₹9,75,500/- (Rupees Nine Lakhs Seventy Five Thousand Five Hundred only)** with interest at the rate of 8% per annum from the date of petition (30.09.2022) till realization with proportionate costs. Supplemental petitioner Nos.2 to 5 are liable to pay ₹19,373/- (Rupees nineteen thousand three hundred seventy three only) being balance Court fee and ₹20,000/- (Rupees twenty thousand only) being the additional court fee towards legal benefit fund.

**In the result,** R3/insurer is directed to make following payments within a period of one month.

1. R3/insurer shall furnish a cheque for ₹19,373/- (Rupees nineteen thousand three hundred seventy three only) being the balance court fee in favour of MACT, Thalassery.

2. R3/insurer shall also furnish another cheque for ₹20,000/- (Rupees twenty thousand only) being the additional

court fee towards legal benefit fund in favour of MACT, Thalassery.

3. R3/insurer is directed to transfer the entire balance amount due to the supplemental petitioner Nos.2 to 5 in the Savings Bank Account shown below within a period of one month as directed by Hon'ble High Court in circular number 1/2025 dated 19.09.2025.

| <b>Name of claimant</b>    | <b>Name of Bank</b>        | <b>Name of Branch</b> | <b>Account Number</b> | <b>IFSC Code</b>   |
|----------------------------|----------------------------|-----------------------|-----------------------|--------------------|
| <b>Lalithambika.P (P1)</b> | <b>Canara Bank</b>         | <b>Dharmadam</b>      | <b>42272200060606</b> | <b>CNRB0014227</b> |
| <b>Lajesh.E.P (P2)</b>     | <b>Federal Bank</b>        | <b>Thalassery</b>     | <b>10880100211005</b> | <b>FDRL0001088</b> |
| <b>Abhilash E.P (P3)</b>   | <b>State Bank of India</b> | <b>Thalassery</b>     | <b>37700683102</b>    | <b>SBIN0070239</b> |
| <b>Akshay.E.P (P4)</b>     | <b>Canara Bank</b>         | <b>Dharmadam</b>      | <b>42272200084463</b> | <b>CNRB0014227</b> |

4. The copy of four bank passbooks produced by the supplemental petitioner Nos.2 to 5 and duly attested by the bank manager shall form part of award for the purpose of facilitating the transfer of compensation amount to the bank account of the supplemental petitioner Nos.2 to 5.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 15<sup>th</sup> day of November, 2025).

MOTOR ACCIDENTS CLAIMS TRIBUNAL.

**Petitioners' exhibits:-**

|    |            |                                                              |
|----|------------|--------------------------------------------------------------|
| A1 | 08.04.2022 | Copy of F.I.R in Crime No.235/2022, Dharmadam Police Station |
| A2 | 06.04.2021 | Copy of wound certificate                                    |

|       |            |                                              |
|-------|------------|----------------------------------------------|
|       |            |                                              |
| A3    | 09.11.2022 | Copy of death certificate                    |
| A4    | 30.12.2022 | Copy of family membership certificate        |
| A5    | series     | Medical bills                                |
| A6    | series     | Ambulance bills                              |
| A7    | 09.04.2022 | Discharge Summary                            |
| A7(a) | 15.04.2022 | Discharge Summary                            |
| A7(b) | 29.04.2022 | Discharge Summary                            |
| A7(c) | 04.06.2022 | Discharge Summary                            |
| A7(d) | 27.05.2022 | Discharge Summary                            |
| A8    | series     | Prescriptions                                |
| A9    | 30.04.2022 | Copy of final report                         |
| A10   | -          | Copy of bank pass book of Lalithambika       |
| A11   | -          | Copy of bank pass book of Lajesh.E.P         |
| A12   | -          | Copy of bank pass book of Abhilash           |
| A13   | -          | Copy of bank pass book of Akshay             |
| A14   | -          | Copy of PAN Card -AUZPL0877D of Lalithambika |
| A15   | -          | Copy of PAN Card -APBPL5505R of Lajesh.E.P   |
| A16   | -          | Copy of PAN Card -BJXPA5733R of Abhilash     |
| A17   | -          | Copy of PAN Card -CJIPA5855R of Akshay       |

**Respondent's exhibits:-** Nil

**Witness on both sides:-** Nil

MOTOR ACCIDENTS CLAIMS TRIBUNAL

**ACCIDENTS CLAIMS  
TRIBUNAL, THALASSERY**

Fair/Copy/Free copy of

AWARD

in

**OP(MV)No.1382/2022**

**Dated: 15.11.2025**