THE MOTOR ACCIDENTS CLAIMS TRIBUNAL/ADDITIONAL DISTRICT AND SESSIONS COURT, TALIPARAMBA.

Present:- Sri.**Prasanth.K.N**, Motor Accidents Claims Tribunal/ Additional District and Sessions Judge,

Tuesday the 10th day of June, 2025/ 20th Jyaishta, 1947

O.P (MV) No. 639 OF 2022

1. Karoth Kannan, S/o.Appa, Aged 64 years, Karoth, Paranool, Pattuvam, Ariyil, Kannur Dist. 2. Sarojini.A, W/o.Karoth Kannan, Aged 61 years, Anakkeel, Paranool, Pattuvam, Ariyil, Kannur Dist. 3. Anusha Sreedharan, D/o.Sreedharan, Aged 24 years, Pulingome House, Konnakkad, Maloth, Konnakkad, Kasargod, Kerala.	Petitioners

Vs.

1. Prajeesh.O, S/o.Kannan, Aged 32 years, Koyileriyan House, Ayyangali Kolani, (PO) Irinavu, Cherukunnu, Kannur – 760301. (Driver cum RC Owner of Vehicle No. KL-59-G-3435 Car) 2. The Manager, United India Insurance Co.Ltd., BO Chovva, Fashion Tower, NH Road, Caltex Junction, Kannur, Kerala – 670002 (Policy No. 3002023121P111627581, Validity 12/02/2022 to 11/02/2023)	Respondents

This petition coming on the 7th day of May, 2025 of final hearing before me in the presence of Sri.P.V.Aseen, Advocate for the petitioner; and of Smt.Suhana Asif, Advocate for the 1st respondent; and of Sri.C.P.Ajayakumar, Advocate for the 2nd respondent and having stood over for consideration till this day, and the tribunal passed the following:-

AWARD

SUMMARY OF THE CASE

No	Heading	Description	Remarks
1	Details of parties	P1 - Father, P2 - Mother, P3 - Wife (Legal heirs), R1 - Driver/Owner, R2 - Insurer	
2	Accident details	A car hit a pedestrian, and he sustained injuries and died after nine days **- Death Case**	
3	Occurrence	27.05.2022	FIR 661/2022, Taliparamba PS - Ext.A1
4	Final Report	30.06.2022	U/s 279, 304A of IPC - Ext.A2
5	Petition	25.10.2022	U/s 166 of the MV Act
6	Licence	Admitted	Complied
7	Insurance	Admitted	Complied
8	Age	35	Ext.A7
9	Job	Painter	Not proved
10	Income	₹20,000 - Claimed	Notional income - ₹13,500
11	Dependency	Multiplier - 16	Future prospects - 40%
		Dependents - 3	Deduction - 1/3
12	Injury	Death due to complications secondary to head injuries sustained from blunt force.	
13	Death	Ext.A3	Death after nine days
14	Medical bill	₹1,86,980	Ext.A5
15	Hospitalization	Nine days Ext.A4	27.05.2022 - 28.05.2022 28.05.2022 - 04.06.2022
16	Evidence	Ext.A1 to A7	No oral evidence
17	Compensation	₹5000000 - Claimed	**₹28,49,000 -** Allowed

1. This petition is filed under ***Section 166*** of the Motor Vehicles Act, 1988, to seek compensation for the death of Sajeesh, who died in an accident.

Case of the petitioners

2. The petitioners are the father, mother and wife of Sajeesh, who died in a motor vehicle accident. On 27.05.2022 at about 8.15 pm., the deceased was walking on the roadside at Pattuvam, a car bearing No. KL.59. G-3435, driven by the first respondent in a rash and negligent manner, hit the deceased, and he sustained grievous injuries. After the accident, the deceased was taken to Lourde Hospital, Taliparamba, and referred to Medical College Hospital, Kannur and KMC Hospital, Mangalore. He was treated there as an inpatient and succumbed to death after nine days, on 04.06.2022. The petitioners aver that the deceased was 35 a 35-year-old painter, earning an amount of ₹30,000 per month. The first respondent was the rider cum owner, and the second respondent was the insurer of the offending car. Therefore, both the respondents are jointly and severally liable to compensate the petitioners for the death. The petitioners have claimed an amount of ₹50,00,000 as compensation for the death.

3. The respondents appeared and filed their objections.

Case of the respondents

4. The respondents disputed the negligence, income, occupation, and vehicle's involvement in the accident, and the amount of compensation claimed in the petition under different heads is excessive and unreasonable. However, it is admitted that the car bearing No. KL.59. G-3435 was insured with the second

respondent.

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

Points for consideration

1. ***Did the accident occur due to the first respondent's rash or negligent driving of the car bearing No. KL.59. G-3435?***
2. ***Did the death of Sajeesh occur as a result of the injuries sustained in the motor vehicle accident involving the vehicle driven by the first respondent?***
3. ***Are the petitioners entitled to recover any amount as compensation? If so, what is the quantum?***
4. ***Who is liable to compensate the petitioners?***
5. ***Reliefs and costs?***

6. Neither side has adduced any oral evidence. Exts.A1 to A7 documents were marked on the petitioners' side, and no document was marked on the respondent's side.

Discussion on Point No.1

7. The petitioners rely on Ext.A1 FIR and Ext.A2 final report to prove the accident and negligence. These records show that the police had registered a case regarding the incident against the first respondent as Crime No. 661/2022, and after the investigation, filed the final report under ***Section 173 (2) of Cr.P.C***, inculpating the first respondent. As per the final report, the driver of the car has been charged under ***Sections 279 and 304 (A) of the IPC*** for his rash

and negligent riding, which caused this accident.

8. It has been held by the Hon'ble High Court of Kerala in ***New India Assurance Company V. Pazhaniammal, 2011 (3) KHC 595*** and ***Kolavan V. Salim, 2018 KHC 77,*** that the production of a police charge sheet, as a general rule, is sufficient evidence of negligence for a claim under ***Section 166*** of the Motor Vehicles Act unless the contrary is proved. Once the claimant produces the charge sheet, the burden of proof shifts to the party who does not accept the charge sheet to adduce contrary evidence. The respondents could not adduce rebuttal evidence to challenge the final report, so the petitioners' case concerning the cause of the accident, which appears believable and probable, must be accepted. Hence, in the light of Exts.A1 and A2 documents, I hold that the evidence adduced is sufficient to prove that the accident occurred due to the rash and negligent driving of the first respondent. Point No.1 is answered in favour of the petitioner accordingly.

Discussion on Point No.2

9. The case of the petitioners is that after the accident, the petitioner was treated at Government Medical College Hospital, Kannur, and referred to KMC Hospital, Mangalore, and he succumbed to death due to a head injury on 05.06.2022. To prove the injuries suffered by the deceased and the treatment details, the petitioners produced Ext.A4 discharge bills and Ext.A5 medical bills. Ext.A4 discharge summary shows that the petitioner was treated in

Government Medical College Hospital, Kannur, from 27.05.2022 till 28.05.2022 and again admitted in KMC Hospital, Mangalore, from 28.05.2022 till 04.06.2022, and expired on 04.06.2022.

10. The case of the petitioners that the deceased died as a result of the injuries sustained in the accident is substantiated with the FIR, postmortem certificate and the final report. The postmortem certificate reveals that the death was ***"Due to complications secondary to head injuries sustained secondary to blunt force impact".*** The same point was not disputed by the respondents. Hence, the petitioners succeeded in proving that the deceased died as a result of the injuries sustained in the motor vehicle accident. Point 2 is answered in favour of the petitioners accordingly.

Discussion on Point No.3

11. The compensation under different heads has to be fixed in light of ***Sarala Varma V. Delhi Transport Corporation, 2009 KHC 4634*** *and* ***National Insurance Co. V. Pranay Sethi, 2017 (5) KHC 350.*** The Hon'ble Supreme Court laid down the fundamental facts to be established by the claimants for assessing compensation in case of death. The said facts are ***(1) the Age of the deceased, (2) the Income of the deceased, and (3) the number of dependents***. According to the petitioners, the deceased was 35 years old at the time of the accident, and they produced the Ext.A7 Secondary school leaving certificate of the deceased to prove the age, and it is shown that the deceased's date of birth is

on 27.10.1986. Since the accident was on 27.05.2022, the deceased was 35 years old at the time of the accident, and the multiplier to be applicable is **'16'**, as per ***Sarala Varma's case (supra).***

12. The petitioners aver that the deceased was a painter earning a monthly income of ₹30,000. However, the petitioners have not adduced any evidence to prove the deceased's income. So, relying on the decision of the Hon'ble Apex Court in ***Ramachandrappa V. Manger Royal Sundaram Alliance Insurance Company Limited, 2011 (3) SCC 236,*** considering the year of the accident and the socio-economic conditions prevailing throughout the accident, the notional income of the deceased is fixed as **₹13,500**. Since the deceased was below 40, 40% of the monthly income will be added towards ***future prospects***, as per ***Pranay Sethi's (Supra)*** case. Therefore, the monthly income of the deceased for assessing compensation under the head of loss of dependency will be **₹18,900 (13,500+5,400).**

13. The next aspect to be considered is the deduction towards personal and living expenses of the deceased. According to the petitioners, the first petitioner is the father, the second petitioner is the mother, and the third petitioner is the wife of the deceased. The petitioners produced the family membership certificate issued by Village Officer Pattuvam to prove the same. The family membership certificate shows that the petitioners are the legal heirs of the deceased. All the petitioners contended that they depended upon the

deceased at his death. The respondents did not dispute the averment in the petition regarding the dependency claimed by the petitioners. So, it is found that the petitioners, three in number, are the dependents of the deceased at the time of his death. Therefore, following the decision in ***Sarala Varma's case (supra), 1/3*** portion of the deceased's income has to be deducted towards the personal and living expenses of the deceased. After the deduction, the amount is multiplied by 16, which will come to **₹24,19,200 (18,900x12x2/3x16)**. That is the compensation to the petitioners due to the loss of dependency.

14. Following the decision of the Hon'ble Supreme Court in ***Pranay Sethi (Supra)*** and ***Magna General Insurance Company Ltd. V. Nanu Ram, 2018 KHC 6697***, the dependents of the deceased are entitled to compensation of **₹18,150** under the head's funeral expenses and an amount of **₹18,150** towards the loss of estate. The first and second petitioners are entitled to ₹48,400 (48,400x2 = **96,800**) for the filial consortium, and the third petitioner is entitled to **₹48,400** for the spousal consortium.

15. The petitioners have produced undisputed Ext.A5 medical bills to the tune of ₹1,86,980. Considering the nature of the injury and the medical bills, I am inclined to award an amount of **₹1,86,980.** Considering the hospitalization of nine days, I am inclined to award an amount of **₹9,000 for nine days** @ **₹1,000** each for a day under the head of bystander expenses and an amount of **₹3,000** under the head of damage to clothing and articles. The

petitioners have produced Ext.A6 ambulance bills to the tune of ₹12,000. Considering the admission, discharge and reviews at Kannur and Mangalore, I am inclined to grant an amount of **₹25,000** under the head of transport to the hospital. Under the heading of extra nourishment, considering the hospitalization of nine days, I am inclined to grant an amount of **₹9,000.**

16. It is held in ***Bhagyalakshmi V. Shriram General Insurance Co. Ltd, 2020 KHC 5446*** and ***Mable V. Lenoy Sebastian, 2024 KHC Online 112*****,** that in the cases of instantaneous death also, pain and suffering will be invariably present and a conventional amount in the range of ₹5,000 - ₹15,000 is reasonable compensation towards pain and suffering in such cases. In this case, the deceased died seven days after the accident. Hence, I am inclined to award **₹15,000** towards compensation for pain and suffering. Point No.3 is answered accordingly.

17. Given the above inputs, the following amounts are awarded.

SUMMARY OF CLAIMS RAISED AND ALLOWED

No	Head of claim	Claimed ₹	Awarded ₹	Details in a nutshell
1	Loss of dependency	44,00,000	24,19,200	18,900x12x16x2/3
2	Damage to clothing	3,500	3,000	Reasonable estimate
3	Transport to hospital	20,000	25,000	Ext.A6
4	Extra nourishment	Nil	9,000	9 days hospitalization
5	Medical expenses	3,00,000	1,86,980	Ext.A5
6	Funeral expense		18,150	Praney Sethi Case
7	Loss of estate	16,500	18,150	Praney Sethi Case
8	Pain and suffering	1,00,000	15,000	Bhagya Lakshmi case
9	Bystander expense	10,000	9,000	1,000 x 9 days
10	Spousal consortium	1,50,000	48,400	Praney Sethi Case
11	Filial consortium		96,800	48,400x2
12	Love and affection		Nil	Praney Sethi Case
	Total	**₹50,00,000**	**₹28,48,680**	**Just Compensation**

Discussion on Point No.4

18. It has been found that Sajeesh died due to the injuries sustained in the accident, which occurred due to the rash and negligent riding of the first respondent, and being the owner, he is liable to compensate the petitioner. Admittedly, the said vehicle was insured with the second respondent and had a valid policy at the time of the accident, and no policy violation was proved in this case. So, the second respondent, the insurer, is liable to indemnify the first respondent and compensate the petitioner.

Discussion on Point No.5

19. Thus, the petitioners are entitled to a compensation of **₹28,48,680,** rounded to **₹28,49,000.** Regarding costs, no circumstance has been raised to depart from the usual rule that costs follow the event. Therefore, I hold that the petitioners are entitled to recover the proportional costs of the proceedings from the second respondent.

20. The amount is ordered to be apportioned among the petitioners as follows: -

1. The first and second petitioners (father and mother): 25% each

2. The third petitioner (wife): 50%

As a result, the petition is allowed as follows,

1. The petitioners are entitled to realize an amount**₹28,49,000 (Rupees Twenty-Eight Lakh Forty-Nine Thousand only)** as compensation from the second respondent with interest @ **8%** per annum from **25.10.2022**, which is the date of application until deposit/realization.
2. The second respondent/insurer is ordered to deposit a cheque for ₹49,369 (Rupees Forty-Nine Thousand Three Hundred and Sixty-Nine only), the balance court fee payable in the name of this Tribunal.
3. The second respondent/insurer shall also furnish another cheque for ₹50,000 (Rupees Fifty Thousand only), the additional court fee towards the legal benefit fund in favour of MACT, Taliparamba.
4. The second respondent/insurer is directed to deposit the entire balance amount due to the petitioner ***within a period of one month*** in the following bank account of MACT, maintained at the SBI, Taliparamba branch.

Name of Bank	State Bank of India, Taliparamba
Branch	Taliparamba
Account No.	42827267259 MACT, Taliparamba
IFSC No.	SBIN0001000

5. The second respondent/insurer shall instruct their bank to ensure the deposit of the amount by direct transfer to the account mentioned above of this Tribunal, containing the following information in the prescribed format in compliance with 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	
6	Bank Transaction Reference No/ Unique Transaction Reference (UTR) No.	

6. The second respondent/insurer shall submit a letter to this Tribunal enclosing a copy of the bank advice after depositing the compensation amount in the format prescribed in circular No.1/24 dated 06.03.2024 of the Hon'ble High Court of Kerala ***and also serve its copy to the petitioners' counsel forthwith.***
7. The second respondent/insurer shall send this Tribunal a copy of the payment advice referred to in clause (6) above and serve a copy on the claimant or his counsel.
8. The second respondent/insurer is directed to furnish the claimant with Form 16A of the Income Tax Act if tax is deducted at the source.
9. The second respondent/insurer is directed to file a statement before this Tribunal specifying transfer details.
10. After depositing the amount in the court's bank account, it shall be credited to the petitioner's bank account through NEFT, RTGS, or any other electronic mode.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me, and pronounced in open Court on 10th June, 2025).

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA

Petitioner's Exhibits:

A1	02-06-2022	FIR No.661/2022 Taliparamba Police Station
A2	02-06-2022	Final Report
A3	--	Certified copy of Postmortem Certificate
A4 series	--	Medical Bills
A5 series	--	Medical Bills
A6	--	School Certificate
A7	--	Ambulance Bill

Petitioner's Witness: Nil

Respondents Exhibits & Witness: Nil

Sd/
JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
TALIPARAMBA