



**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN**

**THURSDAY, THE 4<sup>TH</sup> DAY OF JUNE 2026 / 14TH JYAISHTA, 1948**

**MACA NO. 666 OF 2020**

**AGAINST THE AWARD DATED 13.11.2019 IN OP(MV) NO.1093 OF 2017  
OF ADDITIONAL ADDITIONAL MOTOR ACCIDENTS CLAIMS TRIBUNAL-  
III, PATHANAMTHITTA**

**APPELLANTS/PETITIONERS :-**

- 1 THOMAS POULOSE, AGED 62 YEARS  
S/O POULOSE, KIZHAKKEKARA HOUSE, KUTTAPUZHA  
P.O.THIRUVALLA, PATHANAMTHITTA DIST, PIN-689 103.**
- 2 ROBIN K. THOMAS, AGED 38 YEARS  
S/O THOMAS, , KIZHAKKEKARA HOUSE, KUTTAPUZHA  
P.O.THIRUVALLA, PATHANAMTHITTA DIST, PIN-689 103.**
- 3 ROSHINA K THOMAS, AGED 33 YEARS  
D/O THOMAS, , KIZHAKKEKARA HOUSE, KUTTAPUZHA  
P.O.THIRUVALLA, PATHANAMTHITTA DIST, PIN-689 103.**
- 4 RONY K THOMAS, AGED 30 YEARS  
S/O THOMAS, , KIZHAKKEKARA HOUSE, KUTTAPUZHA  
P.O.THIRUVALLA, PATHANAMTHITTA DIST, PIN-689 103.**

**BY ADVS.  
SHRI.SUSANTH SHAJI  
SRI.V.V.SHAJI  
SHRI.VARGHESE C.KURIAKOSE**

**RESPONDENTS/RESPONDENTS :-**

- 1 ALBIN MATHEW @ ANTO  
S/O M.N. MATHEW, ANICKIYIL,**



**PALAKKATTUMALA P.O.  
KOTTAYAM DIST, PIN-686 635.**

**2 THE NEW INDIA ASSURANCE COMPANY LTD,  
DIVISIONAL OFFICE, KHAISE BUILDINGS,  
OPP BENZIGER HOSPITAL, KOLLAM-691 001, REP BY TS  
DIVISIONAL MANAGER**

**BY ADVS.  
SHRI.LAL K.JOSEPH  
SHRI.SANJAY SELLEN  
SMT.SONIA SHIBU**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY  
HEARD ON 29.05.2026, THE COURT ON 04.06.2026 DELIVERED THE  
FOLLOWING:**



**“CR”**

**JUDGMENT**

This appeal is filed by the claimants in O.P.(MV) No.1093 of 2017 on the file of the Additional Motor Accidents Claims Tribunal-III, Pathanamthitta, claiming enhancement of compensation. The respondents herein were the respondents before the tribunal.

2. According to the claimant, on 18.07.2017 at about 07.45 am while the deceased was walking on the public road, a motorcycle bearing registration No.KL-67-A-4672 driven by the 1<sup>st</sup> respondent in a rash and negligent manner hit the deceased. As a result of the accident, she had sustained serious injuries and succumbed to the injuries on 20.07.2017. The claimants approached the tribunal claiming a total compensation of ₹25,00,000/-.

3. The 1<sup>st</sup> respondent/owner cum rider of the offending motorcycle remained ex parte before the tribunal. The 2<sup>nd</sup> respondent/insurer filed a written statement admitting the policy but disputing the quantum of compensation claimed. Before the



tribunal, Exts.A1 to A10 were marked. The tribunal, after analysing the pleadings and materials on record, awarded a sum of ₹13,49,757/- with interest @ 9% per annum as compensation under various heads against the 2<sup>nd</sup> respondent being the insurer. Dissatisfied with the quantum of compensation awarded by the tribunal, the claimant has come up in appeal.

4. Heard the learned counsel for the appellants/claimants and the learned standing counsel appearing for the respondent/insurer.

5. The learned counsel for the appellants claims enhancement mainly under the following heads:-

**Notional income/Loss of dependency :-** The learned counsel for the appellants submitted that the tribunal had taken into account only the salary of the deceased, which was ₹10,788/- per month and had discarded the claim for the income of ₹15,000/- per month as a homemaker. It is further argued that the deceased was aged 58 years and that her valuable contribution to the family as a homemaker ought to have been taken into consideration by the tribunal while assessing her income. It is contended that a sum of ₹15,000/- towards the



services rendered by her as a homemaker ought to have been added to the monthly salary income of ₹10,788/- proved through Ext.A8 salary certificate. The learned counsel also relied on the judgment of the Apex Court in ***Sunita v. Vinod Singh*** [2025 (2) KHC 635].

Per contra, the learned Standing Counsel appearing for the insurance company submitted that the tribunal had rightly fixed the income of the deceased on the basis of Ext.A8 salary certificate. It was contended that, since the deceased was a salaried employee working as a sweeper in Syrian Jacobite Public School, Thiruvalla, no separate amount could be added towards her contribution as a homemaker while assessing her income.

On a perusal of the award, it is seen that the tribunal fixed the monthly income of the deceased at ₹10,788/-, which was the salary drawn by her at the time of the accident, as reflected in Ext.A8 salary certificate. Admittedly, the deceased was working as a sweeper in a school and was earning a monthly salary of ₹10,788/- at the time of the accident. Hence, the judgment of the Apex Court in ***Sunita*** (supra) is not applicable in this case. In ***Sunita*** (supra), the deceased was a recipient of a family pension



and she was a homemaker. In such circumstances, it would be appropriate to take into account not only the family pension earned by the deceased but also her contribution to the family as a homemaker while determining her notional income. In the present case, the deceased was a salaried employee in a school. Though the appellants have claimed an additional sum of ₹15,000/- per month towards the services rendered by her as a homemaker, no oral evidence was adduced by them in support of the said claim. Though the appellants are four in number, none of them mounted the witness box to explain or substantiate the contribution made by the deceased to the family as a homemaker. The appellants do not have a case that the deceased was not continuing in service at the time of the accident. The Tribunal, while fixing her income, took ₹10,788/- per month, being the salary received by the deceased as reflected in Ext.A8 salary certificate. I do not find any error or illegality in the fixation of the income of the deceased by the tribunal and hence, I am not inclined to interfere with the same.

**Loss of consortium/loss of love and affection :-** The learned counsel for the appellants submitted that the Tribunal



awarded only ₹15,000/- towards loss of consortium and ₹60,000/- towards loss of love and affection, notwithstanding the fact that the appellants are four in number, comprising the husband and three children of the deceased.

Following the judgment in **National Insurance Co. Ltd. v. Pranay Sethi** [2017(4) KLT 662(SC)], the appellants are entitled for an amount of ₹40,000/- each and further enhancement of 10% in a span of three years, towards loss of consortium. Accordingly, the compensation payable under the head loss of consortium is ₹1,93,600/- (48,400x4). Therefore, the appellants are entitled to get an additional amount of **₹1,78,600/-**.

The learned standing counsel appearing for the insurance submitted that the tribunal has awarded an amount of ₹60,000/- towards loss of love and affection, which is against the principle laid down in the judgment in **New India Assurance Company v. Somwati and others** [2020 (5) KLT OnLine 1198 (SC)], wherein it has been held that once compensation is awarded under the head loss of consortium, no amount shall be awarded under the head loss of love and affection, as it would



amount to duplication of compensation. Hence I am inclined to **delete ₹60,000/-** awarded under the said head.

6. Though the appellants claimed enhancement of compensation under the other heads, on a perusal of the records available, I am not inclined to interfere with the compensation awarded by the tribunal under other heads since it appears to be just and reasonable. Since the appeal is of the year 2020, I find it appropriate to fix the interest @8% per annum on the enhanced amount.

7. Thus, the impugned award of the tribunal is modified as follows:-

<b>Sl. No</b>	<b>Head of Claim</b>	<b>Amount awarded by the tribunal</b>	<b>Modified in appeal</b>	<b>Total compensation</b>
1	Loss of dependency	9,61,227	-	9,61,227
2	Transport to hospital	5,000	-	5,000
3	Damage to clothing	2,000	-	2,000
4	Medical expenses	2,61,530	-	2,61,530
5	Funeral expenses	15,000	-	15,000
6	Pain and sufferings	15,000	-	15,000



7	Loss of consortium	15,000	<b>1,78,600</b>	<b>1,93,600</b>
8	Loss of love and affection	60,000	<b>60,000 (-)</b>	<b>deleted</b>
9	Loss of estate	15,000	-	15,000
	TOTAL	13,49,757	<b>1,18,600</b>	14,68,357

Accordingly, the appeal is allowed in part, and the appellants/claimants are awarded an additional amount of **₹1,18,600/-** (Rupees one lakh eighteen thousand six hundred only) over and above the amount awarded by the tribunal with interest @8% per annum from the date of petition till realization with proportionate cost from 2<sup>nd</sup> respondent/insurer. The 2<sup>nd</sup> respondent insurer shall deposit the said amount together with interest and costs within a period of two months from the date of receipt of a certified copy of this judgment. The claimants shall furnish copies of the PAN Card, AADHAAR Card and bank details before the respondent insurer within a period of one month so as to enable the insurance company to make the deposit as ordered above. In case of failure to furnish details as above, it shall be open for the insurance company to deposit the said amount



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before the tribunal. Upon such deposit being made, the entire amount shall be disbursed to the appellants/claimants at the earliest in accordance with law.

The ratio adopted by the tribunal shall also be applied to the enhanced compensation.

**Sd/-**

**SHOBA ANNAMMA EAPEN  
JUDGE**

SMA