2025:KER:26920

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 1898 OF 2021

AGAINST THE AWARD DATED 02.04.2019 IN OPMV NO.1117 OF 2013 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,ATTINGAL

APPELLANT/3RD RESPONDENT IN OP(MV)NO.1117/2013:

THE MANAGER
NATIONAL INSURANCE COMPANY LIMITED,DIVISIONAL OFFICE,ST.JOSEPH PRESS BUILDING, VAZHUTHACADU,THIRUVANANTHAPURAM,REPRESENTED BY ITS ASSISTANT MANAGER(LEGAL),REGIONAL OFFICE, OMANA TOWERS,M.G.ROAD, ERNAKULAM,COCHIN-682016.

BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)

RESPONDENT/PETITIONERS 1, 2 & 3 AND RESPONDENTS 1,2,4,5 & 6 IN OP(MV)NO.1117/2013:

1 **DEVAKI AMMA**
SHAJI BHAVAN,AMATHARA,MYLAMOODU.P.O, PANGODE,THIRUVANANTHAPURAM, PIN-695609.

2 **SUNDARAN PILLAI,**
AGED 67 YEARS
SHAJI BHAVAN,AMATHARA,MYLAMOODU.P.O, PANGODE,THIRUVANANTHAPURAM, PIN-695609.

3 **MONISHA,**
SHAJI BHAVAN,AMATHARA,MYLAMOODU.P.O, PANGODE,THIRUVANANTHAPURAM, PIN-695609.

4 DHANEESH,
S/O PUSHPAKUMARI,SHAJI BHAVAN,KOKKANIKKARA,
PANGODE,THIRUVANANTHAPURAM, PIN-695609.

5 M.G.GEORGE,
(AGE AND FATHER'S NAME NOT KNOWN TO THE APPELLANT)MARANGADKURUPANADAM,
MADAPPALLY,CHANGANACHERRY, KOTTAYAM,PIN-686101.

6 THE MANAGING DIRECTOR
KERALA STATE ROAD TRANSPORT
CORPORATION,THIRUVANANTHAPURAM, PIN-695035.

7 SUKUMARAN.C.T,
S/O.THIRUAN MYLAN,CHARUMMOOTTIL
VEEDU,KATCODE,THIRUVALLA, PIN-689101.

8 THE MANAGER
NEW INDIA ASSURANCE COMPANY LIMITED, BRANCH OFFICE,ATTINGAL,PIN-695101.

BY ADVS.
G.RADHAKRISHNAN
ALEX ANTONY SEBASTIAN P.A.
RAJAN P.KALIYATH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1803/2021, 1861/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 1803 OF 2021

AGAINST THE AWARD DATED 02.04..2019 IN OPMV NO.1115 OF 2013 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,ATTINGAL

APPELLANT/3RD RESPONDENT IN OP(MV)NO.1115/2013:

THE MANAGER
NATIONAL INSURANCE COMPANY LIMITED, DIVISIONAL OFFICE, ST. JOSEPH PRESS BUILDING, VAZHUTHACADU, THIRUVANANTHAPURAM, REPRESENTED BY ITS ASSISTANT MANAGER (LEGAL), REGIONAL OFFICE, OMANA TOWERS, M.G ROAD, ERNAKULAM, COCHIN 682 016

BY ADVS.
GEORGE A.CHERIAN
SOUMYA FRANCIS(K/000605/2020)
GEORGE CHERIAN (SR.)(G-81)

RESPONDENT/PETITIONERS 1 & 2 AND RESPONDENTS 1,2,4,5 & 6 IN OP(MV)NO.1115/2013:

1 SUNDARAN PILLAI
AGED 67 YEARS
SHAJI BHAVAN, AMATHARA, MYLAMOODU P.O, PANGODE, THIRUVANANTHAPURAM, PIN 695 609

2 MONISHA
AGED 33 YEARS
SHAJI BHAVAN, AMATHARA, MYLAMOODU P.O, PANGODE, THIRUVANANTHAPURAM, PIN 695 609

3 DHANEESH
S/O. PUSHPAKUMARI, SHAJI BHAVAN, KOKKANIKKARA,, PANGODE, THIRUVANANTHAPURAM, PIN 695 006

4 M.C GEORGE
MARANGADKURUPANDAM, MADAPPALLY, CHANGANACHERRY, KOTTAYAM, PIN 686 101

5 THE MANAGING DIRECTOR
KERALA STATE ROAD TRANSPORT CORPORATION, THIRUVANANTHAPURAM, PIN 695 035

6 SUKUMARAN C.T,
CHARUMMOOTTIL VEEDU, KATCODE, THIRUVALLA, PIN 689 101

7 THE MANAGER
NEW INDIA ASSURANCE COMPANY LIMITED, BRANCH OFFICE, ATTINGAL, PIN 695 101

BY ADVS.
G.RADHAKRISHNAN
R.ANILKUMAR
P.C.CHACKO(PARATHANAM)
RAJAN P.KALIYATH
ALEX ANTONY SEBASTIAN P.A.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 1861 OF 2021

AGAINST THE AWARD DATED 07.08.2020 IN OPMV NO.135 OF 2014 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,PUNALUR

APPELLANT/4TH RESPONDENT IN OP(MV)NO.135/2014:

**THE NATIONAL INSURANCE COMPANY LIMITED
PARAKADAVIL COMPLEX, PALACE ROAD, CHANGANASSERY,
KOTTAYAM DISTRICT, REPRESENTED BY ITS MANAGER,
NATIONAL INSURANCE COMPANY, REGIONAL OFFICE,
OMANA TOWERS, M.G. ROAD, ERNAKULAM,
COCHIN-682 016**

**BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)**

RESPONDENT/PETITIONER & RESPONDENTS 1, 2 AND 3 IN OP(MV)NO.135/2014:

**1 KOCHUNARAYANAN PILLAI
AGED 76 YEARS
S/O. KRISHNA PILLAI, SASI VILASAM, CHARIPARAMBU
P.O, ITTIVA VILLAGE, KOTTARAKKARA TALUK,
PIN-691 536**

**2 DANEESH,
S/O. PUSHPAKUMARI, AGE NOT KNOWN TO THE
APPELLANT, SHAJI BHAVAN, PANGODE P.O,
NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT,
PIN-695 006**

3 M.C. GEORGE,
AGE AND FATHER'S NAME NOT KNOWN TO THE APPELLANT,
MARANGAD KURUMPANADOM, MANDANAPPALLY P.O,
CHENGANASSERY, KOTTAYAM DISTRICT, PIN-686 546

4 MANEESH (DIED),
S/O. SASIDHARAN, SHAJI BHAVAN, AMATHARA,
MYLAMOODU P.O, NEDUMANGADU, THIRUVANANTHAPURAM
DISTRICT, LIJI, N D/O. MURALEEDHARAN, PANAVILA
PUTHEN VEEDU, ETTINKADAVU, KADAKKAL P.O, KADAKKAL
VILLAGE, KOTTARAKKARA TALUK, PIN-691 536

BY ADVS.
LIJU. M.P
R.ANILKUMAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 2565 OF 2021

AGAINST THE AWARD DATED 07.08.2020 IN OPMV NO.134 OF 2014 OF MOTOR ACCIDENT CLAIMS TRIBUNAL ,PUNALUR

APPELLANT/4TH RESPONDENT IN OP(MV)NO.134/2014:

**THE NATIONAL INSURANCE COMPANY LTD
PARAKADAVIL COMPLEX, PALACE ROAD, CHANGANASSERY,
KOTTAYAM DISTRICT,REPRESENTED BY ITS MANAGER
NATIONAL INSURANCE COMPANY, REGIONAL OFFICE,
OMANA TOWERS, M.G ROAD, ERNAKULAM, PIN-682 016**

**BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)**

RESPONDENT/PETITIONER & RESPONDENTS 1 TO 7 IN OP(MV)NO.134/2014:

**1 KOCHUNARAYANAN PILLAI
AGED 76 YEARS
S/O. KRISHAN PILLAI, SASI VILASAM, CHARIPARAMBU
P.O., ITTIVA VILLAGE, KOTTARAKKARA TALUK,
PIN-691 536**

**2 RAJENDRA PILLAI
AGED 53 YEARS
S/O. KOCHUNARAYAN PILLAI, NEETHU BHAVAN,
CHARIPARAMBU P.O., ITTIVA VILLAGE,
KOTTARAKKARA TALUK, PIN-691 536.**

3 SASI KUMAR
AGED 50 YEARS
S/O. KOCHUNARAYANAN PILLAI, SASI VILASAM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKKARA TALUK, PIN-691 536

4 ANIL KUMAR
AGED 48 YEARS
S/O. KOCHUNARAYANAN PILLAI, SASI VILASAM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKKARA TALUK, PIN-691 536

5 DANESH
S/O. PUSHPAKUMARI,SHAJI BHAVAN, PANGODE P.O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT,PIN-695 006

6 M.C GOERGE
MARANGAD KURUMPANADOM, MANDANAPPALLY P.O., CHENGANASSERY ,KOTTAYAM DISTRICT ,PIN-686 546

7 MANEESH (DIED),
S/O. SASIDHARAN, SHAJI BHAVAN, AMATHARA, MYLAMOODU P.O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT,LIJI,N D/O. MURALEEDHARRAN, PANAVILA PUTHEN VEEDU, ETTINKADAVU, KADAKKAL P.O., KADAKKAL VILLAGE, KOTTARAKARA TALUK, PIN-691 536

BY ADV LIJU. M.P

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 2598 OF 2021

AGAINST THE AWARD DATED 07.08.2020 IN OPMV NO.136 OF 2014 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,PUNALUR

APPELLANT/4TH RESPONDENT IN OP(MV)NO.136/2014:

**THE NATIONAL INSURANCE COMPANY LIMITED
PARAKADAVIL COMPLEX, PALACE ROAD, CHANGANASSERY,
KOTTAYAM DISTRICT, REPRESENTED BY ITS MANAGER,
NATIONAL INSURANCE COMPANY, REGIONAL OFFICE,
OMANA TOWER, M.G.ROAD, ERNAKULAM, COCHIN-682016.**

**BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)**

RESPONDENTS/PETITIONERS 1 TO 3 & RESPONDENTS 1 TO 3 IN OP(MV)NO.136/2014:

**1 RAJENDRAN PILLAI
AGED 53 YEARS
S/O.KOCHUNARAYANA PILLAI, NEETHU BHAVAN,
CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKKARA
TALUK, KOLLAM DISTRICT, PIN-691536, REPRESENTED
BY ANIL KUMAR, AGED 48 YEARS, S/O.KOCHUNARAYANA
PILLAI, SASI VILASOM, CHARIPARAMBU P.O., ITTIVA
VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT-
691536.**

2 NITHIN RAJ,
AGED 18 YEARS
S/O.DECEASED RUGMINIAMMA, NEETHU BHAVAN, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691536.

3 ANIL KUMAR,
AGED 48 YEARS
S/O.KOCHUNARAYANA PILLAI, SASI VILASOM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691536.

4 DANEESH,
S/O.PUSHPA KUMARI, AGE NOT KNOWN TO THE APPELLANT, SHAJI BHAVAN, PANGODE P.O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT, PIN-695006.

5 M.C.GEORGE,
AGE ANDFATHER'S NAME NOT KNOWN TO THE APPELLANT, MARANGAD KURUMPANADOM, MANDANAPPALLY P.O., CHENGANASSERY, KOTTAYAM DISTRICT, PIN-686546.

6 MANEESH (DIED),
S/O.SASIDHARAN, SHAJI BHAVAN, AMATHARA, MYLAMOODU P.O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT, LIJI.N, D/O.MURALEEDHARAN, PANAVILA PUTHEN VEEDU, ETTINKADAVU, KADAKKAI P.O., KADAKKAL VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691536.

BY ADV LIJU. M.P

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 2828 OF 2021

AGAINST THE AWARD DATED 07.08.2020 IN OPMV NO.133 OF 2014 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,PUNALUR

APPELLANT/4TH RESPONDENT IN OP(MV)NO.133/2014:

**THE NATIONAL INSURANCE CO.LTD
PARAKADAVIL COMPLEX, PALACE ROAD, CHANGANASSERY,
KOTTAYAM DISTRICT, REPRESENTED BY ITS MANAGER,
NATIONAL INSURANCE COMPANY, REGIONAL OFFICE,
OMANA TOWERS, M. G. ROAD, ERNAKULAM,
COCHIN - 682 016.**

**BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)**

RESPONDENT/PETITIONER & RESPONDENTS 1, 2 AND 3 IN OP(MV)NO.133/2014:

**1 KOCHUNARAYANAN PILLAI
AGED 76 YEARS
S/O. KRISHNA PILLAI, SASI VILASAM, CHARIPARAMBU
P. O., ITTIVA VILLAGE, KOTTARAKKARA TALUK,
PIN - 691536.**

**2 DANEESH
S/O. PUSHPA KUMARI, AGE NOT KNOWN TO THE
APPELLANT, SHAJI BHAVAN, PANGODE P. O.,
NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT,**

PIN- 695006.

3 M. C. GEORGE
AGE AND FATHER'S NAME NOT KNOWN TO THE APPELLANT, MARANGAD KURUMPANADOM, MANDANAPPALLY P. O., CHENGANASSERY, KOTTAYAM DISTRICT, PIN - 686 546.

4 MANEESH (DIED)
S/O. SASIDHARAN, SHAJI BHAVAN, AMATHARA, MYLAMOODU P. O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT., LIJI N., D/O. MURALEEDHARAN, PANAVILA PUTHEN VEEDU, ETTINKADAVU, KADAKKAL P. O., KADAKKAL VILLAGE, KOTTARAKKARA TALUK, PIN - 691 536., (RESPONDENT NO.3, DRIVER OF THE OFFENDING VEHICLE DIED IN THE ACCIDENT. DUE TO THAT THE LEGAL HEIR OF R3 HIS WIFE IMPLEADED).

BY ADV LIJU. M.P

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 2839 OF 2021

AGAINST THE ORDER/JUDGMENT DATED IN OPMV NO.137 OF 2014 OF MOTOR ACCIDENT CLAIMS TRIBUNAL ,PUNALUR

APPELLANT/4TH RESPONDENT IN OP(MV)NO.137/2014:

**THE NATIONAL INSURANCE CO.LTD
PARAKADAVIL COMPLEX, PALACE ROAD, CHANGANASSERY, KOTTAYAM DISTRICT, REPRESENTED BY ITS MANAGER, NATIONAL INSURANCE COMPANY, REGIONAL OFFICE, OMANA TOWERS, M.G ROAD, ERNAKULAM, COCHIN-682 016.**

**BY ADVS.
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)**

RESPONDENT/PETITIONER 1 TO 3 RESPONDENTS 1, 2, 3 IN OP(MV)NO.137/2014:

**1 RAJENDRAN PILLAI
AGED 53 YEARS
S/O KOCHUNARAYANA PILLAI, NEETHU BHAVAN, CHARIPARAMBU P.O, ITTIVA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691 536, REPRESENTED BY ANIL KUMAR, AGED 48 YEARS, S/O KOCHUNARAYANA PILLAI, SASI VILASOM, CHARIPARAMBU P.O.ITTIVA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT-691 536.**

2 NITHIN RAJ,
AGED 18 YEARS
S/O RAJENDRAN PILLAI, NEETHU BHAVAN, CHARIPARAMBU P.O, ITTIVA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691 536,

3 ANIL KUMAR,
AGED 48 YEARS
S/O KUCHUNARAYANA PILLAI, SASI VILASOM, CHARIPARAMBU P.O, ITTIVA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691 536,

4 DANEESH,
S/O PUSHPA KUMAR, AGE NOT KNOWN TO THE APPELLANT, SHAJI BHAVAN, PANGODE P.O.NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT, PIN-695 006.

5 M.C.GEORGE,
AGE AND FATHERS NAME NOT KNOWN TO THE APPELLANT, MARANGAD KURUMPANADOM, MANDANAPPALLY P.O.CHENGANASSERY, KOTTAYAM DISTRICT, PIN-686 546.

6 MANEESH (DIED),
S/O SASIDHARAN, SHAJI BHAVAN, AMATHARA, MYLAMOODU P.O.NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT,
LIJI N, D/O MURALEEDHARAN, PANAVILA PUTHEN VEEDU, ETTINKADAVU, KADAKKAR P.O.KADAKKAL VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN-691 536,
(RESPONDENT NO 3 DRIVER OF THE OFFENDING VEHICLE DIED IN THE ACCIDENT, DUE TO THAT THE LEGAL HEIR OF R3 HIS WIFE IMPLEADED)

BY ADV Liju MP

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 19TH DAY OF MARCH 2025 / 28TH PHALGUNA, 1946

MACA NO. 2855 OF 2021

AGAINST THE AWARD DATED 07.08.2020 IN OPMV NO.138 OF 2014 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,PUNALUR

APPELLANT/4TH RESPONDENT IN OP(MV)NO.138/2014:

**THE NATIONAL INSURANCE COMPANY LIMITED,
PARAKADAVIL COMPLEX, PALACE ROAD, CHANGANASSERY,
KOTTAYAM DISTRICT, REPRESENTED BY ITS MANAGER,
NATIONAL INSURANCE COMPANY, REGIONAL OFFICE,
OMANA TOWERS, M.G. ROAD, ERNAKULAM,
COCHIN-682 016.**

**BY ADVS.
SEBASTIAN VARGHESE(K/141/2000)
GEORGE A.CHERIAN
GEORGE CHERIAN (SR.)(G-81)
SOUMYA FRANCIS(K/000605/2020)**

RESPONDENT/PETITIONERS & RESPONDENTS 1 TO 3 IN OP(MV)NO.138/2014:

**1 KOCHUNARAYANA PILLAI,
AGED 75 YEARS
S/O.KRISHNA PILLAI, SASI VILASAM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKAKRA TALUK, KOLLAM DISTRICT, PIN-691 536.**

**2 RAJENDRAN PILLAI,
AGED 52 YEARS
S/O.KOCHUNARAYANA PILLAI, SASI VILASAM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKAKRA TALUK, KOLLAM DISTRICT, PIN-691 536.**

3 SASI KUMAR,
AGED 49 YEARS
S/O.KOCHUNARAYANA PILLAI, SASI VILASAM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKAKRA TALUK, KOLLAM DISTRICT, PIN-691 536.

4 ANIL KUMAR,
AGED 47 YEARS
S/O.KOCHUNARAYANA PILLAI, SASI VILASAM, CHARIPARAMBU P.O., ITTIVA VILLAGE, KOTTARAKAKRA TALUK, KOLLAM DISTRICT, PIN-691 536.

5 DANEESH,
S/O.PUSHPA KUMARI, SHAJI BHAVAN, PANGODE P.O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT, PIN-695 006.

6 M.C.GEORGE,
MARANGAD KURUMPANADOM, MANDANAPPALLY P.O., CHENGANASSERY, KOTTAYAM DISTRICT, PIN-686 546.

7 MANEESH(DIED),
S/O.SASIDHARAN, SHAJI BHAVAN, AMATHARA, MYLAMOODU P.O., NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT. LIJI, D/O.MURALEEDHARAN. PANAVILA PUTHEN VEEDU, ETTINKADAVU, KADAKKAL P.O., KADAKKAL VILLAGE, KOTTARAKKARA TALUK, PIN-691 536, (RESPONDENT NO.3 DRIVER OF THE OFFENDING VEHICLE DIED IN THE ACCIDENT. DUE TO THAT THE LEGAL HEIR OF R3 HIS WIFE IMPLEADED).

BY ADV LIJU. M.P

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19.03.2025, ALONG WITH MACA.1898/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

EASWARAN S., J.

MACA Nos.1898, 1803, 1861, 2565, 2598, 2828, 2839, and 2855 of 2021

Dated this the 19th day of March, 2025

JUDGMENT

These appeals raise a common question and hence being considered together by this common judgment. One accident lead to nine claim petitions being filed before two different Motor Accidents Claims Tribunal. OP(MV)Nos.133/2014 to 138/2014 was filed before the Motor Accidents Claims Tribunal, Punalur, whereas OP(MV)Nos.1115/2013, 1117/2013 and 1123/2013 were preferred before the Motor Accidents Claims Tribunal, Attingal.

2. The brief facts necessary for the disposal of these appeals are as follows:

On 28.12.2012 at about 6.35 AM, a Qualis car bearing Reg.No.KL-07AP/4365 was travelling from Thiruvananthapuram – Chariparambu through MC road from south to north direction and when it reached Nilamel Junction, in front of Sree Dharma Sastha Temple, it dashed against a KSRTC bus bearing Reg.No.KL-15/7951. Due to the impact, eight persons travelling in the Qualis car succumbed to the injury, whereas only one co-passenger

survived with severe injuries. OP(MV)Nos.133/2014 to 138/2014 were preferred before the Motor Accidents Claims Tribunal, Punalur. In the same set of accident, three other claim petitions were also lodged before the Motor Accidents Claims Tribunal, Attingal. In all the cases, the Insurance Company took a common defence that they are not liable to indemnify the owner in respect of claims arising out of the vehicle bearing Reg.No.KL-07AP/4365, for the reason that the vehicle was initially registered as a taxi vehicle and an insurance policy was issued, and later on 30.10.2012, the vehicle was converted into a private vehicle and the transfer, registration and conversion to the vehicle was not intimated to the insurer. Therefore no vehicle was converted to a private vehicle, the policy will not cover the passengers of the private vehicle, since they are considered to be gratuitous passengers. The Motor Accidents Claims Tribunal negated these contentions on the ground that there is a deemed transfer of the insurance policy and proceeded to consider the case on merits and allowed the claim petitions.

3. In one of the appeals, MACA No.1803/2021, the Insurance Company has questioned the award passed by the Motor Accidents Claims Tribunal, Attingal, on the ground that the claim on

account of the death of one late Sunisha was already pending before the Motor Accidents Claims Tribunal, Punalur, in OP(MV)No.135/2014 at the instance of Kochunarayana Pillai the father-in-law of the deceased victim sunisha and therefore the claim petition preferred by her father and sister namely, Sundaran Pillai and Monisha, is not maintainable. In support of the said contention, the Insurance Company also placed reliance on the settlement arrived between the parties before this Court in W.P(C)No.23737/2013, wherein Sundaran Pillai had relinquished his claim. However, despite this objection, the Tribunal had proceeded to consider the claims on merits and allowed the claim petitions and therefore, there is duplication. In all other appeals, a common ground is raised as stated above, stating that once the vehicle is converted to a private vehicle then the passengers inside the private vehicle are not covered, since they become gratuitous passengers.

4. Heard, Sri.George A.Cherian – learned Senior Counsel, assisted by Smt.Latha Susan Cherian appearing for the appellant; Sri.Rajan P.Kaliyath – learned counsel appearing for the respondent New India Assurance Company Ltd. in MACA Nos.1803/2021, and 1898/2021; Sri.Alex Antony Sebastian P.A. - learned counsel

appearing for the KSRTC in MACA Nos.1803/2021 and 1898/2021; Sri.R.Anilkumar – learned counsel appearing for the 3rd respondent in MACA Nos.1803/2021 and 2nd respondent in MACA Nos.1861/2021; and Sri.Liju M.P. - learned counsel appearing for respondents 1 to 4 in MACA Nos.2855/2021 and 2565/2021, respondents 1 to 3 in MACA Nos.2598/2021 and 2839/2021 and 1st respondent in MACA Nos.1861/2021 and 2828/2021.

5. On a consideration of the rival submissions raised across the Bar, it becomes imperative for this Court to hold that the contention raised on behalf of the Insurance Company has to fail for the reason that the original contract of insurance entered between the parties in respect of the vehicle covered the eight number of passengers. It is admitted that when the accident occurred, there were no excess passengers inside the vehicle. The question to be considered by this Court is as to whether, when the nature of the vehicle is changed from that of a taxi vehicle to that of a private vehicle, whether the contract of insurance would also automatically change. At the first blush, the argument raised on behalf of the Insurance Company may be appealing. However, on a close scrutiny it is not so. When the contract of insurance was initially entered into between the parties, the insurance company

consciously allowed the coverage of the vehicle along with eight passengers. It is true that on 30.10.2012, the nature of the vehicle was changed from a taxi to that of a private vehicle. Even if it is assumed that the nature of the vehicle has been changed, unless there is a corresponding change in the contract of insurance limiting the liability of the Insurance Company, it cannot escape the liability under the original contract of insurance. It is admitted that, when the accident took place there was a valid insurance policy covering the vehicle. If that be so, the contention of the Insurance Company becomes untenable and accordingly, the same is liable to be rejected.

6. However, having said so, insofar as MACA No.1803/2021 is concerned, the inescapable conclusion is that there is a duplication of claim on account of the death of late Sunisha. It is admitted that there was dispute among the legal heirs of deceased Sunisha as regards the entitlement to claim the compensation on account of her death. The claimant in OP(MV) No.1115/2013 filed W.P.(C)No.23737/2013 questioning the issuance of legal heirship certificate to father-in law of late Sunisha. When the writ petition was pending, the issues were settled among themselves in the mediation and settlement was recorded by this

Court and writ petition was disposed of in terms of the settlement, finding that Sundaram Pillai, the claimant in OP(MV)No.1115/2013 before the Motor Accidents Claims Tribunal, Attingal, has relinquished his claim. This settlement was recorded on 24.07. 2014. Thereafter, it was open for him to have the claim contested before the Tribunal on merits. It is pertinent to mention that Kochunarayana Pillai, the father-in-law of late Sunisha, had by that time preferred OP(MV)No.135/2013 before the Motor Accidents Claims Tribunal, Punalur and thus the father of late Sunisha could not have proceeded further before the Motor Accidents Claims Tribunal, Attingal. Hence, this court is of the view that MACA No.1803/2021 is liable to be allowed and the award passed in OP(MV)No.1115/2013 on the file of Motor Accidents Claims Tribunal, Attingal is liable to be dismissed.

7. Although this Court has rejected the contention raised on behalf of the Insurance Company that the liability under the contract of insurance cannot be mulcted on them because of the nature of the policy, this Court cannot but notice the fact that even while considering the claim on merits, the Tribunal has ignored the principles laid down by the Hon'ble Supreme Court in ***Ramachandrappa v. Manager, Royal Sundaram Alliance***

Insurance Company Ltd. [(2011) 13 SCC 236] and fixed the income much less than that of which ought to have been fixed by the Tribunal. Still further as regards the claim under OP(MV)No.135/2014, the Tribunal did not notice the fact that late Sunisha was survived by her husband and father-in-law and thus deducted one-half of the amount towards personal expenses which is impermissible going by the decision of the Hon'ble Supreme Court in ***Sarla Verma v. Delhi Transport Corporation*** [2010 (2) KLT 802 (SC)].

8. Therefore it becomes inevitable for this court to enhance the compensation. It is true that the claimants have not preferred any appeal against the award passed by the Tribunal, but that by itself will not deter this Court from invoking the powers under Order XLl Rule 33 of the Code of Civil Procedure, 1908, and increase the notional income fixed by the Tribunal and rework the quantum of compensation to which they are entitled to. This, according to this Court, is imperative in the nature of the pleadings before the Tribunal and also considering the findings rendered by the Tribunal in this regard. Once this Court has found that the fixation of the notional income is incorrect, and it requires revision, the same had to be done individually in each case. The option available before

this Court is to remand the matter back to the Tribunal for refixing the quantum of compensation in accordance with the principles laid down by the Hon'ble Supreme Court in ***Ramachandrappa*** (supra). However, considering the fact that the accident took place on 28.12.2012 and that nearly 12 years have been lapsed from the date of accident, this Court is not inclined to remand the matter back to the Tribunal and put the claimants to the ordeal of a retrial.

9. Accordingly, this Court is of the view that the reworking of the compensation is required to be done here itself and hence this Court proceeds to consider the reworking of the compensation as per the tables given below:

MACA No.2828/2021 (OP(MV)No.133/2014)

Heads	Amount awarded by the Tribunal	Total compensation awarded in appeal	Enhanced amount of compensation
Funeral expenses	15,000/-	18,000/-	3,000/- [18,000-15,000]
Compensation for Pain and suffering	10,000/-	15,000/-	5,000/- [15,000-10,000]
Loss of estate	Nil	18,000/-	18,000/-
Loss of dependency/compensation for the loss due to death	4,05,000/-	10,71,000/- [11,900x12x 15/2]	6,66,000/- [10,71,000-4,05,000]
Total			6,92,000/-

MACA No.2565/2021 (OP(MV)No.134/2014)

Heads	Amount awarded	Total compensation	Enhanced amount of

	by the Tribunal	awarded in appeal	compensation
Funeral expenses	15,000	18,000/-	3,000/- [18,000-15,000]
Compensation for Pain and suffering	10,000/-	15,000/-	5,000/- [15,000-10,000]
Compensation for loss of estate	15,000/-	18,000/-	3,000/- [18,000-,15,000]
Compensation for loss of consortium	1,60,000/-	192,000/-	32,000/- [1,92,000-1,60,000]
Compensation for loss of dependency	2,83,500/-	5,35,500/- [8500x12x7x3/4]	2,52,000/- [5,35,500-2,83,500]
Total			2,95,000/-

MACA No.1861/2021 [OP(MV)No.135/2014]

Heads	Amount awarded by the Tribunal	Total compensation awarded in appeal	Enhanced amount of compensation
Funeral expenses	15,000	18,000/-	3,000/- [18,000-15,000]
Compensation for pain and suffering	10,000/-	15,000/-	5,000/- [15,000-10,000]
Compensation for loss of estate	15,000/-	18,000/-	3,000/- [18,000-,15,000]
Loss of dependency	30,13,063/-	40,74,084/- [359478x17x2/3]	10,61,021/- [40,74,084-30,13,063]
Total			10,72,021/-

MACA No.2598/2021 [OP(MV)No.136/2014]

Heads	Amount awarded by the Tribunal	Total compensation awarded in appeal	Enhanced amount of compensation
Funeral expenses	15,000	18,000/-	3,000/- [18,000-15,000]
Compensation for pain and suffering	10,000/-	15,000/-	5,000/- [15,000-10,000]
Compensation for loss of estate	15,000/-	18,000/-	3,000/- [18,000-,15,000]
Loss of consortium	80,000/-	96,000/-	16,000/-

		[48,000X2]	[96,000-80,000]
Loss of dependency	10,50,000/-	11,90,000/- [10,625x12x14x2/3]	1,40,000/- [11,90,000-10,50,000]
Total			1,67,000/-

MACA No.2839/2021 [OP(MV)No.137/2014]

Heads	Amount awarded by the Tribunal	Total compensation awarded in appeal	Enhanced amount of compensation
Funeral expenses	15,000/-	18,000/-	3,000/- [18,000-15,000]
Compensation for pain and suffering	20,000/-	25,000/-	5,000/- [25,000-20,000]
Compensation for loss of estate	15,000/-	18,000/-	3,000/- [18,000-,15,000]
Loss of consortium	40,000	96,000/- [48000X2]	56,000/- [96,000-40,000]
Loss of dependency	6,80,400	12,85,200/- [11900x12x18X1/2]	6,04,800/- [12,85,200-6,80,400]
Total			6,71,800/-

MACA No.2855/2021 [OP(MV)No.138/2014]

Heads	Amount awarded by the Tribunal	Total compensation awarded in appeal	Enhanced amount of compensation
Funeral expenses	15,000/-	18,000/-	3,000/- [18,000-15,000]
Compensation for pain and suffering	10,000/-	15,000/-	5,000/- [15,000-10,000]
Compensation for loss of estate	15,000/-	18,000/-	3,000/- [18,000-,15,000]
Loss of consortium	40,000	48,000/-	8,000/- [48,000-40,000]
Loss of dependency	45,49,335	……..	
Total			19,000/-

In the result, MACA No.1803/2021 stands allowed and the

award passed by the Motor Accidents Claims Tribunal, Attingal, in OP(MV)No.1115/2013 is set aside. All other appeals, i.e. MACA Nos.1898, 1861, 2565, 2598, 2828, 2839, and 2855 of 2021 will accordingly stand dismissed, however the claimants in each case will be entitled to enhanced compensation as provided in the table above with proportionate cost and interest as granted by the Tribunal. The insurance company is directed to deposit the amount before the Tribunal within a period of two months from the date of receipt of a copy of this judgment. On deposit, the Tribunal shall issue notice to the claimants and release the amount in accordance with law.

Sd/-

EASWARAN S.
JUDGE

ACR