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2025:KER:87443

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

MONDAY, THE 17<sup>TH</sup> DAY OF NOVEMBER 2025 / 26TH KARTHIKA, 1947

MACA NO.1920 OF 2011

AGAINST THE AWARD DATED 19.03.2011 IN OPMV NO.699 OF 2004 OF  
MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY

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APPELLANT/3RD RESPONDENT:

THE ORIENTAL INSURANCE COMPANY LTD.,  
MANGALORE NOW REPRESENTED BY ITS ASSISTANT  
MANAGER, REGIONAL OFFICE, METRO PALACE,  
KOCHI - 18

BY ADVS.  
SRI.MATHEWS JACOB (SR.)  
SRI.P.JACOB MATHEW

RESPONDENTS/PETITIONERS 2 TO 5:

- 1 MINI DEVADAS, W/O LATE DEVADAS  
KANHIRANGAD, KUTTIYERI AMSOM,  
KANHIRANGAD P.O.
- 2 NANDAKISHORE, S/O.LATE DEVADAS (MINOR)  
KANHIRANGAD, KUTTIYERI AMSOM,  
KANHIRANGAD P.O.
- 3 YADUDEV, S/O. LATE DEVADAS (MINOR)  
KANHIRANGAD, KUTTIYERI AMSOM,  
KANHIRANGAD P.O.
- 4 KALLYANI, W/O. LATE NARAYANAN



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**MATTUMMEL HOUSE, NARIKODE EZHOME AMSOM,  
KOTTILA P.O.**

**(MINOR RESPONDENTS 2 AND 3 ARE REPRESENTED BY THEIR  
MOTHER 1ST RESPONDENT)**

**BY ADV SRI.P.NARAYANAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY  
HEARD ON 04.11.2025, ALONG WITH MACA.1056/2012 & 2345/2012,  
THE COURT ON 17.11.2025 DELIVERED THE FOLLOWING:**



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

MONDAY, THE 17<sup>TH</sup> DAY OF NOVEMBER 2025 / 26TH KARTHIKA, 1947

MACA NO.1056 OF 2012

AGAINST THE AWARD DATED 26.08.2011 IN OP(MV) NO.386 OF 2006 OF  
MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA

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APPELLANTS/APPLICANTS 2 TO 4:

- 1 SEETHA,  
W/O.DECEASED GENASAN, MANALIKKARA PUTHEN VEEDU,  
EZHAVODU, POTTAYIL DESOM, PERUKAVU,  
THIRUVANANTHAPURAM.
- 2 SARANYA (MINOR)  
AGED 17 YEARS  
MANALIKKARA PUTHEN VEEDU, EZHAVODU, POTTAYIL DESOM,  
PERUKAVU, THIRUVANANTHAPURAM, REPRESENTED BY HER  
MOTHER AND NATURAL GUARDIAN SEETHA.
- 3 SARIGA (MINOR)  
AGED 15 YEARS  
MANALIKKARA PUTHEN VEEDU, EZHAVODU, POTTAYIL DESOM,  
PERUKAVU, THIRUVANANTHAPURAM, REPRESENTED BY HER  
MOTHER AND NATURAL GUARDIAN SEETHA.

BY ADV SRI.D.KISHORE

RESPONDENTS/RESPONDENTS 1 & 2:

- 1 THE MANAGING DIRECTOR  
TAMIL NADU STATE ROAD TRANSPORT CORPORATION,  
DIVISIONAL OFFICE-II, MUDRAI P.O.,  
MADURAI - 600 008



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2        **SENTHIL KUMAR**  
         **S/O.GANESAN, PULLANIVILA VEEDU, NEAR B.ED COLLAGE,**  
         **ATTOOR P.O., KALKULAM TALUK, K.K.DISTRICT - 600 101**

**BY ADV SHRI.SUBHASH CYRIAC**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
HEARING ON 04.11.2025, ALONG WITH MACA.1920/2011 AND CONNECTED  
CASES, THE COURT ON 17.11.2025 DELIVERED THE FOLLOWING:**



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

MONDAY, THE 17<sup>TH</sup> DAY OF NOVEMBER 2025 / 26TH KARTHIKA, 1947

MACA NO.2345 OF 2012

AGAINST THE AWARD DATED 19/3/2011 IN OPMV NO.699 OF 2004 OF  
MOTOR ACCIDENT CLAIMS TRIBUNAL , THALASSERY

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APPELLANTS/PETITIONER:

- 1        MINI DEVADAS  
          AGED 33 YEARS  
          W/O DEVADAS, PULUKKOOL HOUSE,  
          KANHIRANGAD P.O., TALIPARAMBA TALUK,  
          KANNUR DT.
  
- 2        NANDAKISHORE  
          AGED 13 YEARS  
          S/O.DEVADAS, REP. BY MOTHER MINI DEVADAS,  
          PULUKKOOL HOUSE, KANHIRANGAD P.O.,  
          TALIPARAMBA TALUK, KANNUR DT.
  
- 3        YADUDEV  
          AGED 11 YEARS  
          S/O.DEVADAS, REP. BY MOTHER MINI DEVADAS,  
          PULUKKOOL HOUSE, KANHIRANGAD P.O.,  
          TALIPARAMBA TALUK,  
          KANNUR DT.
  
- 4        KALLYANI  
          W/O.MINI DEVADAS, PULUKKOOL HOUSE,  
          KANHIRANGAD P.O., TALIPARAMBA TALUK,  
          KANNUR DT.

BY ADV SRI.P.NARAYANAN



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RESPONDENT/RESPONDENT:

ORIENTAL INSURANCE CO LTD.  
DIVISIONAL OFFICE, BEAUTY PLAZA, BALMATTA ROAD,  
MANGALORE, KOZHLOORU, PIN 560 001.

BY ADVS.  
SHRI.P.JACOB MATHEW  
SRI.MATHEWS JACOB (SR.)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
ADMISSION ON 17.11.2025, ALONG WITH MACA.1920/2011 AND  
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



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CR

**SATHISH NINAN & P. KRISHNA KUMAR, JJ.**

=====  
**M.A.C.A.Nos.1920/2011, 1056/2012 &  
2345/2012**

=====  
Dated this the 17<sup>th</sup> day of November, 2025

**JUDGMENT**

**P.Krishna Kumar, J.**

The common question arising in these appeals concerns the proper multiplier to be applied for assessing disability compensation in the case of a claimant who sustained injuries in a motor accident and later died from causes unrelated to the accident and injury. To be more precise, the issue is, whether in such cases the multiplier prescribed in *Sarla Verma v. Delhi Transport Corporation* [2010 (2) KLT 802 (SC)] should be applied, or whether the multiplier should be limited to the actual number of years the person lived.

2. In *Cholamandalam General Insurance Company Ltd. v.*



**Shailaja** [2021 (3) KLT 371] this Court held that, though the Hon'ble Apex Court in *Sarla Verma*, prescribed a standard procedure with regard to the application of multiplier, the multiplier is not to be mechanically adopted when the injured person in a personal injury case dies pending the claim proceedings due to reasons unconnected with the accident.

3. When these matters came up for consideration before the learned Single Judge, entertaining a doubt as to the correctness of the decision in **Shailaja** (supra), made the reference.

4. In the reference order, the learned Single Judge disagreed with the reasoning in **Shailaja** (supra) observing that the right to compensation arises the moment the injury occurs, and that a subsequent unrelated death does not affect the substantive right. Hence, the compensation must be determined in accordance with the standardized multiplier method laid down in *Sarla Verma*, and is not to



be adjusted based on later events. While expressing this view, the learned Single Judge referred to paragraph 19 under the heading “Step 2” in *Sarla Verma’s case*. It reads as follows:

“Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. **This does not mean ascertaining the number of years he would have lived or worked but for the accident.** Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court.

(Emphasis added)

It was further observed in the reference order that the life expectancy of the victim alone was not the criterion, but that the multiplier method, in a standardized form, was introduced by taking into account several imponderables in life and economic factors relevant to the adjudication of compensation. When such a system is introduced, deviating from it on the basis of the actual period during which the original claimant lived would defeat the very purpose of the standardized multiplier



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method. The learned Judge further observed that there may be cases in which the litigation would extend for more than 18 years – which is the highest multiplier to be applied – but that the Courts are not expected, in any event, to apply a multiplier higher than that.

5. We have heard the learned Senior Counsel Sri.Mathews Jacob, Sri.P.Narayanan and Sri.D.Kishore, the learned counsel appearing for the appellants and Sri.Subhash Cyriac, appearing for the first respondent in M.A.C.A.No.1056/2012.

6. The multiplier method laid down in *Sarla Verma* and affirmed by the Constitution Bench in ***National Insurance Co. Ltd. v. Pranay Sethi*** [(2017) 16 SCC 680] is essentially intended for fatal accident cases. It did not, in fact, prescribe a method for determining the multiplier in personal injury cases. In ***Rajkumar v. Ajay Kumar*** [(2011) 1 SCC 343] and ***Rekha Jain v. National Insurance Co. Ltd.*** [(2013) 8 SCC 389], the Hon'ble Apex Court held



that compensation for permanent disability must be assessed by adopting the multiplier method for determining the future loss of income. However, a situation where the injured person later dies for reasons unconnected with the injuries did not arise therein.

7. The very purpose of prescribing a structured formula for assessing such loss was to ensure both uniformity of procedure and parity of treatment. In the usual course, once the percentage of loss of actual earning capacity is determined, the Court should translate it into monetary terms to compute the future loss of earnings applying the standard multiplier method as applied in assessing loss of dependency. Nevertheless, the question that arises is whether, when the factum of the injured person's death from causes other than the injuries in the accident is brought to the notice of the Court, it would still be appropriate and reasonable even thereafter, to resort to the standard multiplier method and straightaway award disability compensation. What underlies



the structured formula method is the assumption that the injured would have lived and earned for such a number of years. But, in hindsight, can that method still be applied?

8. This matter is no longer *res integra*, as the Hon'ble Apex Court in *Dhannalal alias Dhanraj (Dead) Through LRs. v. Nasir Khan and Others* [(2025) SCC OnLine SC 2083] has laid down the law on this point. In that case, taking note of the fact that the death had occurred within a short duration after the accident due to a cause unrelated to the accident, the Court reduced the multiplier to correspond with the actual lifespan of the victim. The Court held that:

“It is trite that what is awarded to an injured in a claim petition is just compensation and as held by this Court it cannot lead to a windfall for the injured claimant or his legal heirs. The Tribunal and the High Court had adopted the multiplier of 14 for the 45 year old claimant which is in accordance with the judgment of a Constitution Bench of this Court in *National Insurance Company Ltd. v. Pranay Sethi*. The fact remains that the injured lived only for 11 years. Probably; his life span having been reduced by the injuries which rendered him 100% disabled, ultimately resulting in his demise. The



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multiplier is applied on the assessment of the normal life span where an injured or deceased in a motor accident would have worked and earned to support himself and his family. When the consideration in the present appeal, is with respect to the loss occasioned to the estate of the injured; the injured having died, the multiplier adopted of 14 cannot be applied which will have to be reduced to 11, the actual life span. The victim not being engaged in a regular employment still is entitled to 25% for future prospects especially since his functional disability was 100%, totally disabled from carrying on any work or generate any income.”

9. Nevertheless, it was contended by the learned counsel for the appellants, the legal heirs of the claimant, that, if the above course is adopted, the Courts would have to forgo the multiplier method also in cases where the injured person is found to have outlived the number of years corresponding to the multiplier, and instead assess the disability compensation based on the actual period elapsed. In this context, it is relevant to note that the multiplier method was evolved by taking into account normal life expectancy and several variables in human life, especially the gradual reduction of earning capacity with advancing age. In such circumstances,



deviation from the multiplier method may not be warranted in situations such as the one indicated above; nevertheless, the Apex Court in *Meena (Dead) v. Prayagraj and Others* (Judgment dated 14.07.2025 in SLP (C) No. 12187 of 2019), awarded a higher amount towards pecuniary damages. Though the injured had survived for nearly 19 years, yet the Court fixed the compensation by applying the usual multiplier of 13. In view of the above legal position, we hold that the law laid down in *Cholamandalam General Insurance Company Ltd. v. Shailaja* [2021 (3) KLT 371] represents the correct view.

10. Coming to the facts of the cases, M.A.C.A. Nos. 1920 of 2011 and 2345 of 2012 are appeals preferred against the award passed by the Motor Accidents Claims Tribunal, Thalassery, in O.P. (MV) No. 699 of 2004. In the said case, one Devadasan sustained a Type II open fracture on the right femur and other related injuries as a result of a motor accident while driving an autorickshaw on 22.02.2004.



11. He died on 03.03.2006, i.e., after two years and one month of the accident. After the accident, he was admitted to City Hospital, Mangalore, for a period of 25 days from 17.02.2004 to 13.03.2004. Due to certain complications after discharge, he was again admitted in the same hospital and underwent treatment for 12 days, from 05.07.2004 to 16.07.2004. This is evident from Exts. A9 to A11 medical records. It is clear from Ext. A10 medical certificate that the fracture had united. Ext. A12 scan report dated 05.08.2005 indicates that the injured was suspected to be suffering from liver cirrhosis and certain other diseases. On the basis of the above materials, the Tribunal rightly found that the death of the injured was not a direct result of the injuries sustained in the accident. At the time of the accident, the injured was aged 36 years and was working as an autorickshaw driver. Accordingly, the Tribunal applied a multiplier of 16. Based on Ext. A16 disability certificate, the Tribunal awarded ₹57,600/- (3,000 × 12 ×



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16 × 15% -  $\frac{1}{3}$ ). His income was taken as ₹3,000 per month, and one-third was deducted towards personal expenses.

12. In view of our findings in the first part of this judgment, the multiplier ought not to have been taken as 16. However, we notice that the Tribunal fixed the monthly income of the injured at ₹3,000/-, which is inconsistent with the law laid down by the Apex Court in *Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd.* [(2011) 13 SCC 236]. In the said case, the Apex Court fixed the monthly income of a coolie worker at ₹4,500/- for the year 2004. In the present case, the injured was an autorickshaw driver, and the accident admittedly occurred while he was driving the autorickshaw. His driving licence was produced as Ext. A16, and he was only 36 years of age. In these circumstances, we are of the view that it would be just and reasonable to fix his monthly income above ₹5,000/-.

13. The injured died 25 months after the accident. He



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was admitted in the hospital on two occasions and continued treatment at least until 17.08.2005, as evidenced by Ext. A12 scan report dated 05.08.2005. The Tribunal rightly awarded loss of earnings for 18 months but calculated the income only at ₹3,000/- per month. Therefore, the appellants are entitled to ₹90,000/- (5,000 × 18) towards loss of earnings. Indeed, the disability compensation ought to have been calculated by applying a lesser multiplier, as we have held above. Even if so computed, there would be no substantial variation in the total compensation, owing to the difference in the income assessment. Thus, we find no reason to interfere with the award on that score. No arguments have been advanced by either side on other heads of claim. Hence, we uphold the impugned award, subject to the above observations on the question of law.

14. In M.A.C.A.No.1056/2012, the injured met with an accident on 1.1.2006 while he was travelling as a pillion rider. He suffered skull injuries. He died on 5.6.2010



i.e. after 4 ½ years. From the medical records, it was found that the cause of death was due to bronchitis, lung abscess and chest pain. After considering the medical records, the Tribunal noted the following injuries on the body of the victim:

Bilateral SAH with mid line shift to the right, bilateral frontal lobe contusion, bilateral temporal lobe contusion, multiple skull fractures involving the right frontal bone, right orbit, anterior wall of left and right orbits, right frontal bone, nasal septum, right temporal parietal bones.

15. On considering Ext.A6, copy of the wound certificate, Ext.A7 discharge card and Ext.A20 CT scan report, Exts.A10 to A15 and A17 O.P.tickets, the Tribunal found that he is entitled to get the following compensation:

Sl. No.	Amount claimed (in Rupees)	Amount awarded (in Rupees)	Basic vital details in a nut shell
1	Loss of earning	14000	3500x4 months
2	Transportation expenses	2000	
3	Extra nourishment	2000	
4	Damage to clothing	500	
5	Medical expenses	2000	
6	Bystander's expenses	2700	100x27 days IP



			treatment
7	Pain and suffering	20000	
8	Loss of amenities and enjoyment in life	20000	
9	Permanent disability	16800	3500x12x4x10/100
	Total	80000	

16. The Tribunal found that the death of the injured was not caused by the injuries sustained in the accident. We find no materials on record for interfering with the said finding. In the absence of clear evidence establishing a link between the injuries and the death, the death cannot be attributed to the accident for the purpose of awarding compensation.

17. The Tribunal awarded compensation for permanent disability by applying a multiplier of 4. Though the appellants contended that the actual multiplier, based on the age of the injured, ought to have been applied in view of the law laid down as above, we find no illegality in the award of permanent disability compensation by taking 4 as the multiplier. The Tribunal assessed the permanent disability at 10%. However, applying the law laid down in



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*Ramachandrappa's case* (supra), the monthly income stated in the petition (₹4,500/-) ought to have been taken. On that count, he is entitled to ₹21,600/- (4,500 × 12 × 4 × 10%).

18. The Tribunal awarded only ₹14,000/- towards loss of earnings for four months. We are of the view that the injured ought to have been granted at least ₹27,000/- towards actual loss of earnings for six months, taking into consideration the serious nature of the injuries sustained.

19. Similarly, towards pain and suffering and loss of amenities, we find it just and reasonable to grant an additional ₹5,000/- under each of the said heads. We find no reason to interfere with the award on any other counts.

20. In short, the appellants are entitled to get an additional amount of ₹27,800/- [(21,600-16,800)+(27,000 - 14,000) + 10,000].



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In the result, M.A.C.A.Nos.1920/2011 and 2345/2012 are disposed of, upholding the impugned award. M.A.C.A.No. 1056/2012 is partly allowed and the impugned award is modified by ordering an additional compensation of ₹27,800/- (Rupees Twenty Seven Thousand Eight Hundred only) with interest as awarded by the Tribunal to the appellants.

Sd/-

**SATHISH NINAN**

**JUDGE**

Sd/-

**P. KRISHNA KUMAR**

**JUDGE**

SV