IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 12TH DAY OF NOVEMBER 2025 / 21ST KARTHIKA, 1947

MACA NO.1787 OF 2021

AGAINST THE AWARD DATED 16.02.2021 IN O.P.(MV) NO.462 OF 2012 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA

APPELLANT/APPLICANTS 1 TO 4:

1 DEVAKI,
AGED 63 YEARS, WIFE OF LATE VALSALAM,
MV MANDIRAM, PAMBUKALA, KARUMKULAM,
POOVAR P.O., THIRUVANANTHAPURAM, PIN-695 525.

2 ANIL SALAM,
AGED 44 YEARS, SON OF LATE VALSALAM,
MV MANDIRAM, PAMBUKALA, KARUMKULAM,
POOVAR P.O., THIRUVANANTHAPURAM, PIN-695 525.

3 AJI V. SALAM,
AGED 42 YEARS, SON OF LATE VALSALAM,
MV MANDIRAM, PAMBUKALA, KARUMKULAM,
POOVAR P.O., THIRUVANANTHAPURAM, PIN-695 525.

4 AJITH V. SALAM,
AGED 38 YEARS, SON OF LATE VALSALAM,
MV MANDIRAM, PAMBUKALA, KARUMKULAM,
POOVAR P.O., THIRUVANANTHAPURAM, PIN-695 525.

BY ADVS.
SRI.V.SURESH
SRI.G.SUDHEER
SRI.R.HARIKRISHNAN (H-308)

RESPONDENTS/RESPONDENTS IN OP:

1 THE MANAGING DIRECTOR, KSRTC,
KSRTC, FORT P.O.,
THIRUVANANTHAPURAM, PIN-695 023.

2 JAYAPRAKASH,
SON OF PUZHPAKARAN, PANAVILA VEEDU,
PARASUVAIKKAL P.O., PARASSALA,
NEYYATTINKARA TALUK, PIN-695 508.

3 THE MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
NEAR KSRTC BUS STAND, NEYYATTINKARA P.O.,
PIN-695 121.

BY ADVS.
SRI.P.C.CHACKO(PARATHANAM)
SHRI.PMM.NAJEEB KHAN
SHRI.ALEX ANTONY SEBASTIAN P.A.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 12.11.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT** **"C.R."**

The claimants 1 to 4 before the Motor Accidents Claims Tribunal, Neyyattinkara (hereinafter referred to as 'the Tribunal) in O.P.(M.V) No.462 of 2012, are the appellants herein.

2. One Valsalam met with an accident on 16.01.2012, while he was riding a bike, when a KSRTC bus hit the bike. Valsalam was taken to the hospital and admitted in the ICU, and he later succumbed to the injuries. The deceased is stated to be 58 years of age and a businessman at the time of the accident. The claim petition was, therefore, instituted by the wife and three children of the deceased (claimants 1 to 4). Apart from the wife and children, one Muthunayakam and Chellamma – parents of the deceased – also joined the claim petition as claimants 5 and 6. The parents of the deceased, impleaded as above, died during the pendency of the claim petition before the Tribunal. The appellants herein

filed I.A. No.3522 of 2018 to record them as the legal representatives of claimants 5 and 6. By an order dated 05.10.2020, the Tribunal, taking note of the contention raised by the insurance company that claimants 5 and 6 were having nine children, including deceased Valsalam, and therefore, insofar as the other children, being the siblings of deceased Valsalam-were not impleaded in the I.A., the same is not maintainable, dismissed the application. The Tribunal further held that the applicants ought to have produced the legal heirship certificate as regards the legal representatives of the deceased parents of Valsalam to convince the Tribunal that they alone are the legal representatives. In the light of the dismissal of the I.A. as above, by the impugned award dated 16.02.2021, the Tribunal found that the claim petition is not maintainable and dismissed the same. The Tribunal also took note of the contention raised on behalf of the appellants herein with specific reference to the provisions of the Indian Succession Act, 1925, and even thereafter found that insofar

as the parents were impleaded originally, upon their death, their right would devolve on their children, and hence the legal representatives of the deceased parents are also to be impleaded. In other words, the Tribunal found that in the absence of the siblings of the deceased as the legal representative of the deceased parents in the party array, the claim petition was not maintainable, leading to its dismissal.

3. It is the afore findings in the impugned award which is the subject matter of challenge in this appeal.

4. On 26.09.2025, when this appeal was taken up for hearing, taking note of the contentions raised on behalf of the appellants with reference to the provisions of the Indian Succession Act, 1925, the learned counsel for the 3rd respondent Insurance Company sought for further time.

5. Heard Sri.Sudheer, learned counsel for the appellants, Sri.Alex Antony Sebastian, learned counsel for the 1st respondent, as well as Sri.Najeeb Khan, learned counsel for the 3rd respondent Insurance Company.

6. The short issue arising for consideration in this appeal is as regards the sustainability or otherwise of the conclusion arrived at by the Tribunal that the claim petition is not maintainable in the absence of the other children of the deceased parents of Valsalam in the party array.

7. It is with reference to the provisions of Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act'), that an application seeking compensation is being lodged. Clause (c) to Section 166(1) of the Act provides that – in the case of death resulting from the accident, the application can be lodged by all or any of the legal representatives of the deceased. The proviso thereto lays down that, in case some of the legal representatives are not joining the application for compensation, they have to be impleaded as respondents in the application. Therefore, an application under Section 166 of the Act is to be instituted by the "legal representatives of the deceased" when death has resulted from the accident. In this connection, a further

reference requires to be made to the definition of the term "legal representative" under Rule 2(k) of the Kerala Motor Vehicles Rules, 1989 (hereinafter referred to as 'Rules'), as under:

> "(k) "Legal representative" means a person who in law is entitled to inherit the estate of the deceased if he had left any estate at the time of his death and also includes any legal heir of the deceased and the executor or administrator of the estate of the deceased;"
>
> (underlining supplied)

Therefore, with reference to the provisions of the Motor Vehicles Act and Rules, the term "legal representative" refers to a person "who in law is entitled to inherit the estate of the deceased".

8. It is not in dispute that the deceased as well as the claimants before the Tribunal, were Christians. In such circumstances, it is the provisions of the Indian Succession Act, 1925, that would apply as regards the interpretation of the term "legal representative" under Rule 2(k) to the Rules. Part V of the Indian Succession Act 1925, provides for

intestate succession, and Section 33 thereto reads as under:

> "**33. Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred**-Where the intestate has left a widow-
>
> (a) if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules hereinafter contained;
>
> (b) save as provided by section 33-A, if he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are kindred to him, in the order and according to the rules hereinafter contained,
>
> (c) if he has left none who are of kindred to him, the whole of his property shall belong to his widow."

A reading of Section 33 referred to above would show that the succession as regards a Christian male is provided under Clauses (a), (b) and (c) thereunder, when the deceased has left a widow. Clause (a) deals with a situation where there are "lineal descendants" providing for the manner of the intestate succession as laid down thereunder. Clause (b) applies only in a situation where there are no lineal

descendants, on account of which "persons" who are of kindred to the deceased come into the picture. Clause (c) provides situations where there are no "kindred" to the deceased, providing that the whole of the property would belong to the widow. From the afore, it is crystal clear that the case of applicants 5 and 6 – parents of the deceased Valsalam – gets excluded under Section 33(b) of the Act, since it is only when there are no "lineal descendants", the question of the parents of the deceased also joining the claim petition arises.

9. In the case at hand, it is not in dispute that the deceased Valsalam had left behind the widow and his three children, and that being so, the intestate succession would be governed by the provisions of Section 33(a) alone. Therefore, there was no requirement for the parents of the deceased to join the claim petition with reference to the provisions of Section 166 (1)(c) of the Act read with Rule 2(k) of the Rules. Consequently, upon the death of claimants 5

and 6, there was no requirement for the surviving children of the parents of the deceased to be impleaded in the claim petition. The finding of the Tribunal, to the contrary, in my opinion, is against the statutory provisions.

10. The reference made by the Tribunal to the judgment of this Court in **Saraswathy Amma v. Ashok Kumar [2015 (2) KHC 699]** is not apposite, insofar as this Court was not considering a case where the deceased was a Christian, covered by the provisions of the Indian Succession Act, 1925. Same is the position as regards the reliance placed on the judgment of this Court in **Cheriyakutty Mammy v. Ummerkutty [1995 (2) KLT 555]**

11. On the whole, I am of the opinion that the captioned appeal requires to be allowed and remitted to the Tribunal for consideration on merits.

Resultantly, this appeal is allowed and the matter is remitted to the Motor Accidents Claims Tribunal, Neyyattinkara, for disposal on merits.

Taking note of the fact that the claim petition was instituted in the year 2012, the Tribunal to take earnest efforts for an early disposal of the claim petition. The parties to mark their appearance before the Tribunal on 04.12.2025.

**Sd/-**

**HARISANKAR V. MENON**

**JUDGE**

**Skk**