



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

TUESDAY, THE 3RD DAY OF MARCH 2026 / 12TH PHALGUNA, 1947

MACA NO. 495 OF 2016

**AGAINST THE AWARD DATED 31.01.2014 IN OP(MV) NO.852 OF 2011 OF
MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM**

APPELLANT/PETITIONER :-

**K.G.MANJUMOL, W/O. SANTHOSH,
THEKKEVILA MELATHIL VEEDU, KADACKODU,
KAREEPRA VILLAGE, KOTTARAKKARA TALUK,
KOLLAM DISTRICT NOW RESIDING AT KARAPLACKAL,
THULANADU, MEENACHIL, POONJAR.**

**BY ADVS.
SHRI.PRATHEESH.P
SMT.RENY ANTO**

RESPONDENT/3RD RESPONDENT :-

**NEW INDIA ASSURANCE CO.LTD.,
PATHANAMTHITTA BRANCH
CHANYAYIL BUILDING, COLLEGE ROAD,
PATHANAMTHITTA-689645.**

**BY ADVS.
SHRI.LAL K.JOSEPH
SHRI.LAL K.JOSEPH, SC, NEW INDIA ASSURANCE COMPANY**



2026:KER:18997

**LTD.
SHRI.SURESH SUKUMAR
SRI.ANZIL SALIM**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 03.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



“C.R”

JUDGMENT

‘Does a widow’s post death remarriage and employment status impact her entitlement to compensation for loss of dependency in a death claim?’

2. This appeal is filed by the claimant/widow of the deceased in O.P (MV) No.852 of 2011 on the file of the Motor Accidents Claims Tribunal, Kollam, claiming enhancement of compensation awarded by the tribunal. The respondent herein was the 3rd respondent before the tribunal.

3. According to the claimant, on 16.06.2009 at about 08.15 am, while the deceased was riding the motorcycle bearing reg. No. KL-02/Y 2881, a bus bearing registration No.KL-26-5310 driven by the 1st respondent in a rash and negligent manner, hit on the motorcycle. As a result of the accident, the deceased had sustained serious injuries and succumbed to the injuries. The claimant, being the widow of the deceased, approached the tribunal claiming a total compensation of ₹20,00,000/-.



4. The first and second respondent/driver and owner of the offending vehicle remained ex parte before the tribunal. The 3rd respondent/insurer filed a written statement admitting the validity of the policy, denying negligence and disputing the quantum of compensation claimed as well as the relationship of the claimant with the deceased. Before the tribunal, PW1 and RW1 were examined and Exts.A1 to A20 and Exts.X1 and X2 were marked. The tribunal, after analysing the pleadings and materials on record, awarded a sum of ₹4,60,800/- as compensation under different heads with interest @9% per annum from the date of petition till realization with proportionate costs against the 3rd respondent being the insurer of the offending vehicle. Dissatisfied with the quantum of compensation awarded by the tribunal, claimant, who is the legal heir of the deceased, has come up in appeal.

5. I have heard the learned counsel for the appellant/claimant and the learned standing counsel for the respondent/insurer.

6. As regards the compensation for loss of dependency, the learned counsel for the claimant submitted that the tribunal had taken ₹2,150/- as the income of the deceased, after deducting 1/4th



from his monthly salary of ₹8,599/-, and only awarded compensation under the head loss of estate. It was submitted that the Tribunal did not grant any compensation towards loss of dependency on the ground that the claim petitioner wife was working at the time of accident and a non-dependent spouse of the deceased who remarried a panchayat employee subsequently, is not entitled to compensation under the head loss of dependency, which is absolutely erroneous. The learned standing counsel appearing for the insurer on the other hand argued that the wife was having a job at the time of accident and hence she was not financially dependent on the husband. Further, since she remarried, during the pendency of the claim petition, the dependency shifted to her new husband and thus she was not entitled for any dependency compensation.

7. I have considered the rival contentions raised by both sides. Admittedly, the claimant was the wife of the deceased at the time of accident. Though the accident was in the year 2009, the claim petition was filed in the year 2011, while the petitioner was unmarried. Thereafter in 2013 during examination before the tribunal as PW1, she had deposed that she remarried a Panchayat



Employee. The tribunal has found that she, being employed and remarried, is not entitled for dependency compensation. That does not however exclude her from claiming compensation. The material date for deciding the compensation is the date of accident/death. Any subsequent act cannot deprive her from compensation. Though she had a job at the time of accident, that cannot be a reason to deprive her from dependency compensation because, the claim petitioner was also in her young age at the time of accident and death of the husband has resulted into loss of dependency. The appellant had to remarry due to the untimely death of her husband. If a view is taken by the court disentitling a woman on account of her remarriage, the court will be discouraging the widow from remarrying, after her husband's death. The death occurred in 2009. Though she was employed at the time of accident, being the wife of the deceased, having lost her husband at a very young age, the disallowance of dependency compensation by the tribunal is totally unjustifiable for the reasons stated above. This court in **Glanis and Others v. Lazar Manjila and Others** (2020 (4) KHC 37) has held that while computing compensation for dependency of a widow on



the death of her husband under S.166 of the Motor Vehicles Act, 1988, her remarriage shall not be a decisive factor. The Bombay High Court in **Bajaj Alliance General Insurance Company Ltd v. Pushpa Narayan Khurde and others** (2022 KHC Online 2012) has taken a similar view and awarded compensation to a widow who remarried. Thus, remarriage or employment of a widowed wife cannot be reasons for not allowing dependency compensation. I find that the appellant is entitled to compensation under the head loss of dependency. However, the compensation awarded by the tribunal under the head loss of estate has to be deducted from the compensation now being awarded by this court under the head loss of dependency.

8. On a perusal of the award, it is seen that an amount ₹8,599/- was fixed by the tribunal as the income of the deceased as per the salary certificate produced. I find it to be just and reasonable and do not find any reason to interfere with the same.

9. The age of the deceased was taken as 33 years, and by adding 40% future prospects towards the monthly salary of the deceased, the income would be ₹12,039/- (8,599+ 40% of 8,599) for



awarding compensation under the head, loss of dependency. Since the deceased was a married person, he would spend only less from his income and would not spend like a bachelor, hence the deduction to be made towards personal and living expenses would be 1/3. Accordingly, following **Sarla Verma v. Delhi Transport Corporation** [2010(2) KLT 802(SC)], and **National Insurance Company Ltd. v. Pranay Sethi** [2017 (4) KLT 662 (SC)], the total compensation payable under the head loss of dependency is recalculated thus: ₹15,40,992/- (12,039x12x16x2/3). The tribunal had granted an amount of ₹4,12,800/- under the head loss of estate. Thus, there will be an additional amount of **₹11,28,192/-** under the head loss of dependency.

Compensation for loss of estate :- Going by the judgment in **Pranay Sethi** (supra), the compensation under the conventional heads ought to have been fixed at ₹15,000/- each and further, 10% enhancement has to be given in a span of three years from 2017. Thus, following the judgment in **Pranay Sethi** (supra), I deem it appropriate to award to the appellant a total compensation of **₹18,150/-** towards loss of estate.



Compensation for funeral expenses :- The learned standing counsel appearing for the insurance company submitted that the tribunal has granted an amount of ₹25,000/- as compensation towards funeral expenses and going by the judgment in **Pranay Sethi** (supra), the compensation under the conventional heads ought to have been fixed at ₹15,000/- each. Thus, following the judgment in **Pranay Sethi** (supra), there will be a **deduction** of **₹10,000/-** towards funeral expenses.

Loss of consortium/loss of love and affection :- On a perusal of the award, it is seen that the tribunal has granted ₹10,000/- towards loss of consortium. Since there is only one legal heir, following the judgment in **Pranay Sethi** (supra), the claimant is entitled to get an amount of ₹40,000/- under the head loss of consortium. Also following the judgment in **Pranay Sethi** (supra), further 10% enhancement has to be given in a span of three years from 2017, totalling to ₹48,400/-. Therefore, there will be an additional amount of **₹38,400/-** under the head, loss of consortium.

The learned standing counsel appearing for the insurance company submitted that an amount of ₹10,000/- was awarded by



the tribunal under the head loss of love and affection which runs against the mandate in **Pranay Sethi** (supra). In **New India Assurance Company v. Somwati and others** [2020 (5) KLT OnLine 1198 (SC)], 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. Accordingly, I **delete ₹10,000/-** awarded by the tribunal under the head loss of love and affection.

10. On a perusal of the award and 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 2016, I find it appropriate to fix the interest @7.5% per annum on the enhanced amount.

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

Sl. No	Head of Claim	Amount claimed	Amount awarded by the tribunal	Modified in appeal	Total compensation
1	Transport to hospital	1,000	2,000	(not modified)	2,000



2	Damage to clothing	2,000	1,000	(not modified)	1,000
3	Funeral expenses	10,000	25,000	10,000 (-)	15,000
4	Loss of estate	1,00,000	4,12,800	18,150	18,150
5	Loss of dependency	18,00,000		11,28,192	15,40,992
6	Loss of love and affection	50,000	10,000	10,000 (-)	deleted
7	Loss of consortium	2,000	10,000	38,400	48,400
	TOTAL	20,00,000	4,60,800	11,64,742	16,25,542

Accordingly, the appeal is allowed in part and the appellant/claimant is awarded an additional amount of **₹11,64,742/-** (Rupees Eleven Lakhs Sixty Four thousand Seven Hundred and Forty Two only) over and above the amount awarded by the tribunal with interest @7.5% per annum from the date of petition till realization and proportionate costs. The 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 claimant shall furnish copies of



the PAN Card, ADHAAR 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 before the tribunal. Upon such deposit being made, the entire amount shall be disbursed to the appellant at the earliest in accordance with law. However, it is made clear that the enhanced compensation will not carry interest for the period of delay of 657 days in filing the appeal.

Sd/-

**SHOBA ANNAMMA EAPEN
JUDGE**

SMA