

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 2261 of 2008 ()

AGAINST THE AWARD IN OPMV 1085/2004 of M.A.C.T., KOTTAYAM DATED
28-01-2008

APPELLANT/3RD RESPONDENT IN THE OPMV: :

THE UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, KOTTAYAM REPRESENTED BY THE
MANAGER, UNITED INDIA INSURANCE CO. LTD., OFFICE OF THE
REGIONAL MANAGER, HOSPITAL ROAD, ERNAKULAM.

BY ADV. SRI.M.A.GEORGE

RESPONDENTS/PETITIONERS AND RESPONDENT 1 & 2 IN OPMV:

1. PHILOPOSE CHERIAN, PLACHERIL HOUSE,
MOOLAMATTOM KARA, NATTAKOM VILLAGE, KOTTAYAM DISTRICT.

2. ALEYAMMA PHILIP, W/O.PHILIPPOSE
CHERIAN OF -DO-.

3. JOMON PHILIP, S/O.PHILIPPOSE CHERIAN
OF -DO-.

4. JAEMON PHILIP, S/O.PHILIPPOSE CHERIAN
OF -DO-.

5. P.V.JOY, S/O.KUNJU VAREED, PYANADATH
HOUSE, KARUKUTTY, ERNAKULAM DISTRICT.

6. NELSON HORMESE, S/O.HORMESE,
AYROOKKARAN HOUSE, KARUKUTTY P.O., ANGAMALY
ERNAKULAM DISTRICT.

R1-R4 BY ADV. SRI.PREMCHAND R.NAIR

R1 -R 4 BY ADV. SRI.A.N.SANTHOSH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
P.V.ASHA, JJ.**

M.A.C.A.No.2261 OF 2008

Dated this the 23rd day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the Insurance Company.

2. We heard the learned counsel on both sides.

3. The claim petition was filed invoking Section 163A of the Motor Vehicles Act claiming a total compensation of ₹ 5 lakhs. The Tribunal awarded a sum of ₹4,36,500/- as compensation. The claimants are the parents and siblings of the deceased.

4. The learned counsel for the respondents submits that in the light of the judgment of the Division Bench of this Court in **Kadeeja v. Kerala State Road Transport Corporation (2013 (4) KLT 683)**, the contention taken by the appellant cannot survive. It was held that in a claim under Section 163A, dependency has no relevancy, and the Tribunal need not go into the question of selection of multiplier.

5. The learned counsel for the Insurance Company also

submitted that the appeal was filed in the light of the legal position available at that point of time. We are of the view that in the light of the judgment of the Apex Court in **Deepal Girishbhai Soni & Others v. United India Insurance Co. Ltd, Baroda** [(2004) 5 SCC 385], which is relied upon in **Kadeeja's** case (cited supra), nothing survives in the appeal. Accordingly, we dismiss the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.