



CIVIL

CONSTITUTIONAL LAW

MEDICO-LEGAL

# The Last Word Belongs to the Deceased: Kerala High Court on Body Donation Rights

05.06.2026 Introduction The law has long recognised an individual's autonomy over personal decisions during life, but increasingly courts are being called upon to determine whether such autonomy extends beyond death. Questions surrounding the treatment of a deceased person's body often place personal wishes in direct conflict with the sentiments, religious beliefs, and expectations of surviving [...]

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**PUBLISHED** 5 June 2026

## Introduction

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The law has long recognised an individual's autonomy over personal decisions during life, but increasingly courts are being called upon to determine whether such autonomy extends beyond death. Questions surrounding the treatment of a deceased person's body often place personal wishes in direct conflict with the sentiments, religious beliefs, and expectations of surviving family members. While funeral rites and burial customs hold deep emotional and cultural significance, the growing acceptance of organ and body donation has brought renewed focus to the legal status of a person's expressed wishes regarding the disposition of their remains.

In **Greeny Tomy & Ors. v. State of Kerala & Ors.**<sup>[1]</sup>, the Kerala High Court confronted this sensitive intersection of personal autonomy, family rights, and societal interest. The Court was tasked with deciding whether the children of a deceased woman could reclaim her body for burial despite her documented decision during her lifetime to donate it for medical education. In a significant ruling, the Court upheld the primacy of the deceased's expressed intention, affirming that a person's right to determine the fate of their body after death forms an integral aspect of dignity and bodily autonomy. The judgment offers an important exposition on the concept of posthumous bodily integrity and strengthens the legal framework supporting body donation for scientific and educational purposes.

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## Background of the Case

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The case arose from a dispute among the children of a deceased woman, Mary, regarding the disposition of her body after her death on 23 February 2026. The appellants, who were some of her children, alleged that certain family members, including the deceased's son-in-law and other siblings, had taken custody of her body immediately after her death and handed it over to the Government Medical College Hospital, Kalamassery, for anatomical and educational purposes without informing them or obtaining their consent. They contended that, as legal heirs, they were entitled to participate in decisions concerning the deceased's remains and sought the release of the body to perform the last rites and burial in accordance with their religious customs.

The respondents, however, asserted that the deceased had, during her lifetime, voluntarily executed a written consent under Section 4A of the Kerala Anatomy Act, 1957, expressing her unequivocal desire to donate her body for medical education after her death. According to them, the deceased had taken this decision consciously and the body was handed over to the medical college strictly in compliance with her wishes. They further contended that the appellants had been estranged from their parents and that the deceased had repeatedly expressed her intention to ensure that her body was utilised for the benefit of medical science.

When the matter came before the Single Judge of the Kerala High Court, the Court found that the consent executed by the deceased was genuine, clear, and unambiguous. Observing that the deceased's intention to donate her body had been unequivocally expressed during her lifetime and that the validity of the consent document was not seriously disputed, the Single Judge declined to direct the release of the body. Aggrieved by this decision, the appellants preferred a writ appeal before the Division Bench, raising the broader question of whether the wishes of legal heirs could override a deceased person's documented decision to donate her body for anatomical purposes.

## Legal Issue

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The principal issue before the Division Bench was whether family members could insist on conducting burial rites and reclaim the body of the deceased despite an undisputed written declaration made by the deceased during her lifetime donating her body for anatomical purposes under the Kerala Anatomy Act, 1957.

## Statutory Framework

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The case was governed by Section 4A of the Kerala Anatomy Act, 1957, which permits a person to voluntarily donate his or her body for anatomical and educational purposes after death through an unequivocal expression of consent made during their lifetime. The provision seeks to honour the wishes of the deceased while supporting medical education and scientific research.

The Court also noted that this principle finds recognition in other legislations, including the Transplantation of Human Organs and Tissues Act, 1994, reflecting the broader legal recognition of an individual's autonomy and dignity in determining the posthumous use of their body.

## The Court's Analysis

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The Division Bench approached the dispute as a conflict between two competing interests the family's desire to perform the deceased's last rites in accordance with religious customs and the deceased's own decision regarding the use of her body after death. The Court emphasised that while death ordinarily marks the end of legal personality, the law continues to recognise and protect certain interests of a person even after death, particularly in relation to their body, reputation, and estate.

Drawing upon the concept of posthumous bodily integrity, the Court held that a person's decision concerning the treatment of their body after death is an extension of their autonomy and dignity during life. The law, therefore, seeks to respect and give effect to such wishes, especially when they have been clearly and voluntarily expressed.

In the present case, the deceased had executed a written consent under Section 4A of the Kerala Anatomy Act, 1957, expressing her intention to donate her body for medical education. Since the appellants did not challenge the authenticity or validity of the consent letter, the Court found no legal basis to disregard the deceased's wishes. It observed that the desire of family members to conduct burial rites could not override the deceased's unequivocal decision to donate her body for the benefit of medical science.

The Court observed that while legal personality ordinarily ceases upon death, the law nevertheless recognises and protects certain interests of deceased individuals. Drawing from Salmond's Jurisprudence, "*Ordinarily speaking, the personality of a human being may be said to commence existence on birth and cease to exist at death, and in general the law takes the same view.... Yet although all a man's rights and interests perish with him, he does when alive concern himself much with that which shall become of him and his after he is dead. And the law, without conferring rights upon the dead, does in some degree recognise and take account after a man's death of his desires and interests when alive. There are three things, more especially, in respect of which the anxieties of living men extend beyond the period of their deaths, in such sort that the law will take notice of them. These are a man's body, his reputation, and his estate. By a natural illusion a living man deems himself interested in the treatment to be awarded to his own dead body.*" the Court noted that the law traditionally takes cognisance of a person's wishes concerning three matters that survive death his or her body, reputation, and estate.

Building upon this principle, the Court held that a living person's decision regarding the future treatment of their body forms an integral aspect of their autonomy and dignity. Such autonomy does not lose significance merely because the person has died.

## Individual Choice Versus Familial Preference

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The Court acknowledged that many individuals prefer a traditional burial or cremation. However, it emphasised that others may consciously choose to donate their bodies for medical education and scientific advancement as a contribution to society.

According to the Court, the law seeks to honour such choices. The protection afforded to wills, organ donation decisions, and body donation statutes reflects a broader legal commitment to respecting the wishes of the deceased. Consequently, familial preferences cannot automatically supersede a valid and clearly expressed decision made by the deceased during their lifetime.

## Validity of the Consent

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A pivotal consideration before the Court was the validity of the consent executed by the deceased under Section 4A of the Kerala Anatomy Act, 1957. The Court noted that the deceased had unequivocally expressed her intention during her lifetime to donate her body for medical education and anatomical purposes. Significantly, the appellants did not dispute the genuineness, authenticity, or voluntary nature of the consent document.

In the absence of any challenge to the validity of the consent, the Court held that the authorities of the Government Medical College were fully justified in accepting the body in accordance with the deceased's expressed wishes. The Court further observed that the actions of the family members who facilitated the donation were consistent with the statutory framework and were undertaken solely to honour the deceased's decision. Consequently, no illegality could be attributed either to the donation of the body or to its acceptance by the medical institution.

## Decision of the Court

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The Kerala High Court upheld the judgment of the Single Judge and dismissed the writ appeal. The Court held that the donation of the deceased's body was lawful and consistent with her expressed wishes. Since the consent executed under Section 4A of the Kerala Anatomy Act remained unchallenged, there was no basis to interfere with the body's retention and use by the medical college for educational purposes.

## Conclusion

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The decision of the Kerala High Court is significant for its nuanced recognition of posthumous bodily integrity as an extension of an individual's autonomy and dignity. While disputes concerning the custody and disposal of a deceased person's body often centre on the emotional and religious interests of surviving family members, the Court firmly held that such interests cannot override the clear and lawful wishes of the deceased. By upholding the validity of the consent executed under Section 4A of the Kerala Anatomy Act, 1957, the Court reaffirmed that an individual's decision regarding the posthumous use of their body deserves legal respect and protection.

The judgment also contributes meaningfully to the evolving discourse on personal autonomy in Indian constitutional and medical jurisprudence. In recognising that a person's wishes concerning their body may continue to command legal significance even after death, the Court aligned the law governing body donation with broader principles reflected in areas such as testamentary succession and organ donation. The ruling thus strengthens public confidence in body donation programmes by assuring prospective donors that their decisions will not be defeated by subsequent familial disagreements.

Beyond the immediate facts of the case, the judgment strikes an important balance between private sentiments and public interest. It acknowledges the emotional need of families to perform last rites and achieve closure while simultaneously recognising the immense societal value of body donation in advancing medical education and scientific research. By prioritising the deceased's informed and unequivocal choice, the Court has reinforced the principle that dignity, autonomy, and self-determination are values that the law continues to honour even beyond death. The ruling therefore stands as an important precedent affirming the primacy of individual choice in matters concerning the human body and furthering the legal and ethical foundations of voluntary body donation in India.

1. W.A.No.1090 of 2026 AGAINST THE JUDGMENT DATED 10.04.2026 IN WP(C) NO.12792 OF 2026 OF HIGH COURT OF KERALA (2026: KER:36320) ?

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