IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

MACA.No. 1309 of 2012 ()

AGAINST THE AWARD IN OPMV 2282/2005 of ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOTTAYAM DATED 11-10-2011

APPELLANT/2nd RESPONDENT IN THE OP(MV):

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

BY ADV. SRI.M.A.GEORGE

RESPONDENTS/PETITIONERS & RESPONDENTS 1 & 3 IN THE OP(MV):
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1. **ANNIAMMA MATHEW,**
   W/O K.C. MATHEW, KUZHIVAYALIL HOUSE, THOTTAKKADU P.O,
   KOTTAYAM 686 003.

2. **BIJU JAMES,**
   S/O K.C. MATHEW, KUZHIVAYALIL HOUSE, THOTTAKKADU P.O
   KOTTAYAM 686 003.

3. **BABY MERIN MATHEW, (MINOR)**
   D/O K.C. MATHEW, REPRESENTED BY NATURAL GURADIAN AND
   NEXT FRIEND ANIAMMA MATHEW, KUZHIVAYALIL HOUSE ,
   THOTTAKKADU P.O, KOTTAYAM 686 003.

4. **MR. GANAVAL,**
   S/O CHUNLI 611, PANAVALLIL HOUSE, RAJAKUMARI
   IDUKKI DISTRICT 685 603.

5. **JAYAKURAMR B,**
   S/O BANGARU SWAMI, DOOR NO 135/22, INDIA COLONY
   MELECHOKKANANANPURAM P.O, BODY TALUK
   THENI DISTRICT 625 531.

R1 TO R3 BY ADVS. SRI.JAWAHAR JOSE
SMT.CISSY MATHEWS

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

vpv

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.
=-=
M.A.C.A.No.1309 of 2012
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Dated this the 10th day of June, 2015

JUDGMENT

P.N.Ravindran, J.

The appellant is the second respondent in O.P.(M.V.)No.2282 of 2005 on the file of the Motor Accidents Claims Tribunal, Kottayam. Respondents 1 to 3 are the claimants therein. By award passed on 11.10.2011, the Motor Accidents Claims Tribunal awarded the sum of Rs.10,66,512/- as compensation to the respondents/claimants under various heads and directed the appellant/insurer to deposit the said amount together with interest and costs. The appellant has aggrieved thereby filed this appeal.

2. The principal contention raised in the instant appeal is that the deceased was travelling in a private jeep as a gratuitous passenger and therefore, the appellant is not liable to indemnify the insured against claims by and on behalf of such a passenger. A copy of the policy was not however produced before the Tribunal. This appeal was admitted and notice ordered to the respondents on 16.7.2012. On application filed by the appellant as I.A.No.1600 of 2012, an interim

order staying the execution of the award was also passed. The said order is even today in force. The respondents have now filed a counter statement in that application and produced along with it as Annexure-A, a copy of the policy issued in respect of the motor vehicle involved in the accident, valid during the period from 10.8.2004 to 9.8.2005. In that counter statement, it is contended that the said policy discloses that the insurer had also undertaken liability to passengers and collected premium for five passengers and therefore, the contention that the deceased was travelling as a gratuitous passenger in a private vehicle cannot be sustained.

3. When the appeal came up for hearing today, Sri.M.A.George, learned counsel appearing for the appellant submitted on instructions that in the light of the copy of the policy now produced, which discloses that the vehicle involved in the accident was not a private vehicle but a vehicle which was permitted to carry passengers for hire or reward and such passengers were covered under the policy, the appellant is not desirous of prosecuting the appeal any further.

In the light of the aforesaid submission, the appeal is dismissed as not pressed. Consequently, there will be an order directing the appellant to deposit the amount covered by the impugned award if it

has not so far been deposited, expeditiously and in any event within one month from today. Upon such deposit being made, the amount deposited shall be released to the claimants in equal proportion.

Sd/-

P.N.RAVINDRAN
JUDGE

Sd/-
ANU SIVARAMAN
JUDGE

/true copy/

P.A. To Judge

vpv