IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

MACA.No. 526 of 2008 ( )

OPMV 760/2003 of MACT, IRINJALAKUDA

APPELLANT/PETITIONER IN OP(MV)

KOCHAPPAN @ AUGUSTHY, S/O.ANTHONY,
NALUKANTAN-CHANKAN HOUSE, CHAMPALOOR DESOM
KALLUR-VADAKKUMMURI VILLAGE, PALAYAMPARAMBU P.O.
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS/RESPONDENTS 1 TO 3 IN OP(MV) :

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1. SIJI THOMAS , W/O.THOMAS,
   MATTATHY HOUSE, ANNALLUR P.O.

2. SHIJU,S/O.XAVIER
   CHENGINIYADAN HOUSE, PAZHOOKKARA P.O.

3. ORIENTAL INSURANCE CO.LTD
   ANGAMALY.

R3 BY ADV. SRI.A.R.GEORGE
R2 BY ADV. SRI.SHEEJO CHACKO
R2 BY ADV. SRI.SANGEETH C. SUBRAMANIAN
R2 BY ADV. SRI.P.JINISH PAUL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.526 of 2008

Dated 6th July, 2015

J U D G M E N T

The claimant in a proceedings before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal in exonerating the insurer of the vehicle from the liability to compensate him.

2. The appellant filed the claim petition alleging that he sustained injuries in the accident took place on 14.2.2003, involving a goods vehicle owned by the first respondent and driven by the second respondent. The third respondent was the insurer of the vehicle. The third respondent contested the claim petition, contending that the appellant was a gratuitous passenger in the goods vehicle involved in the accident and the risk of the appellant was not covered by the policy of insurance issued by them. The Tribunal accepted the contention of the third respondent and exonerated them from

the liability to compensate the appellant. The appellant is aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellant.

4. Ext.B1 is the policy of insurance issued by the third respondent. Ext.B1 does not indicate that the said policy covers the risk of the appellant who was a passenger of the vehicle. The case of the appellant is that he was accompanying the goods carried in the vehicle as the authorised representative of the owner of the goods. There is no dispute that if the case set up by the appellant is true, he is statutorily covered by the policy issued by the insurer. The only issue that arises for consideration therefore, is whether the appellant was accompanying the goods carried in the vehicle as the authorised representative of the owner of the goods. There is nothing on record to indicate that the vehicle was carrying any goods at the time of accident. In the absence of any evidence to show that the vehicle involved in the accident was carrying goods at the time of accident, the insurer cannot be fastened with the liability to pay compensation to the appellant. There is

therefore, no illegality in the decision of the Tribunal. The appeal is, accordingly, dismissed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs

(true copy)