IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

MACA.No. 2224 of 2010 ( )

(AGAINST THE AWARD IN OP(MV).NO. 1217/2005 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPPALAM)

APPELLANT(S)/RESPONDENTS 1 & 2/PETITIONERS:
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1. **GANGADHARAN, S/O.KUNJU,**
   CHAVITTALAKULANGARA HOUSE, MANNUR WEST,
   PATHIRPALA, PALAKKAD DIST.

2. **K.A.ARUMUGHAN, S/O.K.P.APPU,**
   5/137, KUNIYAMPADAM, MANKARA,
   PALAKKAD.

   BY ADVS.SMT.T.D.RAJALAKSHMI
   SRI.R.SREEHARI

RESPONDENT(S)/PETITIONER & SUPPL 3RD RESPONDENT/RESPONDENTS :
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1. **K.M.MANI, S/O.KAMBI,**
   KALLAMBARAMBIL HOUSE, MANNUR,
   PATHIRIPALA AND NOW RESIDING AT `VYSHAK',
   S R K NAGAR, OTTAPALAM-679 101.

2. **THE UNITED INDIA INSURANCE COMPANY LTD.,**
   BRANCH OFFICE, G B ROAD,
   PALAKKAD-678 001.

   R1 BY ADV. SRI.K.RAJESH SUKUMARAN
   R2 BY ADV. SRI.P.JAYASANKAR

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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P.B.SURESH KUMAR, J.

M.A.C.A.No.2224 of 2010

Dated this the 15th day of July, 2015

JUDGMENT

The driver and owner of a vehicle involved in an accident which was the subject matter of a claim petition before the Motor Accidents Claims Tribunal have come up in this appeal challenging the decision of the Tribunal.

2. The first respondent filed the claim petition, alleging that he was riding on the pillion of the motor cycle involved in the accident. The first appellant was the rider of the motor cycle and the second appellant was its owner. The second respondent, the insurer of the vehicle contested the claim petition on the ground that the policy of insurance issued by them to the second appellant does not cover the risk of the pillion rider. The said contention was accepted by the Tribunal and the second respondent was absolved from

the liability to compensate the claimant. The appellants are aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellants as also the learned counsel for the second respondent.

4. The contention of the learned counsel for the appellants is that the policy issued by the second respondent to the second appellant in relation to the vehicle involved in the accident was a package policy and the said policy covers the risk of the pillion rider as well. The said fact is not disputed by the second respondent. If the vehicle is covered by a package policy, it is now settled by the decision of this Court in **New India Assurance Co. Ltd.** v. **Hydrose** [2008 (3) KLT 778] that the same covers the risk of the pillion rider also. The impugned judgment, in the said circumstances, is liable to be interfered with.

5. In the result, the appeal is allowed and the direction in the impugned award directing the appellants to pay

compensation to the claimant is vacated. The second respondent is directed to pay compensation to the first respondent. The amount deposited by the appellants before the Tribunal as provided for under Section 173(2) of the Motor Vehicles Act shall be released to them.

P.B.SURESH KUMAR, JUDGE.

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