IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 4291 of 2005 (J)

PETITIONER:

SARAMMA MATHAI W/O LATE MATHAI
VEEPANATH HOUSE, ADDORKARA, AMBALAMEDU P.O.
PIN-682 302, ERNAKULAM DIST.

BY ADVS.SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SRI.RAFFEEKH.K
SRI.BENNY VARGHESE

RESPONDENTS:
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1. THE BRANCH MANAGER,
THE UNITED INDIA INSURANCE COMPANY LTD.
BRANCH OFFICE, TRIPUNITHURA-682 301.

2. THE UNITED INDIA INSURANCE COMPANY LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR
REGD. & HEAD OFFICE, 24, WHITES ROAD MADRAS
CHENNAI-600 014.

R,R1 & R2 BY ADV. SRI.M.S.PATTALI
R,R1 & R2 BY ADV. SRI.K.J.KURIACHAN
RR-R1 & 2 BY ADV. SRI.P.K.MANOJKUMAR
R BY GOVERNMENT PLEADER SRI MANOJ P KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 4291 of 2005 (J)

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: PHOTO COPY OF THE INSURANCE POLICY CERTIFICATE NO. 180595 WHICH IS VALID FOR A PERIOD OF THREE YEARS FROM 18.03.2002 TO17.03.2005.

EXT.P2: PHOTOCOPY OF THE POST MORTEM CERTIFICATE DT 18.06.2002 ISSUED BY THE DISTRICT POLICE SURGEON GENERAL HOSPITAL ERNAKULAM

EXT.P3: PHOTOCOPY OF THE ACCIDENT REGISTER CUM WOUND CERTIFICATE ISSUED FROM THE GENERAL HOSPITAL ERNAKULAM DT 14.6.2002

EXT.P4: PHOTO COPY OF THE WOUND CERTIFICATE CUM DISCHARGE CERTIFICATE DT 18.6.2002 ISSUED FROM THE MEDICAL TRUST HOSPITAL ERNAKULAM

EXT.P5: PHOTOCOPY OF THE TREATMENT CERTIFICATE DT 20.06.2002 ISSUED FROM THE MEDICAL TRUST HOSPITAL ERNAKULAM

EXT.P6: PHOTOCOPY OF THE LETTER ISSUED FROM THE GRIEVANCE CELL OF THE UNITED INDIA INSURANCE COMPANY LTD DT 12.6.2003

EXT.P7: PHOTOCOPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE OMBUDSMAN DT 5.7.2003

EXT.P8: PHOTOCOPY OF THE AWARD PASSED BY THE INSURANCE OMBUDSMAN DT 5.8.2004

EXT.P9: COPY OF THE FIR IN CRIME NO. 421/03 OF THE CENTRAL POLICE STATION ERNAKULAM

EXT.P10 COPY OF THE FINAL REPORT IN CRIM NO. 421/2003 OF THE CENTRAL POLICE STATION

RESPONDENTS EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

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K. VINOD CHANDRAN, J

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W.P(C) No. 4291 of 2005

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Dated this the 02nd day of June, 2015

J U D G M E N T

The petitioner on the death of her husband is concerned with the denial of the claim made as per Ext.P1. Ext.P1 is an Insurance policy, admittedly taken by the petitioner's husband for insuring cattle owned by the petitioner's husband. The petitioner's husband however, died on 18.06.2002 when the policy was in operation and according to the petitioner it was an accident which entitled the petitioner to Rs.1,00,000/- as has been covered under the policy at Ext.P1, under Section II.

2. The petitioner was earlier before the Ombudsman, who rejected the claim by Ext.P8. The learned counsel for the petitioner placed reliance on Ext. P2 Postmortem Certificate and Ext.P10 final report,

both of which indicated that the petitioner's husband suffered an accidental death. However, the learned counsel appearing for the Insurance Company would contend that a reading of the entire certificates would indicate that the petitioner died out of cerebral hemorrhage and not due to any accident.

3. The Postmortem Certificate at Ext.P2 indicates that the death was due to a head injury. However, in the postmortem certificate no external injury is seen noticed. The accident register/wound certificate produced at Ext.P3 also specifically notices, under 'investigation results' in Column 14 that, no external injury was found. The wound certificate/discharge certificate produced at Ext.P4 also indicates that the petitioner was diagnosed to have “intra cerebellar hematoma with obstructive hydrocephalus”. It is also indicated that a surgical

procedure was done which is referred to as craniectomy for evacuation of the hematoma. The report of the CT scan of the brain shows that the person suffered "haemorrhage involving cerebellar vermis and (L) cerebellar hemisphere with intra ventricular extension and obstructive hydrocephalus". The opinion as to injury is as follows:

> "Intra Cerbral haemorrhage of unknown cause. No history of trauma obtained till the death"

4. On a reading of the above certificates, the Ombudsman found that it cannot be inferred that the petitioner's husband had suffered an accidental death. The policy is not one covering the life of the insurer and is one with an auxiliary condition indemnifying the eventuality of an accident by which death is caused, to the insurer. As per the specific terms of Ext.P1 also, death due to an accident

would alone be entitled to be compensated by the Insurance Company. Having gone through the documents as also the award at Ext.P8, this Court does not find anything to interfere with. The reliance placed on the final report only indicates that the Police found it an accidental death and in the teeth of the medical evidence as revealed from the aforesaid documents, death cannot be said to be, by reason of an accident. Death occurred due to haemorrhage.

Writ petition is dismissed. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge