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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.935 of 2014

M.P.No.1 of 2014

M/s. ICICI Lombard General
Insurance Company Ltd.,
Gowley Brown Road, R.S.Puram,
Coimbatore.

..Appellant/2nd Respondent

Vs.

1. Vengammal

2. Minor Murugan

3. Minor Sathiya

4. Angammal

(Minor Rep. By mother &
guardian first respondent herein)

... Respondent 1 to 4/Petitioners

5. Venkatesh

...5th Respondent/1st Respondent

6. K.Kalaiselvan

...6th Respondent/3rd Respondent

7. United India Insurance Co. Ltd.,
Branch Office, Nethaji Bye Pass Road,
Dharmapuri.

(Respondents 5& 6 are set exparte
in lower Court)

...7th Respondent/4th Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.01.2011 in M.C.O.P.No.818 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District Judge(Fast Track Court), Dharmapuri.

For Appellant
For Respondent

:: Mrs.R.Sreevidhya
:: Notice Served - R4, R7
Ex-parte - R5 & R6
Mr.M.Selvam for R1
R2 & R3 minors rep. By R1



compensation payable by the second respondent. Aggrieved by the same, the second respondent/Insurance Company came forward with the present appeal questioning the liability.

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6. The learned counsel appearing for the appellant would submit that the accident took place on 04.03.2008 whereas the complaint was lodged only on 11.03.2008 and there is no explanation for the belated complaint. In fact, based on the complaint lodged by the wife of the deceased, the concerned police officials registered a case against the deceased. Since he died, the entire charges had abated and as such the appellant is not liable to pay any compensation.

7. Heard Mrs.R.Sreevidhya, learned counsel appearing for the Insurance Company/appellant and Mr.M.Selvam, learned counsel appearing for the claimants.

8. On perusal of the award passed by the Tribunal, it is found that the deceased was riding a motorcycle on 04.03.2008. At that time, a TATA ACE belonging to the first respondent insured with the second respondent was driven in a rash and negligent manner and dashed against the deceased due to which he sustained grievous injuries and immediately he was taken to Government Hospital at Harur. Thereafter, he was referred to Salem Kumaramangalam Medical College Government Hospital for better treatment. Unfortunately, the treatment failed and he died on 10.03.2008. Till 10.03.2008, no complaint was lodged as against the driver of TATA ACE. In fact after receiving the accident register from the Harur Government Hospital, the Inspector of Police, Adikarapatti Police Station, Dharmapuri District did not register any case as against the first respondent's driver. After the death of the deceased, only on 11.03.2008, the wife of the deceased lodged a complaint in respect of the accident. Only, thereafter the Inspector of Police, Adikarapatti Police Station, Dharmapuri District registered a case in Cr.No.109 of 2008 for the offences under Sections 304 (A) IPC against the deceased. Unfortunately, the Inspector of Police did not even enquire the driver of the first respondent's vehicle and also the deceased was charge-sheeted as if he hit the bridge and fell down on the vehicle owned by the first respondent which was parked on the road. Since the charge sheet was laid as against the deceased person, entire charges had abated. Therefore, the Tribunal rightly concluded that the



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accident took place only due to the rash and negligent driving of the first respondent's driver and awarded compensation and fastened the liability on the first and second respondents. Hence, this Court finds no merit in this case.

9. In the result the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No Costs. The appellant/Insurance Company is directed to deposit the total compensation of Rs.4,59,000/- with accrued interest and costs as determined at by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, after adjusting the amount, if any, already deposited. On such deposit, the respondents 1 to 4/claimants are permitted to withdraw in accordance with law, less the amount if any already withdrawn by them.

Sd/-

Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Additional District Judge, Fast Track Court,
Dharmapuri.

2. The Section Officer,
V.R. Section,
High Court of Madras.

+1CC to M/s.M.Selvam, Advocate, SR.No. 24429

+1CC to M/s.R.Sree vidhya, Advocate, SR.No. 24646

C.M.A.No.935 of 2014

GMI(CO)

B.VC (17/09/2021)