

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

CRP. No.100 of 2022

For Petitioner(s) : Mr. A. Acharjee, Advocate.
For Respondent(s) : Mr. R. G. Chakraborty, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

22/02/2023

Heard Mr. A. Acharjee, learned counsel appearing for the petitioners. Also heard Mr. R. G. Chakraborty, learned counsel appearing for the respondents.

The present petition has been filed under Article-227 of the Constitution of India to invoke the superintending power of this Court mover the Courts below for quashing and setting aside the impugned order dated 02.12.2022 passed by the learned Motor Accident Claims Tribunal, Gomati District, Udaipur in case No.T.S (MAC)49 of 2022, whereby and whereunder, the claim petition filed by the claimant-petitioners is returned for presentation before the appropriate forum by the learned tribunal as the place of accident, residence of the claimant and that of principal defendant falls beyond the jurisdiction of the tribunal without affording any opportunity to the claimant petitioners and also without taking any objection from other side.

The petitioners have prayed for the following reliefs:

i. Admit this petition.

ii. Issue notice calling upon the opposite party respondents.

iii. Call for the records.

iv. After hearing both the parties be pleased enough to quash and set aside the impugned order dated 02.12.2022 passed by Shri A. Paul, the learned Motor Accident Claims Tribunal, Gomati District, Udaipur in case vide No. T.S.(MAC)49 of 2022 and further be pleased to remand back the case to the learned Tribunal to consider these important aspects and for allowing the petitioners to appear before the learned Tribunal, Gomati Tripura, Udaipur to prove their claim and to decide the Motor Accident case on merit."

The facts of the case in brief are that the petitioners have filed this petition to invoke the superintending power of this Court over the Courts below for quashing and setting aside the impugned order dated 02.12.2022 passed by the learned Motor Accident Claims Tribunal, Gomati District, Udaipur in case No. T.S.(MAC) 49 of 2022, whereby and whereunder, the claim petition filed by the claimant-petitioners is returned for presentation before the appropriate forum by the learned tribunal as the place of accident, residence of the claimant and that of the principal defendant falls beyond the jurisdiction of the tribunal without affording any opportunity to the claimant petitioners and also without taking any objection from other side.

Mr. A. Acharjee, learned counsel appearing for the petitioners has submitted that Section-166(2) of Motor Vehicles Act, 1988 clearly stipulates that *“every application under Sub-Section(1) shall be made, at the option of the claimant, either to the claims tribunal having jurisdiction over the area in which the accident occurred, or to the claims tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed.”*

But, the learned tribunal has passed the order dated 02.12.2022 and returned the claim petition for presentation before appropriate forum without considering the legal position of Section-166(2) of M.V. Act and without applying judicial mind over the issue and without giving any further opportunity.

In view of above discussion and after interacting with the learned counsel appearing for the parties, this Court is of the considered opinion that justice would be met if the matter is remand back to the appropriate authority for fresh adjudication by setting aside the impugned order as prayed for and in that way, the petitioners would not be prejudiced. Thus, without going into the merits of the case, the matter stands remanded back to the authority concerned

for fresh consideration. Consequently, the impugned order also stands set aside. It is made clear that the Court below shall hear the matter on the issue of maintainability and proceed with the same as per procedure.

In terms of the above, the present petition stands allowed disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh

