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HIGH COURT OF DELHI AT NEW DELHI

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Mac. Appeal No.153/2015

Decided on : 16th July, 2015

JAGDISH

..... Appellant

Through: Mr. S.N. Parashar, Advocate.

Versus

NARENDER & ORS. (IFFCO TOKIO GENERAL INS. CO. LTD.)

..... Respondent

Through: Ms. Shantha Devi Raman, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is an appeal filed by the appellant against the order dated 16.9.2014 passed by the learned MACT holding that it does not have the territorial jurisdiction to entertain the claim petition of the appellant.

2. Briefly stated the facts of the case are that the appellant admittedly is the resident of House No.61, A-Block, Sector 7, Ballabhgarh, Faridabad, Haryana. A road accident had taken place on 30.1.2014 at about 9:15 a.m. near New Press Colony, Faridabad, Haryana for which an FIR No.39/2014 under Sections 279/337/338 IPC was registered by

police station Faridabad Kotwali, Haryana. The appellant filed a claim petition in Delhi giving his address in the memo of parties as that of Haryana. The address of the owner of the vehicle was also at Haryana; however, so far as the insurance company is concerned, its address was shown as IFFCO Sadan, C-1, District Centre, Saket, New Delhi. The learned MACT dismissed the petition with liberty to the appellant to file a fresh petition in a court with proper territorial jurisdiction on the ground that neither the appellant nor the accident or the insurance company conferred jurisdiction at Delhi. For this purpose, the learned MACT had taken note of the fact that the insurance policy itself was issued to the owner of the vehicle from Bandra branch of the insurance company in Maharashtra.

3. The learned counsel has assailed this order of the learned Tribunal by contending that the claim petition can be filed in Delhi as the appellant was a migrant labourer as well as the fact that the insurance policy showed that the registered office of respondent No.3, insurance company, was at District Saket, New Delhi. For this purpose, the learned counsel has placed reliance on the judgment of the Apex Court in case titled

Mantoo Sarkar vs. Oriental Insurance Company Ltd. & Anr.; AIR 2009 SC 1022 to contend that the MACT of the place where the claimant is residing will also have the jurisdiction.

4. I have thoughtfully considered the submission made by the learned counsel for the appellant. Section 166 (2) of the Motor Vehicles Act, 1988 reads as under :-

“166 – Application for compensation

(1).....

(2) Every application under sub-section (1) shall be made, at the option of 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 with the local limits of whose jurisdiction the defendant resides, they shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.”

5. A perusal of the aforesaid section would clearly show that the aforesaid sub-clause (2) of Section 166 of the Motor Vehicles Act is wider in its ambit and confers jurisdiction on the MACT of the place where the claimant is also residing or where the accident had taken place unlike Section 20 of the CPC where it is only the place where the defendant resides, works for gain or where the cause of action has accrued in whole or in part. Admittedly, in the instant case, the claimant is not residing in Delhi and the accident had also not taken place in Delhi. Moreover curiously enough, merely because the appellant has mentioned the address of respondent No.3/insurance company in the claim petition as that of Saket, New Delhi, is not, in my view, sufficient to confer jurisdiction on the forum where the claim petition is filed. There has to be a definite averment made by the claimant in the main body of the petition as to how he has chosen the forum where the claim petition has been filed which curiously is absent in the instant case.

6. So far as the judgment which has been relied upon by the learned counsel for the appellant is concerned, that is a case where admittedly the claimant was living in Uttaranchal and the MACT at Uttaranchal had

awarded compensation to him after trial which was set aside by the High Court of Uttaranchal on the ground of lack of jurisdiction. Feeling aggrieved, this impugned order passed by the High Court of Uttaranchal was assailed before the Apex Court where the Supreme Court observed that the MACT at Uttaranchal has the jurisdiction to award compensation because at the relevant time, that is, at the time of filing of the claim petition, the injured was living in Uttaranchal, therefore, this is a distinguishable feature in the said judgment which distinguishes the reported case from the present one.

7. So far as the office of the insurance company in District Saket, New Delhi is concerned, that will not *per se* confer jurisdiction on the MACT of Delhi when the policy has purportedly been issued to the owner in respect of the offending vehicle from another State. Moreover, there is no averment in the claim petition itself that the jurisdiction of MACT of Delhi is sought to be invoked because of the registered office of the insurance company in Delhi.

8. For these reasons, I feel though there is no illegality, impropriety or perversity in the finding returned by the MACT holding that it does not

have the territorial jurisdiction, needless to say that the MACT has rightfully given the liberty to the appellant to file his claim petition before an appropriate forum.

9. With these observations, the appeal of the appellant is without any merit and accordingly, the same is dismissed.

V.K. SHALI, J.

JULY 16, 2015
‘AA’