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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 10th February, 2016

+ CM(M) 325/2013

MANOJ KUMAR

..... Petitioner

Through Mr. Navneet Goyal, Adv.

versus

MOHAN LAL MEENA & ORS.

..... Respondent

Through Mr. Suman Bagga and Mr. Pankaj
Gupta, Advs. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The claim petition was filed by the appellant before the Motor Accident Claims Tribunal (the Tribunal) on 16.08.2012 for compensation on account of injuries suffered by him on 01.08.2007 at about 08.09 AM in the area of Kharandi River, Dausa, Rajasthan involving motor vehicle bearing registration No.RJ 14 1P 6403 (the offending vehicle) statedly owned by the second respondent and driven by the first respondent. The offending vehicle was admittedly insured against third party risk with the third respondent herein.

2. The Tribunal by judgment dated 30.08.2012 declined to entertain the claim petition directing that it be returned for the reason the Tribunal in Delhi lacked necessary territorial jurisdiction, giving liberty to the claimant to file it before the appropriate forum. In reaching this

conclusion it, *inter alia*, noted that the accident had occurred in District Dausa, Rajasthan, the owner of the offending vehicle as also the driver resided or worked for gain in District Dausa, Rajasthan and further observing that the insurance policy has been issued by the third respondent which had its office in District Gurgaon, Haryana. Pertinently, the Tribunal also recorded that the claimant had failed to prove by any formal documentary evidence that he had been a resident of Kidwai Nagar, New Delhi which was the address given in his own particulars in the cause title.

3. The claimant feeling aggrieved has come up with the petition at hand before this Court, *inter alia*, arguing that even a temporary residence in Delhi should suffice for invoking the jurisdiction of Tribunal at Delhi in terms of Section 166(2) of the Motor Vehicles Act, 1988 (MV Act) and, further, on the ground that the cover note of the insurance policy (page 39A of the paper book) shows that it was issued by the office of the third respondent at Shaheedjeet Singh Marg, New Delhi, thus, belying the contention of the insurance company that the policy was actually issued by its office at Gurgaon, Haryana.

4. Even if the question of residence of the claimant were to be kept aside, the rubber stamp endorsement on the cover note referred to above indicating the issuing office to be located in New Delhi renders the approach of the Tribunal incorrect. The fact that the policy was issued by Delhi office of the third respondent obviously escaped the notice of the Tribunal.

5. Consequently, the petition is allowed. The impugned judgment is set aside. The claim petition is restored on the file of the Tribunal for

further proceedings in accordance with law. The parties are directed to appear before the Tribunal on 06.04.2016.

6. The petition is disposed of in above terms.

7. Tribunal's record shall be returned.

R.K. GAUBA
(JUDGE)

FEBRUARY 10, 2016
VLD