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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 1st April, 2016

+ **MAC.APP. 365/2012**

NEW INDIA ASSURANCE CO. LTD.

..... Appellant

Through: Mr. A.K. Soni, Adv.

versus

SUNITA & ORS

..... Respondents

Through: Mr. V.K. Vashishtha, Adv. for R-1 to 4.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The first to fourth respondents (claimants) had filed an accident claim case (MACT petition No. 1032/2010) on 06.06.2009 before the motor accident claims tribunal (the tribunal) with jurisdiction at Karkardooma Courts, Delhi, describing themselves as residents of C-2, House No. 308, Yamuna Vihar, Delhi-93.

2. The tribunal held inquiry and, by judgment dated 16.12.2011, granted compensation in their favour upholding, *inter alia* the contention that Jai Prakash had died as a result of injuries suffered in a motor vehicular accident which had occurred on 24.02.2009 at a place near GT Karnal Road, Ghaziabad (UP) involving truck bearing No. UP 14S 2689 (offending vehicle), admittedly insured against third party risk with the appellant insurance company through its office at Ghaziabad (UP). In the claim

petition, the driver and owner of the said offending vehicle, all residents of UP, were also impleaded.

3. The insurance company which has been fastened with the liability to indemnify presses only the appeal on the short ground that the tribunal did not have requisite territorial jurisdiction.

4. Section 166 of Motor Vehicles Act, 1988 deals with the question of territorial jurisdiction through sub-section (2) which reads as under:-

“(2) 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:

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. It is the contention of the insurance company that the documents filed by the claimants indicated that they are permanent residents of Dadri, District GB Nagar, UP. It is noted that the first claimant (first respondent) had appeared as witness during inquiry on the strength of her affidavit (Ex.P-1) wherein she gave her residential address as of Yamuna Vihar, Delhi-93. During her cross-examination, she clarified that she had filed the rent agreement confirming the said address to be her residence. In these circumstances, the contention of the insurance company is misplaced. The

claimants had furnished sufficient proof as to their residence in Delhi. Thus, the objection to the territorial jurisdiction is frivolous.

6. By order 10.04.2012, insurance company had been directed to deposit the entire awarded amount with upto date interest with the Registrar General, who was directed to keep it in fixed deposit with UCO Bank, Delhi High Court Branch for a period of one year to be renewed from time to time. By order dated 24.5.2013, 60% of the said deposit was allowed to be released. The Registrar General shall now release the balance to the claimants, refunding the statutory amount to the insurance company, if made.

7. The appeal is disposed of in above terms.

**R.K. GAUBA
(JUDGE)**

APRIL 01, 2016

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