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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Date of Decision: 19<sup>th</sup> February, 2016**

+ **MAC.APP. 64/2015 & CM No.1014/2015**

**JYOTI**

..... Appellant

Through: Mr. Joy Basu, Sr. Adv. as Amicus  
Curiae with Mr. Abhinav, Adv.  
Ms. Jyoti, Adv.

versus

**SONU PAL & ORS (IFFCO TOKIO GENERAL INSURANCE CO  
LTD)**

..... Respondents

Through: Ms. Sunita Arora, Adv. for R-1  
Mr. Arush Chikersal, Adv. for R-3

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT**

**R.K.GAUBA, J (ORAL):**

1. The appeal under Section 173 of Motor Vehicles Act, 1988 (MV Act) is preferred to assail the order dated 17.07.2014 passed by the Motor Accident Claims Tribunal (the Tribunal) in three different claim petitions including one presented by the appellant herein seeking compensation for injuries suffered in a motor vehicular accident that had occurred on 27.06.2013 in the area falling within the jurisdiction of PS Murad Nager, U.P. involving statedly a motor vehicle described as truck bearing No.HR-63-7742. The Tribunal upheld the contention of the third respondent herein about want of territorial jurisdiction in the Tribunal holding jurisdiction over such claim cases of South District of Delhi and, consequently, dismissed the

claim petition though giving liberty to the claimant to file a fresh claim petition before the Tribunal having proper territorial jurisdiction.

2. After having filed the appeal at hand, however, none would appear on behalf of the appellant. The learned Single Judge of this Court, in seisin of the matter, by order dated 19.01. 2015 found a question of law arising from the appeal at hand. In absence of counsel for the appellant, he requested Mr. Joy Basu, learned senior advocate, to assist the court on the issue as *amicus curiae*. Mr. Joy Basu, learned senior advocate has appeared pursuant to said request.

3. Having heard the learned counsel for the parties who are present including the respondents pursuant to the notices issued, it is found that the Tribunal fell into the basic error of ignoring the present address of the first respondent which falls within the jurisdiction of the Tribunals in Delhi. The address given is house H No. 53, MIG Flats, Phladpur, New Delhi. It was submitted by counsel for the first respondent that the said area falls within the jurisdiction of District South East of Delhi.

4. The objection on territorial jurisdiction was raised by the insurance company on the ground that the insurance policy had been issued by its branch office at Dehradun, Uttarakhand. The dispute raised essentially was that the insurance company could not be deemed to be a resident of Delhi only by virtue of having a branch office at Delhi. Given the aforementioned facts, it was not proper on the part of the Tribunal to throw the petition out with reference to Section 166(2) of MV Act. The said provision makes it clear that a claim petition may be brought before a Tribunal in Delhi even on the averment that one of the respondents, here the alleged principal tort-

feesor, was ordinary resident of Delhi. It appears from the observations recorded in (para 5 of) the impugned order that the Tribunal was concerned with the issue of bifurcation of territorial jurisdiction between different Tribunals appointed in different judicial districts of Delhi. If it were so, the petition could and should not have been dismissed for want of territorial jurisdiction. The proper course was to refer the matter to the appropriate authority for transfer of the claim petitions to the other Tribunal in Delhi with appropriate jurisdiction or, in the alternative, by returning it with specific directions for it to be presented to the Tribunal having jurisdiction in Delhi fixing a specific date for the parties to appear.

5. Thus, the question of law noted in the order dated 19.01.2015 does not arise for determination. The appeal is allowed. The impugned order is set aside. The matter is remitted to the Tribunal which passed the impugned order for appropriate further proceedings guided by above noted observations.

6. The parties shall appear before the Tribunal on 02.03.2016 for further proceedings in accordance with law. Having regard to the fact that the none has been appearing on behalf of the appellant (claimant) the Tribunal would be well advised to issue a notice to the party in question rather than treating her absence as reason enough to once again throttle the claim petition.

7. The court expresses gratitude for the assistance rendered by Joy Basu, senior advocate.

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

**FEBRUARY 19, 2016/VLD**