

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1264 OF 2016

1. Smt. Sushila Behara, aged about 28 years, wife of Late Shri Naresh Behara.
 2. Ku. Shivani, aged about 09 years, D/o Late Shri Naresh Behara.
 3. Padum, aged about 07 years, S/o Late Shri Naresh Behara.
 4. Prashant, aged about 04 years, S/o Late Shri Naresh Behara.
(No. 2 to 4 are minor, through natural guardian mother Smt. Sushila Behara (Appellant No.1).
 5. Baisakhu, aged about 65 years, S/o Shri Mitrabhanu Behara.
 6. Smt. Safed, aged about 60 years.
- All are by caste Kolta, R/o Village Gharjhara, P.S. Sarsiva, Post Gatadih, District Balodabazar (C.G.), at present R/o Dongaripalli, Post Lambar, P.S. Saraipali, District Mahasamund (C.G.)

... Appellants

Versus

1. Narsingh @ Shrikant, aged about 51 years, S/o Bhavara Sindur, R/o Village Panchayat College Bargarh, Ward No.13, P.S. Bargarh, District Bargarh (Odisha) (Driver of Vehicle No. OR-17 G-0393)
2. Manish Kumar Lat, aged about 38 years, S/o Om Prakash Lat, occupation Businessman, R/o behind Girls College, Bargarh, P.S. and District Bargarh (Odisha), (Owner of Vehicle No. OR-17G-0393)
3. The New India Insurance Company Limited, through the Divisional Office, Bargarh, District Bargarh (Odisha), (Insurer of Vehicle No. OR-17G-0393)

... Respondents

For Appellants	:	Mr. Raghvendra Pradhan, Advocate.
For Respondents No.1 and 2	:	Mr. Amiyakant Tiwari, Advocate.
For Respondent No.3	:	Ms. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/02/2017

1. The present appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act' in short) has been preferred by the Appellants-Claimants, assailing the order dated 20.6.2016 passed by the Additional Motor Accident Claims Tribunal, Saraipali, District Mahasamund ('the Claims Tribunal' in short), in Claim Case No. 66 of 2014, whereby the claim application of the Appellants-Claimants has been rejected by the Claims Tribunal on the ground of not having territorial jurisdiction.

2. Brief facts of the case are that a vehicular accident took place on 30.8.2013 at Village Gharjhara under Police Station Sarsiva, District Balodabazar. As a result of the said accident, Naresh Behara had died leaving behind the Appellants-Claimants as his legal heirs. The Claimants in the present case are, wife, children and parents of the deceased Naresh Behara. On 26.11.2014, they had filed a claim application under Section 166 read with Section 140 of the Act before the Additional Motor Accident Claims Tribunal, Saraipali, District Mahasamund. Vide impugned order dated 20.6.2016, the Claims Tribunal has rejected the claim application on the ground of not having jurisdiction, for the reason that the accident had taken place at a different place and that the address shown in the claim application seems to have been shown only with an intention of filing the claim application before the Additional Motor Accident Claims Tribunal, Saraipali, District Mahasamund.

3. At this juncture, it would be relevant to refer to the provision of law in this regard. Section 166(2) of the Act states as under:

“166. Application for compensation.–(1) xxx xxx xxx

(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.”

4. The plain reading of the said provision itself clearly depicts that the intention of the law makers was that, the liberty or the option was given to the claimant to file a claim application at any of the options which are mentioned in the aforesaid provision. This by itself clearly indicates that the law makers intended to give a liberal interpretation to the jurisdiction of the Court hearing the motor accident claims. The Act and the said provision of compensation

itself is a liberal legislation and it has to be interpreted and visualized more liberally.

5. In the instant case, the claim application was filed by the Appellants-Claimants showing that though they are permanent residents of Village Gharjhara, P.S. Sarsiva, Post Gatadih, District Balodabazar, Chhattisgarh, but at present they all are residing at Village Dongaripalli, Post Lambar, P.S. Saraipali, District Mahasamund, Chhattisgarh, and it was for this reason that they had filed the claim application before the Additional Motor Accident Claims Tribunal, Saraipali, District Mahasamund.

6. At this juncture, it would also be relevant to refer to a recent decision of the Hon'ble Supreme Court rendered in the case of **Malati Sardar v. National Insurance Company Limited and others** [2016 (3) SCC 43] wherein in paragraph 16 it has been very categorically held as under:

“16. The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of accidents. Hypertechnical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting party in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in *Mantoo Sarkar* (supra), contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 CPC.”

7. The aforesaid decision of the Hon'ble Supreme Court has been made relying upon the decision of the Supreme Court itself in **Mantoo Sarkar v. Oriental Insurance Company Limited and others** [2009 (2) SCC 244] wherein also the Supreme Court dealing with the contention of the jurisdiction part in paragraphs, 12, 13 and 15 has held as follows:

“12. A claimant has a wide option. Residence of the claimant also determines jurisdiction of the Tribunal. What would be a residence of a person would, however, depend upon the fact situation obtaining in each case.

13. Appellant had been a resident of Pilibhit. It is in the State of Uttar Pradesh. He being a migrant labourer accepts job wherever he gets and resides there. He, admittedly, had been working in Nanital district and residing there during the period of accident. The fact that he was thus a

resident of Nainital in the State of Uttaranchal is neither denied nor disputed.

14. xxx xxx xxx

15. No doubt the Tribunal must exercise jurisdiction having regard to the ingredients laid down under sub-section (2) of Section 166 of the Act. We are not unmindful of the fact that in terms of Section 169 of the Act, the Tribunal, subject to any rules, may follow a summary procedure and the provisions of the Code of Civil Procedure under the Act has a limited application but in terms of the rules "save and except" any specific provision made in that behalf, the provisions of the Code of Civil Procedure would apply. Even otherwise the principles laid down in the Code of Civil Procedure may be held to be applicable in a case of this nature."

8. In view of the two authoritative decisions of the Hon'ble Supreme Court in this field and also considering the fact that the Claimants in the present case have shown their residence to be that of Village Dongaripalli, Post Lambar, P.S. Saraipali, District Mahasamund, Chhattisgarh, which falls within the territorial jurisdiction of the Additional Motor Accident Claims Tribunal, Saraipali, District Mahasamund, this Court is of the opinion that the rejection of the claim application of the Appellants-Claimants only on the ground of not having jurisdiction was not proper, legal and justified and the impugned order thus is liable to be set aside.

9. Resultantly, the appeal is allowed and the impugned order is set aside. The Claims Tribunal is directed to further proceed with the matter and decide the same on its own merits at the earliest.

Sd/-
(P. Sam Koshy)
Judge