

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5306 of 2016

Date of Decision: 26.09.2017

Anju Rani and others

.....Petitioners

Vs.

Gurmeet Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Neeraj Khanna, Advocate, for the petitioners.

Mr.Amit Sharma, Advocate for Mr.Siddarth Gulati, Advocate,
for respondent No.1 and 2.

Mr.Khitij Sharma, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

The petitioner has come up in revision against the impugned order dated 04.04.2016 passed by the learned MACT, Mohali, whereby, his claim petition was dismissed on the ground that there was no territorial jurisdiction to try the claim petition.

On 30.07.2014, when Babnish Kumar-deceased was going from the house of his uncle Balwant to his own village situated at village Rampur, Kamboyan, District Yamuna Nagar on his motorcycle. His relative Sushil Kumar was pillion rider of the said motorcycle. When they crossed Village Mehmoodpur, a Honda City Car bearing No.CH-01-AS-7661 came from behind and struck against the motorcycle. As a result both the occupants of motorcycle fell down on the road and received injuries. They were taken to hospital where Babnish Kumar died.

The claim petition was filed by widow, son and mother of the

deceased. The learned Tribunal held that the petitioners were the residents of Haryana and the driver and owner were also the residents of Haryana and even the Insurance Policy was taken from the Chandigarh as such, the MACT Mohali has no jurisdiction to try the present claim petitioner and the same has been returned to MACT, Ambala.

Learned counsel for the petitioner submits that learned Tribunal had wrongly held that the petitioners were not the residents of village Lalru Tehsil Derabassi, District Mohali but they are the resident of Haryana. The Tribunal held that the deceased was working in Yamuna Nagar in Block Education cum BRC Office Sadhaoura, Tehsil Bilaspur, District Yamuna Nagar. As such, they were the resident of Haryana and not the resident of Lalru, District Mohali. He further submits that learned Tribunal has not taken into consideration the fact that after the death of Babnish Kumar, they shifted to village Lalru, Tehsil Derabassi, District Mohali. He has referred to the judgment of the Co-ordinate Bench of this Court in the case of **Kamlesh and others Vs. Satish Kumar and others** passed in **CR No.2842 of 2011** whereby, it was held that a plain reading of Section 166(2) shows that the claim petition can be filed at either place namely, (i) The place within whose jurisdiction the accident had taken place; (ii) where the claimant resides or carries on business or (iii) where the defendants reside. Moreover, the paragraph-8 of the said judgment shows that the Tribunal where the claimants normally had been residing or carrying on business would be the place for determining the jurisdiction of the Tribunal. However, if there is change in the place of residence after the death as in the present case, the Tribunal where the claimants had been residing at the time

interpretation is in consonance with the legislative intent with which the provision had been incorporated.

Accordingly, the present revision petition is allowed and the order dated 04.04.2016 is set aside. The matter is remitted to the Tribunal who shall proceed further in accordance with law and expedite the disposal of the claim petition on merits.

(RITU BAHRI)
JUDGE

26.09.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No