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

Decided on: 6th July, 2017

+ MAC.APP. 262/2017

NAFEES & ORS.

..... Appellants

Through: Mr. Sunil Kumar, Advocate

versus

KARAN SINGH & ORS. (NATIONAL INSURANCE CO.
LTD.)

..... Respondents

Through: Mr. Vaibhav Shukla, Adv.
Advocate for R-1 & R-2.
Mr. Pradeep Gaur, Adv. for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The accident claim petition (MACT No.06/2016) of the appellants herein has been dismissed for want of territorial jurisdiction by the Tribunal by the impugned order dated 21.10.2016 observing that from the verification report called for from the local police it would not appear as to where the petitioners work for gain.

2. Concededly, the accident which gave rise to cause of action did not occur within the territorial jurisdiction of Delhi. Again concededly, the petitioners are not local residents, they having given their residential address as of District Ghaziabad, U.P. But then, they claim to be working for gain from a premises in village Gokalpur, Delhi.

3. The verification report submitted by the local police does lend some corroboration as to the above said claim in that it would show that it is the petitioners who would open the shop. Merely because the petitioners go elsewhere, after opening the shop, would not mean that they cannot claim to be carrying on business from the premises in Delhi.

4. The reasons set out in the tentative conclusion reached by the Motor Accident Claims Tribunal (the tribunal) to throw out the petition by the impugned order do not impress. Such conclusions otherwise could not have been reached without affording an opportunity to the petitioners to lead proper evidence to substantiate the claim of they carrying on business within the territorial jurisdiction of Delhi for purposes of satisfying the Tribunal about propriety of the jurisdiction invoked in terms of Section 166 (2) of the Motor Vehicles Act, 1988.

5. In the result, the appeal is allowed and the impugned order is set aside. The claim petition is restored on the file of the Tribunal. It shall be inquired into in accordance with law. In the above facts and circumstances, the question of territorial jurisdiction is kept open to be adjudicated upon on the basis of evidence to be formally led.

6. The parties shall appear before the Tribunal for further proceedings in accordance with law on 08th August, 2017.

R.K.GAUBA, J.

JULY 06, 2017/vk