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

+ **MAC.APP. 514/2016**

MEENA DEVI & ANR Appellant
Through: Mr. Anshuman Bal, Adv.

versus

**JEEVRAJ GURJAR & ORS (IFFCO TOKIO
GEN INS CO LTD)** Respondent
Through: Mr. Rajesh Kumar, Adv. for R-1.
Mr. A.K. Soni, Adv. for R-3.
Mr. Aman Shankar, Adv. for R-5.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **22.05.2017**

The appellants are parents of the deceased and residents of Bihar. They have impugned the order passed by the Tribunal dated 21.04.2016 in Suit No.368/16, FIR No.670/14 PS: Sector-24, Noida, U.P. Their claim petition before the Tribunal was against the owner of the vehicle no. RJ-01-GA-4126, a resident of Ajmer, Rajasthan. The insurer was arrayed as third respondent. Respondent no.4, is owner of vehicle no. HR-38-L-5611, in which the deceased was travelling.

The brief facts of the accident is stated in paragraph 9 of the claim petition, as under:

“..... That on 22.8.2014 at about 4.00 AM the deceased alongwith Pushpendra @ Pankaj were coming from Sector-54 in Dumper No.HR-38L-5611. When they reached NEAR Gijhod Choraha, P.S. Sector-24, Noida, U.P. and were crossing the Chohraha. When a Container bearing no.RJ-OLGA-4126 came from the side sector-24 at a very high

speed driven most rashly and negligently and hit the Dumper of the deceased. As a result of which Anish Salmi and Pushpendra @ Pankaj died at the spot due to the injuries received in the accident. The container overturned after the accident. The driver of the container ran away after causing the accident. The said accident was caused due to the negligence of drivers of Dumper No.HR-38L-5611 and Container bearing no.RJ-OLGA-4126....”

(emphasis supplied)

The Tribunal in the impugned order has reasoned that no case was made out because neither the accident happened in the local limits of jurisdiction of the Tribunal nor did the claimant or defendant reside or carry out their business in the said jurisdiction. Hence, it found the case not maintainable.

However, as noted above, there is an allegation of negligence apropos vehicle no. HR-38-L-5611 whose owner resides in Delhi. The appellants have a cause of action in Delhi and can prosecute their claim in Delhi u/s 166(2) of the Motor Vehicles Act, 1988. Hence, the appeal is allowed and the impugned order is set aside. The parties shall appear before the Tribunal on 12.07.2017 for further proceedings.

The appeal stands disposed off.

NAJMI WAZIRI, J

MAY 22, 2017/kk