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

\+ FAO 342/2017 and C.M. No.29373/2017 (stay)

UNITED INDIA INSURANCE COMPANY LIMITED ..... Appellant
Through: Mr. Amit Kumar Singh, Advocate.

versus

FAIJAN & ANR. ..... Respondents
Through: Mr. R.K. Nain, Advocate for respondent No.1.
Mr. Sandeep Kumar, Advocate for respondent No.2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

O R D E R

% 12.09.2017

1. There is an issue raised in this case by the appellant-insurance company of territorial jurisdiction as per para no.2 of its preliminary objection. The issue of territorial jurisdiction was decided against the appellant by the Employee's Compensation Commissioner vide order dated 22.3.2017. The order dated 22.3.2017 is not a speaking order but it simply gives a one line finding that the Employee's Compensation Commissioner in Delhi has territorial jurisdiction in view of the judgment of the Supreme Court in the case of ***Malati Sardar Vs. National Insurance Company Ltd. 2016 (1) TAC.*** What is the ratio of the judgment in the case of ***Malati***

Sardar (supra), how the requirements of Section 21 of Employee's Compensation Act have been met etc etc are not dealt with in the order dated 22.3.2017, which is a non-speaking order.

2. At this stage, counsels for the parties agree that since there is no speaking order on the issue of territorial jurisdiction, the matter be remanded to the Employee's Compensation Commissioner to decide this issue of territorial jurisdiction. It is also agreed that before deciding the issue of territorial jurisdiction of the Employee's Compensation Commissioner in Delhi, both the parties will be allowed to lead evidence with respect to existence or otherwise of territorial jurisdiction and that the respondent no.1/claimant will first lead evidence to show existence of territorial jurisdiction.

3. In view of the above discussion, and the statements of the counsels for the parties for remanding the matter, the impugned order dated 12.5.2017 is set aside, and the Employee's Compensation Commissioner is directed to decide the issue of existence or otherwise of territorial jurisdiction of the Employee's Compensation Commissioner at Delhi in the facts of this case and after allowing the parties to lead evidence. Only in case Employee's Compensation Commissioner finds that he has territorial

jurisdiction then would other issues of merits be decided by the Employee's Compensation Commissioner afresh, and as agreed by the parties.

4. Appeal is accordingly disposed of in terms of aforesaid order and either of the parties can now apply for revival of proceedings before the Employee's Compensation Commissioner to be decided the claim petition afresh including on the aspect of territorial jurisdiction and in terms of the observations made in the present order.

5. Trial court record be sent back to the concerned Employee's Compensation Commissioner on the requisition being received from concerned Employee's Compensation Commissioner.

6. It is noted that by the order of the Employee's Compensation Commissioner dated 11.7.2017, a sum of Rs.5 lacs has been kept in an FDR and the interest on the FDR was to be paid to the claimant on monthly basis. It is now agreed that both the principal amount of Rs.5 lacs and the interest accrued thereon will continue to remain in an FDR and this FDR will be deposited by the respondent no.1 with the concerned Employee's Compensation Commissioner. This amount in the fixed deposit as also any amount already encashed and received by the respondent no.1 will be subject to final judgment of the Employee's Compensation Commissioner

which will now to be passed. It need not be clarified but is said so that in case the appellant succeeds now before the Employee's Compensation Commissioner, the appellant-insurance company will be entitled to restitution in accordance with law.

7. Dasti to the counsels for the parties.

VALMIKI J. MEHTA, J

SEPTEMBER 12, 2017
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