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

Decided on: 8th September, 2017

+ **MAC APPEAL No. 810/2017 and CM APPL.32793/2017**

RIZWANA & ORS. Appellants

Through: **Mr. Arun Sharma, Advocate**

versus

MEHRAJ & ORS. Respondents

Through: **Mr. Sameer Nandwani, Advocate for R-4.**

Mr. J.P.N. Shahi, Advocate for R-5.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellants described themselves as residents of house No.J-211-B/119, Karawal Nagar, Delhi and had instituted accident claim case (MACT No.278/12) seeking compensation on account of death of Raashid in a motor vehicular accident that had occurred within the area of Police Station Masuree, (UP) on 10.07.2012 involving two motor vehicles, one described as dumper bearing registration No.UP-14BT-4661 and the other car bearing registration No.UP-14BE-1338, which were statedly insured against third party risk with the fourth and fifth respondents for the period in question.

2. It appears that the tribunal deemed it necessary to direct a verification of the above said address, the report submitted whereupon

indicated the appellants to be not residing there. It further appears that the verification was carried out through a process server who recorded statements of some neighbours indicating that they had never seen the claimants to be residents of the property in question. The tribunal declined to entertain the claim petition directing, by order dated 17.12.2016, for it to be returned to the claimants with liberty to present it before the tribunal of appropriate jurisdiction, such directions being issued after observing that it appeared “*prima facie*” that the petitioners were not residents of the given address, they not having given any other address of North-East District of Delhi.

3. The appeal has been filed to assail the above approach to the claim petition by the tribunal, the submission being that copy of the *Aadhar* cards of the claimants had been submitted before the tribunal which was not even considered.

4. The fourth and fifth respondents have appeared on advance copy being served through counsel. It appears from the impugned order dated 17.12.2016 that the presence of other respondents was yet to be secured.

5. To say the least, the procedure applied by the tribunal cannot be approved. The claimants have asserted, which is reiterated by them in the appeal, that they are residents of Delhi. Even if verification report were adverse to their said assertion, they were entitled to lead evidence and prove to the satisfaction of the Tribunal their claim about their residence in Delhi to justify the jurisdiction invoked by them.

6. For the foregoing reasons, the impugned order is set aside. The claim case is revived on the file of the Motor Accident Claims Tribunal, which is directed to proceed further in accordance with law.

7. The parties present in this Court shall appear before the Tribunal on 17th October, 2017. The Tribunal shall issue notices and secure the presence of the other parties before embarking on the inquiry.

8. The appeal along with accompanying application stands disposed of in above terms.

9. *Dasti.*

SEPTEMBER 08, 2017

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R.K.GAUBA, J.