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

Decided on: 7th November, 2017

+ **MAC.APP. 766/2017**

BUSHARA & ANR. Appellants

Through: **Mr. Anshuman Bal, Adv.**

versus

DINESH KUMAR AGGARWAL & ORS. Respondents

Through: **Mr. Braj Kishore Roy, Adv. for
R-1 & 2.**

Mr. Pankaj Seth, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellants had instituted accident claim case (MACT 14457/2015) before the Motor Accident Claims Tribunal (North East) at District Courts Karkardooma on 08.02.2013 seeking compensation on account of death of their son Junaid Khan in motor vehicular accident that had occurred on 09.09.2012. It is alleged by them that the accident was caused on account of negligent driving by the first respondent of car bearing registration no. UP 15AL 8827, which is registered in the name of the second respondent and stated to be insured against third party risk with the third respondent. The accident had occurred in District Pilkhuwa in State of Uttar Pradesh. The appellants have given their residential address as House No. 1635, New Mustafabad, Rajiv Gandhi Nagar, Gali No. 16A, Delhi - 110094.

2. The Tribunal had issued notices to the respondents who, by way of a contest, had filed written statements. Issues were framed on 20.04.2015 and the claimants were called upon to lead evidence. When the case had reached the stage of respondent's evidence, objection was raised to the maintainability of the petition before the tribunal, North East District of Delhi, on the ground it did not have territorial jurisdiction. The tribunal, by order dated 02.06.2017, upheld the said objection and directed the claim petition to be returned for being presented before the competent forum having jurisdiction.

3. The prime reason for return of the claim petition as set out in the impugned order is that the claimants had not been able to prove that they are residents of Delhi, the only reliance on *Aadhaar* card being found to be unsatisfactory. The claimants, in appeal, submit that they have been local residents and even hold voter identity cards. Their grievance that no issue on the question of jurisdiction was framed and surprise has been sprung on them. This grievance appears to be correct. Without framing any issue on the objection to the jurisdiction, it was most unfair on the part of tribunal to short-shrift the proceedings at the stage of respondent's evidence. The claimants should have first been called upon to prove the evidence that they are residents of the place they claim to be residing at.

4. The impugned judgment is, thus, set aside, the matter is remitted to the tribunal for further inquiry in accordance with law. The parties are directed to appear before the tribunal on 8th December, 2017.

5. The tribunal will have the liberty to frame an issue on the question of jurisdiction, if it actually arises, and then call upon first the claimants and the opposite party to lead evidence thereupon to reach an appropriate decision.
6. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 07, 2017

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