

\$~3

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

+ MAC.APP. 1017/2017

KAILA DEVI & ORS Appellants
Through: Mr. Arun Sharma, Adv.

versus

ANKITA & ANR Respondents
Through: Mr. R.K. Tripathi, Adv. for R2.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
31.07.2018

1. The appellant has challenged the order dated 11th September, 2017 whereby the Claims Tribunal has dismissed the claim petition on the ground of lack of territorial jurisdiction.
2. The accident dated 11th July, 2012 resulted in the death of Sukhbeer Singh. The deceased was survived by his widow, three sons and two daughters who filed an application for compensation before the Claims Tribunal at Delhi.
3. The respondent raised the objection of territorial jurisdiction on the ground that the accident took place at Modi Nagar, the claimants reside at Modi Nagar and the insurance policy was issued from Gurgaon office.
4. The Claims Tribunal held that the respondents' office at Delhi is of no consequence as the policy was issued from the Gurgaon office.
5. In *Malati Sardar v. National Insurance Company Limited* (2016) 3 SCC 43, the Supreme Court held that the claim petition can be instituted where the insurance company has their office. The relevant portion of the findings of the Supreme Court in para-14 are reproduced here under:-

“14. The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of accidents. Hyper technical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting parties in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice.”

(Emphasis supplied)

6. This case is squarely covered by the aforesaid judgment of the Supreme Court. The Claims Tribunal has not appreciated the ratio of the Supreme Court. The appeal is allowed and the impugned order dated 11th September, 2017 is set aside. The matter is remanded back to the Claims Tribunal for adjudicating the appellant's claim on merits. The parties shall appear before the Claims Tribunal on 27th August, 2018.

7. The record of the Claims Tribunal be returned back forthwith.

8. Copy of this order be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

JULY 31, 2018

ak