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

+ **FAO 4/2018**

RAM NARAYAN & ORS. Appellants

Through: Mr. R. K. Nain, Advocate.

Versus

M/S THE ORIENTAL INSURANCE CO LTD & ANR...Respondents

Through: Mr. L. K. Tyagi, Advocate for
Respondent No.1.

Mr. Sunil Kumar Jha and Mr. Kushal
Raj Tater, Advocates for Respondent
No.2.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **18.01.2018**

This appeal impugns an order dated 25.10.2017 passed by the Employee's Compensation Commissioner (Commissioner), District North-West, Delhi, in claim petition bearing No. WCD/190/NW/2017, which had dismissed the appellant's application for compensation for want of jurisdiction. The impugned order has reasoned that since the accident happened in Rajasthan, the concerned vehicle was registered in Haryana, the claimants were residents of Jaunpur (Uttar Pradesh) and the deceased was employed with a company in Haryana, the Commissioner at Delhi would have no jurisdiction.

The learned counsel for the appellant relies upon a judgment of the Supreme Court in ***Malati Sardar vs. National Insurance Co. Ltd. and Others 2016 ACJ 542***, which held as 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 party in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this court in Mantoo Sarkar, 2009 ACJ 564 (SC), contrary view taken by the High Court cannot be sustained. The High Court has failed to notice the provision of section 21, C.P.C."

He also relies upon the dictum of **Morgina Begum vs. Managing Director, Hanuma Plantation Ltd. 2008 (1) T.A.C. 439 (S.C.)**, which held as under:-

"5. Section 21 (l)(b) of the Act clearly provides that the claim petition may be filed by the claimant where the claimant ordinarily resides.....The Amended Section 21 has been specifically introduced in the Act by Amended Act no. 30 of 1995 with effect from 15th September, 1995 in order to benefit and facilitate the claimants.....The Statement of Objects and Reasons for the Amendment of the Act, a copy of which has been produced before us, clearly mentions that the amendment has been brought about for benefits of the claimants viz. either the workmen or their dependents. The relevant portion of the Statement of Objects and Reasons, reads as under:

"It is also proposed to introduce provision for facilitating migrant workmen to file compensation claims before the Commissioners having jurisdiction over the area where they or their dependents ordinarily reside. Provision for transfer of compensation from one Commissioner to another has also been made."

6.It is not possible for poor workmen or their dependants who reside in one part of the country and shift

from one place to another for their livelihoodwelfare legislation should be given a purposive interpretation safeguarding the rights of the have-nots rather than giving a literal construction. In case of doubt the interpretation in favour of the worker should be preferred..... "

The Court would note that section 21 of the Employees' Compensation Act, 1923, specifies the place where a compensation claim can be filed i.e. i) at the place of accident; ii) the place where the claimant ordinarily resides; or iii) at the registered office of the employer. The employer in the present case is M/s Okara Roadways Roadways with its registered office at AG-39, Sanjay Gandhi Transport Nagar, Delhi – 110042.

The learned counsel for the respondent, who sought a pass over to obtain instructions informs the Court after due instructions, that the registered address of the said employer is in Delhi i.e. the aforesaid address.

In the circumstances, under the Act, the petition for compensation can be pursued in Delhi. Accordingly, the impugned order is set aside. The case is remanded back to the Employees' Compensation Commissioner concerned to adjudicate upon the claim. Since the parties are already present in the Court, they are deemed to have accepted notice of the claim petition. They shall file their respective replies, if not already filed, within 15 days from today before the aforesaid Commissioner.

List before the Commissioner on 12.02.2018.

The appeal stands disposed off in the above terms.

NAJMI WAZIRI, J.

JANUARY 18, 2018

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