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

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Decided on: 19.07.2019

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CM(M) 1353/2018, CM APPL. 46355/2018

IFFCO TOKIO GENERAL INSURANCE CO LTD Petitioner

Through: Mr. A.K. Soni and Mr. Pavan Kumar
Vashishth, Advs.

Versus

ANJALI BOUTER SINGH & ORS Respondents

Through: Mr. Amir Singh Pasrich, Adv. with Mr.
Kalyan Arambam, Adv. and Mr. Amit Ranjan
Singh, Adv. for respondent

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This petition impugns the order of the learned MACT dismissing the petitioner's objections, apropos the Tribunal's jurisdiction to entertain the claim petition, filed on behalf of the deceased as well as the injured persons, through their duly appointed attorney.

2. Referring to the dicta of the Supreme Court in *Malati Sardar vs. National Insurance Company Ltd.*, Civil Appeal No. 10 of 2016 (arising out of SLP (Civil) No. 27243 of 2015), the learned Tribunal has held that a hyper-technical approach cannot be taken to obviate jurisdiction. It has also taken into consideration the fact that the office of the insurer was in Delhi.

Furthermore, the claim petition can be filed through a duly authorised agent/attorney under section 166 (1) (d) of the Motor Vehicles Act, 1988, Ms. Sadhana Upadhyay, a resident of Vasant Kunj, Delhi and the learned MACT has jurisdiction over the said area. Therefore, it was held that the claim was maintainable before the Tribunal. In **Malati Sardar** (supra), the Supreme Court has 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 parties 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, contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 CPC.”

3. The impugned order has also referred to the decision of the Rajasthan High Court in **Khandokar Afia Sultana & Ors. Vs. P.O. MACT & Ors.**, SB Civil Writ Petition Nos. 8812, 18561, 18604 & 18613/2013, decided on 06.05.2014 which held that a Power of Attorney holder also can file a claim petition before the MACT within the local limits of whose jurisdiction the said Attorney either resides or carries on business.

4. Mr. Amir Singh Pasrich, the learned counsel for the respondent has handed over a copy of the insurance policy issued by the appellant apropos the offending vehicle, a copy of the same has also been supplied to the

learned counsel for the appellant. At the lower end of the page, the insurance policy shows the Issuing Office as Delhi. Interestingly, the registered office of the appellant is at District Centre, Saket, New Delhi.

5. In the circumstances, there is no error shown in the impugned order, warranting interference by this Court. There is no merit in the appeal. It is accordingly dismissed.

6. At this stage, the learned counsel for the appellant submits that instead of the matter proceeding adversarily, an endeavour could well be made to settle the claim amicably. It is in this conciliatory spirit and on the request of the learned counsel for the parties, that the case is referred to the Delhi High Court Mediation and Conciliation Centre, where the parties shall appear on 27.08.2019 at 3 pm. The claim of the respondent is already on record. It would be open to the appellant to first consider the same so that appearance before the Mediation Centre is meaningful. Additional documents and computations, as may be required or may be instructive, may be supplied by the learned counsel for the respondent to the learned counsel for the petitioner.

7. The petition is disposed off in the above terms.

8. A copy of this order be given *dasti* to the parties under the signature of the Court Master.

NAJMI WAZIRI, J.

JULY 19, 2019/acm