

**CR-4890-2019(O&M)
and connected cases**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CR-4890-2019(O&M)

Oriental Insurance Company Limited

.....Petitioner

Versus

Sushma and others

.....Respondents

2. CR-4952-2019(O&M)

Oriental Insurance Company Limited

.....Petitioner

Versus

Sovan Singh @ Soban Singh and others

.....Respondents

3. CR-4941-2019(O&M)

Oriental Insurance Company Limited

.....Petitioner

Versus

Sushma and others

.....Respondents

4. CR-4936-2019(O&M)

Oriental Insurance Company Limited

.....Petitioner

Versus

Rameshwari Devi and others

.....Respondents

5. CR-5018-2019(O&M)

Oriental Insurance Company Limited

.....Petitioner

CR-4890-2019(O&M)
and connected cases **2**

Versus
Nanda Devi and others
.....Respondents

6. CR-4935-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

Versus
Nanda Devi and others
.....Respondents

7. CR-5017-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

Versus
Rameshwari Devi and others
.....Respondents

8. CR-4919-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

Versus
Nanda Devi and others
.....Respondents

9. CR-4997-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

Versus
Nanda Devi and others
.....Respondents

10. CR-4910-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

**CR-4890-2019(O&M)
and connected cases** **3**

Versus
Rameshwari Devi and others
.....Respondents

11. CR-4909-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

Versus
Sovan Singh @ Soban Singh and others
.....Respondents

12. CR-4897-2019(O&M)

Oriental Insurance Company Limited
.....Petitioner

Versus
Shanka Devi and others
.....Respondents

Date of decision:27.2.2020

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Harsh Aggarwal, Advocate, for the petitioner
in all the revision petitions.

Mr.Ashwani Arora, Advocate for
respondent no.1 in CR-4890-2019 and 5018-2019,
for respondents no.1 & 2 in CR-4897-2019,4909-2019,4997-
2019, 4935-2019 &4952-2019
for respondents no. 1 to 3 in CR-4910-2019,4919-2019
5017-2019 & 4936-2019
for respondents no. 1 to 5 in CR-4941-2019

ANIL KSHETARPAL, J.

By this order, 12 civil revision petitions i.e CR Nos.4890,
4952, 4941, 4936, 5018, 4995, 5017, 4919, 4997, 4910, 4909 and 4897
of 2019 shall stand disposed of.

The question which arises for adjudication is whether the claim petitions filed by the claimants at Chandigarh are liable to be rejected on account of lack of territorial jurisdiction or not?

Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the 1988 Act') lays down the places where at the option of the claimant claim petition can be filed. Section 166 of the 1988 Act is extracted as under:-

“166. Application for compensation.—

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 165 may be made—

- (a) by the person who has sustained the injury; or
- (b) by the owner of the property; or
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application:

Provided further that where a person accepts compensation under Section 164 in accordance with the procedure provided under Section 149, his claims petition before the Claims Tribunal shall lapse.]

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction

over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under 217[Section 159] as an application for compensation under this Act.]

(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]"

On careful reading of sub Section 2 of Section 166, it becomes clear that the claimant has been given option to file the claim petition at the following places:-

i) Claim Tribunal having territorial jurisdiction over the area in which the accident occurred. In other words, claim petition can be filed where the accident took place.

ii) Where the claimant resides or carries on business.

iii) Where defendant resides.

In the present case, territorial jurisdiction with the Claim Tribunal at Chandigarh is being claimed on the basis of the fact that the defendant which is a juristic person carries on its business in Chandigarh having a regional office. Oriental Insurance Company claims that Tribunal at Chandigarh does not have jurisdiction as the accident took

place in District Paudi Garhwal, State of Uttarakhand and both the driver and owner of the offending bus are also residents of the same place. Even deceased was ordinary resident of the aforesaid place.

The learned Tribunal dismissed the application filed by the Insurance Company. That is how these revision petitions have come up for hearing.

This Court has heard the learned counsel for the parties at length and with their able assistance, gone through the documents filed. Learned counsel for the petitioner-Insurance Company has submitted that in most of the cases, even the claimants are not residents of Chandigarh. He further submitted that the offending vehicle was insured by Regional Office of the Insurance Company at State of Uttarakhand. He, hence, submitted that the Tribunal at Chandigarh has no jurisdiction.

On the other hand, the learned counsel appearing for the claimants-respondents has supported the order passed by the Tribunal while referring to Section 166 of the 1988 Act to contend that the Insurance Company has a regional office in Chandigarh and therefore, defendant being a juristic person is residing in Chandigarh.

On careful analysis of the arguments of the learned counsel for the parties, this Court is of the considered view that there is no substance in the present revision petitions. As noticed above, the 1988 Act gives option to the claimants to file claim petition at any of the three different places as noticed above. The petitioner before this Court is a Nationalized Insurance Company having its branches/regional offices throughout the country. The Insurance Company is a juristic person

being incorporated as a Limited Company under the Companies Act. In order to make it convenient for the claimant to file a petition at any of the three places noticed above, the afore noted provision has been incorporated. The Legislature in order to achieve the objective has laid down that the claimant has the option to file the claim petition at any of these three places. This is in departure to territorial jurisdiction provided under the Code of Civil Procedure.

In this regard, it may be noticed that Supreme Court while considering this aspect has already held on interpretation of Section 166 of the 1988 Act that the claim petition can be filed at a place where defendant-Insurance Company has its Branch office. Reference in this regard can be made to the judgment in **Mantoo Sarkar vs. Oriental Insurance Company Limited (2009) 2 SCC 244**. Same conclusion was drawn in the judgment in '**Malati Sardar vs. National Insurance Company Limited and others**' (2016) 3 SCC 43.

Learned counsel for the petitioner- Insurance Company has stated that a number of claim petitions have been filed arising from the same accident, pending in Uttarakhand. He, hence, submitted that it would be more appropriate to direct filing of the claim petitions before the appropriate Court.

This Court has considered the submission, however, find no substance therein. The territorial jurisdiction of the Claim Tribunal is not dependent upon the convenience of Insurance Company. In any case, the Legislature has made a provision giving option to claimant to file the claim petition at any of the three places, hence, the argument of

the learned counsel for the petitioner- Insurance Company cannot be accepted.

Keeping in view the aforesaid facts, all the present revision petitions are dismissed.

27.2.2020	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No