

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC NO.491 of 2016**

1. Smt.Nagmat Bai, W/o Shri Uday Ram Patel, Aged about 32 years,
2. Uday Ram Pate, S/o Shri Samaru Patel, Aged about 36 years
Both R/o Village Devgaon, P.S. & Tah. Mungeli, Distt.Mungeli (CG)

Residing Presently at:-Village Laduva (Lohra), P.S. & Tah.Pandariya, Civil & Revenue Distt.Kabirdham (CG)

----- Appellants/Claimants**Versus**

1. Vishram Prasad S/o Jeevrakhan Ogare, aged about 70 years, R/o Village Devri, P.S. & Tah. Mungeli, Distt.Mungeli (CG)

(Owner of the offending vehicle bus bearing Reg.No.CG 04 ZA 0774)
2. Raju Prasad Tandan, S/o Kamta Prasad Tandon, Aged about 36 years, R/o Village Kanteli, P.S. Lalpur, Tah. Mungeli, Distt.Mungeli (CG)

Driver of the offending vehicle Bus bearing Reg. NO.CG 04 ZA 0771)
3. The New India Insurance Company Limited, Through Branch Manager Rama Trade Centre, Floor U.T.I. Building, in front of Rajeev Plaza Bilaspur, Civil & Rev. Distt.Bilaspur (CG)

----- Respondents

For Appellants	:	Mr.Keshav Dewangan, Advocate
For Respondent No.2	:	Mr.Umesh Pandey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

29/11/2021

1. This appeal is directed against the award dated 4.12.2015 passed by the Motor Accident Claims Tribunal, Kabirdham in Motor Accident Claim Case No.09/2015, whereby the Claims Tribunal has rejected the claim of the appellants / claimants for want of territorial jurisdiction to

entertain the claim application.

2. Mr. Keshav Dewangan, learned counsel for the appellants / claimants would submit that though the accident occurred within territorial jurisdiction of the Claims Tribunal, Mungeli, but now the claimants are residing within territorial jurisdiction of the Claims Tribunal, Kabirdham and the Claims Tribunal, Kabirdham had the jurisdiction to entertain the claim petition by virtue of Section 166(2) of the Motor Vehicles Act, 1988 (hereinafter called as 'Act of 1988') and it could not have been rejected, therefore, the impugned award is liable to be set aside.

3. On the other hand, Mr. Umesh Pandey, learned counsel for respondent No.2, would support the impugned award.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

5. Section 166(2) of the Act of 1988 provides as under:-

"166. Application for compensation.-

(1) xxx xxx xxx

(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) to (5) xxx xxx xxx."

6. A careful perusal of the aforesaid provisions would show that Section 166(2) of the Act of 1988 has conferred option upon the claimant, either to file claim petition

before 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.

7. In para-11 of claim application, the claimants have clearly stated that now they are residing in village Laduwa (Lohra), Tahsil Pandariya, District Kabirdham and as such, the Claims Tribunal Kabirdham had the jurisdiction to try the claim case by virtue of Section 166(2) of the Act of 1988.

8. The Supreme Court in the matter of Malati Sardar v. National Insurance Company Ltd. and others¹ has held that the provisions of Section 166(2) of the Act of 1988 is a benevolent provision for the victims of accidents of negligent driving. It was further held that 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.

9. Reverting to the facts of the present case in light of principle of law laid down by the Supreme Court in Malati Sardar (supra) and the provisions contained in Section 166(2) of the Act of 1988, it is quite vivid that the Claims Tribunal, Kabirdham had the jurisdiction to try the claim case as the claimants are residing within territorial jurisdiction of the Claims Tribunal, Kabirdham

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and as such, the Claims Tribunal, Kabirdham committed legal error in holding it had no jurisdiction.

10. Accordingly, the impugned award dated 4.12.2015 is set-aside. The matter is remitted to the Claims Tribunal, Kabirdham for hearing and disposal in accordance with law. Since the matter is old one, the Claims Tribunal shall consider and decide the claim case within a period of three months from the date of receipt of a copy of this order. Records be sent to the concerned Claims Tribunal forthwith.

11. The MAC is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-