

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.1768 OF 2020

Kaduba s/o Gopinath Rathod ... **APPELLANTS**

VERSUS

1) Raju s/o Motiram Alhat (Dead)

2) Minu Motiram Alhat & others ... **RESPONDENTS**

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Mr. R.A. Tambe, Advocate for appellant

Mr. Ujwal Patil, Advocate for respondent No.2.

Mr. S.G. Chapalgaonkar, Advocate for respondent No.3.

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CORAM : R. G. AVACHAT, J.

DATE : 24th AUGUST, 2021

PER COURT :

Heard learned counsel for the parties. The Tribunal has held to have no territorial jurisdiction to decide the claim petition since it has come in the evidence that the claimant/ appellant did not have permanent place of abode within the limits of the jurisdiction of the Tribunal at Shrirampur, District Ahmednagar. The claimant – appellant has admitted the said fact in his oral evidence. Therefore, no fault can be found with the findings recorded by the Tribunal.

2. It also appears that, the Tribunal, after

appreciating the evidence in the claim petition held the appellant to be entitled to compensation amounting to Rs.2,52,315/- with interest thereon, but did not award the same for want of jurisdiction. Mr. Chapalgaonkar, learned counsel for respondent No.3 supports the impugned judgment. Mr. Patil, learned counsel for respondent No.2 strongly objects to make any interference with the impugned order.

3. The learned counsel for the parties are ad idem on the point of setting aside the impugned award with remitting the matter to the Tribunal – Motor Accident Claims Tribunal, at Vaijapur, District Aurangabad since the appellant – claimant was residing at the relevant time within the territorial jurisdiction of the Tribunal at Vaijapur. In view of the same, the appeal is allowed in terms of the following order : -

ORDER

- (i) The matter is remitted to the Motor Accident Claims Tribunal, at Vaijapur, District Aurangabad for deciding it afresh after giving the parties an opportunity of hearing. All the parties to the claim petition have been represented in this appeal through Advocates. They are, therefore, directed to

appear before the concerned Tribunal on 13th September 2021.

- (ii) All the parties shall be at liberty to adduce additional evidence in the matter in support of their respective claims. The evidence which has already been recorded by the Tribunal at Shrirampur will form part of the record and proceedings.

**(R. G. AVACHAT)
JUDGE**

fmp/-