

108

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

CR No. 819 of 2022

DATE OF DECISION: 05.01.2023

Nirmala Devi

...Petitioner

versus

Chatarpal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ashish Gupta, Advocate,
For the petitioner.

ARUN MONGA, J. (ORAL)

Assailed herein is an order dated 22.11.2021 (Annexure P-3) passed by learned Motor Accidents Claims Tribunal, Gurugram, vide which claim petition filed by the petitioner/claimant under Section 166/140 of the Motor Vehicles Act, 1988, has been disposed of for want of territorial jurisdiction and observing that the petitioner would be at liberty to file the petition before the competent Tribunal of jurisdiction.

2. Brief facts first. On the fateful day i.e, 02.10.2013, Chunni Lal, Sonu, Mithun Kumar and Akhilesh Kumar (deceased husband of the petitioner herein) were enroute on NH-11 in District Bharatpur (Rajasthan) from Gandhi Dham Gujarat after (*sic while*) bringing dead body of Ram Avtar son of Rameshwar Dayal via vehicle bearing registration No.GJ-12-AY-2590. When the vehicle reached near dhaba in front of Technology Park NH-11 in the area of Police Station Sewar, District Bharatpur (Rajasthan), offending vehicle bearing registration No.

MP-06-DA-3166 driven by respondent No.1 in a rash and negligent manner and at a very fast speed hit the vehicle bearing registration No.GJ-12-AY-2590. Resultantly, occupants of the said vehicle received grievous injuries. All the injured were taken to hospital. Later, Akhilesh Kumar succumbed to his injuries. Wife of deceased Akhilesh filed claim petition. However, same was disposed of in the above mentioned manner, vide order dated 22.11.2021 passed by learned Motor Accidents Claims Tribunal, Gurugram. Hence, the instant revision petition.

3. I have heard learned counsel for the petitioner and gone through the record.

4. Impugned order dated 22.11.2021 passed by the learned MACT, Gurugram is premised, *inter alia*, on the following reasoning:

“xxx

*Having discussed above admitted facts, now this Tribunal would refer to the relevant provisions of Section 166 (2) of Motor Vehicles Act and interpretation of this provision given by Hon'ble High Court of Karnataka Circuit bench at Gulbarga, in case titled as **Subhadra and others Vs. Pankaj: MFA No.31609/2011 (MV) date of decision 07th August, 2012 (DB)**. The relevant paragraphs of the judgment are reproduced below:*

7. At the outset, we would like to consider the provisions contained in sub-Section (2) of Section 166 of the Act. Section 166 deals with application for compensation. Sub-Section (2), which deals with the jurisdiction of Tribunal, reads thus:

*"**166. (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."*

8. From bare perusal of sub-Section (2) of Section 166 of the Act, it is clear that the claimant is having four options, where he can file claim petitions. He can file it either before the Claims Tribunal having jurisdiction over "**the area in which the accident occurred**", or before 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**". The language employed in sub-Section (2) make the intention of the Legislature very clear. It confers the jurisdiction to the Claims Tribunal within the local limits of whose jurisdiction "accident occurred", or "claimant resides" or "claimant carries on business" or "defendant resides".

8.1 **It does not confers jurisdiction to the Tribunal within the local limits of whose jurisdiction the defendant carries on business.** The Legislature could have used the expression "carries on business" even in case of defendant, as is used for the claimants. The option is given to the claimant to file claim petition within the local limits of whose jurisdiction the defendant resides.. Thus, the intent of the Legislature is very clear which did not want to confer jurisdiction to the claims Tribunal within whose local limits the defendant/s "carries on business".

8.2 The language employed in sub-Section (2) of Section 166 of the Act is plain/clear, unambiguous and susceptible to only one meaning/interpretation. **We do not have a slightest doubt in our mind, in holding that the claim petition cannot be instituted before the Tribunal within whose local limits the defendant-Insurance Company carries on business, unless the other requirements, contemplated by sub-Section (2) of Section 166 of the Act, stand complied with.** A claimant can institute a claim petition before the Tribunal within whose local limits the respondent/defendant resides, such as driver or owner of the vehicle. Thus, a plain reading of Section 166 (2) of the Act, in our opinion, supports the view taken by the Tribunal."

Xxx xxx xxx xxx

In fact, the case in hand is a classic example of "Bench Hunting" as the petitioner initially by giving her address of District Mewat, filed claim petition there and later on withdrew it to file a fresh at Gurugram by claiming her address and working place here despite the fact she could not produce any proof what to talk of cogent to show compliance of Section 166(2) of Motor Vehicles Act on her part, to create jurisdiction of the Tribunal at Gurugram. Even, address given in petition is simply mentioned as "Gurugram" without having mention of where in Gurugram? In fact, this shifting of territorial jurisdiction from Nuh (Mewat) to Gurugram on the part of the petitioner, is obviously because of the reason that at Gurugram, there are more number of Tribunals, hence, disposal is quick and even the DC Rate payable to unskilled labour, is much more than Nuh. Hence, to get early decision and more amount than she deserves, she selected to shift to Gurugram, may be on ill-advice of someone. Such Bench Hunting is required to be curbed as also observed earlier, which is other reason to reject such petition on the ground of lack of territorial jurisdiction.

It is also apt to note here that even if in the given circumstances, the petitioner is asked to file claim petition before appropriate Tribunal having territorial jurisdiction within the meaning of Section 166(2) of the Motor Vehicles Act, it would not cause any prejudice to the petitioner as she would get what she deserves, if has merit in her case, as the period spent in litigation before this Tribunal, would not act against her from limitation point of view. Otherwise also, there is no limitation to file a MACT Claim Petition.

In nutshell, this Tribunal wishes to put it on record that the observations of this Tribunal, by no stretch of imagination, be construed ignorance or disobedience or disrespect to the law referred to, as this Tribunal in its judicial wisdom has found the law referred to, distinguishable on facts as described above.

9. *This Tribunal has not given findings on merits in the claim petition having in mind the law laid down by Hon'ble apex Court in Umesh Vs. Sri Yallagouda Ningangouda Ramgouda and another: 2020(2) TAC 24. In the quoted case, learned Claim Tribunal had ordered to return the claim petition to the petitioner for filing in proper jurisdictional Tribunal and Hon'ble High Court in first appeal approved the decision on territorial jurisdiction but also commented on merits of the case. Hon'ble apex Court did not reverse the decision on territorial jurisdiction but held that Hon'ble High Court erred in dismissing the appeal on merit, as it had already permitted appellant to file fresh claim petition before competent Court. In other words, Hon'ble apex Court held that having permitted claimant to file fresh claim petition*

before competent Court, Hon'ble High Court was not justified in dismissing appeal on merits.

10. Keeping in view the above detailed discussion, this Tribunal is of the considered opinion that this Tribunal has no territorial jurisdiction to entertain the present claim petition, hence, decide to accept the objection raised by respondent No. 3 to the territorial jurisdiction and order to return the claim petition to the petitioner to file the same before appropriate place of suing within the meaning of Section 166 (2) of the Motor Vehicles Act, to get the relief, if has merit therein. Since, despite having intimated to the petitioner that this Tribunal is to return the plaint, there is no intimation from petitioner's side within the meaning of Order VII Rule 10-A (2) of CPC, hence, petitioner would be at liberty to file the petition in consonance with the law on the subject before the competent Tribunal of jurisdiction."

(emphasis supplied by MACT)

5. Having heard the arguments of learned counsel for the petitioner, I am of the opinion that there is no room for interference in the aforesaid valid reasons recorded by the learned Tribunal.

6. No material irregularity, either in law or procedure, has been committed by the learned Tribunal, so as to exercise extraordinary revisional jurisdiction herein.

7. In the premise, the instant revision petition is dismissed.

8. Pending applications, if any, shall also stand disposed of accordingly.

JANUARY 05, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No