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

Date of decision: 09.01.2023

+ CM(M) 1201/2021 & CM APPL. 32938/2022 (delay 455 days)
SHRI RAMSUJAN PATEL & ORS.

..... Petitioner

Through: Mr. Chuna Mani Patel, Adv.

versus

SHRI DAYANAND SINGH & ORS.

..... Respondent

Through: Mr. Sameer Nandwani, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present petition under Article 227 of the Constitution of India seeks to assail the order dated 20.09.2018 passed by the learned Motor Accident Claim Tribunal(MACT) whereby the claim petition preferred by the petitioners was directed to be returned to them for want of territorial jurisdiction with liberty to file the same before a Court of competent jurisdiction having the necessary territorial jurisdiction

2. Learned counsel for the petitioner submits that the impugned order is wholly perverse as the learned Tribunal failed to appreciate that once the office of the Insurer was situated within the territorial jurisdiction of the learned Tribunal at Patiala House Courts, New Delhi, the claim petition preferred by the petitioners could not be rejected on the ground of territorial jurisdiction. He submits that even though the petition was directed to be returned to the petitioners in September, 2018 itself, the petitioners who are the legal heirs of late Shri Shiva Raj could not approach this Court at that

stage as they have been facing grave financial hardship after the death of the sole bread earner of the family. The petitioners belong to a remote village in Madhya Pradesh and despite their best efforts they were not in a position to contact their lawyer in Delhi especially after March 2020 when the Country was hit with the Covid 19 pandemic. He, therefore, prays that the impugned order, which is contrary to the settled legal position, be set aside.

3. On the other hand, Mr Nandwani appearing on behalf of the respondents, while not seriously disputing that the claim petition preferred by the petitioners before the learned MACT, Patiala House Courts was maintainable, opposes the petition on the ground of delay and laches. He submits that the petitioners having approached the Court only in December 2021, the present petition is liable to be dismissed on the ground of delay and laches itself.

4. Having considered the submissions of learned counsel for the parties, I find that the respondents are correct in urging that the present petition was filed after a delay of more than 3 years. The said period however includes the period between March, 2020 and December 2021 which is required to be excluded as per the orders passed by the Apex Court in *Suo Moto writ petition W.P.(C) 3/2020*. The only delay which this Court is therefore concerned with is the period between September, 2018 to March, 2020.

5. Undoubtedly, even this period is more than one year but the question before this Court is whether this delay can be said to be so inordinate so as to reject the petitioner's challenge to an order passed by the learned Tribunal, which is clearly unsustainable. The Motor Vehicles Act is a beneficial legislation and therefore taking into account that the petitioners

lost the sole earning member of the family and belong to a remote village in Madhya Pradesh, this delay in approaching this Court cannot be said to be so inordinate so as to reject the petition on the ground of delay and laches. As already noted herein above, insofar as the merits of the matter are concerned, there is no serious denial even by the respondents to the petitioner's plea that their claim petition was maintainable before the learned MACT, Patiala House Courts, New Delhi.

6. For the aforesaid reasons, the petition deserves to be allowed and is accordingly, allowed by setting aside the impugned order dated 20.09.2018 passed by the learned MACT. The matter is remanded back to the learned MACT, Patiala House Court, New Delhi for adjudication in accordance with law. As the petitioners are stated to be suffering from grave financial hardship on account of non-receipt of any compensation whatsoever till date, the matter is directed to be listed before the learned MACT, Patiala House, New Delhi on 30.01.2023 for preliminary hearing.

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(REKHA PALLI)
JUDGE

JANUARY 9, 2023

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