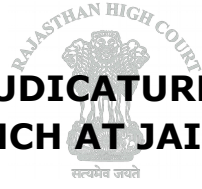




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 16810/2023

Magma General Insurance Company Limited, Through Manager,
Having Its Office At Third Floor, Prestige Tower, I-1, Amrapali
Circle, Vaishali Nagar, Jaipur-302001.

-----Petitioner

Versus

1. Vinod Kumar S/o Ruparam, Aged About 29 Years,
(Husband Of The Deceased)
2. Ajit S/o Vinod, Aged About 9 Years, (Son Of The
Deceased)
3. Maya D/o Vinod, Aged About 8 Years, (Daughter Of The
Deceased) Claimants No. 2 And 3 Minor Are Represented
Through Legal Guardian Their Father Shri Vinod Kumar.
All R/o Ward No. 10, Dhani Leghan, Kelniya,
Hanumangarh.
4. Prem Kumar S/o Shri Laduram, R/o Dhani Leghan, Tehsil
Rawatsar, Hanumangarh (Driver Of The Vehicle Rj-49-Ra-
1559)
5. Mangilal S/o Shri Roopram, R/o Dhani Leghan, Tehsil
Rawatsar, Hanumangarh (Owner Of The Vehicle Rj-49-Ra-
1559)

-----Respondents

Connected With

S.B. Civil Writ Petition No. 16818/2023

Magma General Insurance Company Limited, Through Manager,
Having Its Office At Third Floor, Prestige Tower, 1-1, Amrapali
Circdle, Vaishali Nagar,jaipur - 302001.

-----Petitioner

Versus

1. Rooparam S/o Shri Manaram, Aged About 54 Years,
(Father-In-Law Of The Deceased)
2. Indra W/o Shri Roopram, Aged About 52 Years, (Mothers-
In-Law Of The Deceased)
3. Amit S/o Shri Mangilal, Aged About 9 Years, (Son Of The
Deceased).
4. Mahesh S/o Shri Mangilal, Aged About 4 Years, (Son Of





The Deceased) All R/o 1 Nayi Tanki Ke Pass, Ward No. 10,
Dhani Leghan, mahela, Hanumangarh

5. Prem Kumar S/o Shri Laduram, R/o Dhani Leghan, Tehsil Rawatsar, Hanumangarh. (Driver Of The Vehicle Rj-49-Ra-1559)
6. Mangilal S/o Shri Roopram, R/o Dhani Leghan, Tehsil Rawatsar, Hanumangarh. (Owner Of The Vehicle Rj-49-Ra-1559).

-----Respondents

S.B. Civil Writ Petition No. 16829/2023

Magma General Insurance Company Limited, Through Manager,
Having Its Office At Third Floor, Prestige Tower, I-1, Amrapali
Circle, Vaishali Nagar, Jaipur-302001.

-----Petitioner

Versus

1. Bhanwarlal S/o Ratiram, Aged About 33 Years, (Husband Of The Deceased)
2. Rahul S/o Bhanwarlal, Aged About 14 Years, (Son Of The Deceased)
3. Rajesh S/o Bhanwarlal, Aged About 8 Years, (S/o Of The Deceased), Claimants No. 2 And 3 Minor Are Represented Through Legal Guardian Their Father Shri Bhanwarlal, All R/o Ward No. 10, Dhani Leghan, Visrasar, Hanumangarh.
4. Prem Kumar S/o Shri Laduram, R/o Dhani Leghan, Tehsil Rawatsar, Hanumangarh (Driver Of The Vehicle Rj-49-Ra-1559)
5. Mangilal S/o Shri Roopram, R/o Dhani Leghan, Tehsil Rawatsar, Hanumangarh (Owner Of The Vehicle Rj-49-Ra-1559)

-----Respondents

For Petitioner(s)	:	Mr. Virendra Agrawal Mr. Prakhar Agrawal Mr. Santosh Kumar Soni
For Respondent(s)	:	Mr. Shresth Vardhan Mr. Himanshu Chetani

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN



DATE OF PRONOUNCEMENT :: 22/08/2024

The petitioner Magma General Insurance Company Ltd. (hereinafter referred to as 'the Insurance Company' for brevity) has filed these three writ petitions under Article 227 of the Constitution of India challenging the common order dated 21.04.2023 passed by learned Judge, Motor Accident Claims Tribunal, Jaipur District, Jaipur in Motor Accident Claim Case Nos.460/2022, 461/2022 and 462/2022 whereby the learned Tribunal has rejected three separate applications under Order 7 Rule 11 CPC filed in each claim case on behalf of petitioner Insurance Company for dismissing the claim petitions on the ground of lack of territorial jurisdiction of the learned tribunal to try the claim cases.

Since in all these three writ petitions, a common order dated 21.04.2023 is impugned, the same are being decided by this common order.

Brief facts of the case are that on 05.02.2020, three ladies namely Manju Devi, Parmeshwari @ Mesri and Draupadi were going to their agricultural fields from their respective homes and when they reached Neherrohi Dhani, Pallu, District Hanumangarh, a tractor No. RJ 49 RA 1559 which was being driven rashly and negligently by its driver, hit them and as a result of which, all the three ladies fell in canal and succumbed to injuries. In February, 2020, the dependents of these three deceased ladies filed three separate claim cases under Section 166/140/149 of the Motor Vehicles Act before the learned Special Judge, Printing & Stationary Embezzlement & Motor Accident Claims Tribunal, Jaipur



District, Jaipur claiming compensation from the owner, driver and insurer of the offending vehicle. The offending vehicle was insured with the petitioner Insurance Company. After filing claim petitions, in July, 2021, written submissions were filed on behalf of the petitioner Insurance Company and same are annexed herewith as Annexure-3. Thereafter, in September, 2021, issues were framed in all the three claim cases. Presently, these cases are pending for recording defence evidence.

On 23.05.2022, the petitioner Insurance Company filed three separate applications under Order 7 Rule 11 CPC in each claim case for rejecting the claim petitions on the ground of lack of territorial jurisdiction of the learned MACT, Jaipur District to try these cases. The claimants/respondents filed their reply to the applications and denied the averments made therein. Vide impugned order dated 21.04.2023, the learned Tribunal dismissed the applications in light of the observations made by Hon'ble Apex Court in the case of **Malti Sardar v. National Insurance Company Ltd. & Ors. : (2016) 3 SCC 43**. Hence these writ petitions.

Learned counsel for the petitioner Insurance Company submits that the learned Tribunal has erred in law in dismissing the applications under Order 7 Rule 11 CPC and therefore, the order dated 21.04.2023 may be quashed and claim petitions may be rejected. He further submits that the learned Tribunal has misinterpreted the judgment passed by Hon'ble Supreme Court in the case of Malti Sardar (supra). Learned counsel for the petitioner further submits that the learned Tribunal at Jaipur has no territorial jurisdiction to try these claim petitions as same is in



contravention of Section 166(2) of the Motor Vehicles Act. He submits that the claimant and defendant resides in Hanumangarh and so also the accident occurred in Hanumangarh. The Registered Head Office of the Company is situated in Kolkata and therefore, the learned Tribunal at Jaipur has no jurisdiction to entertain the claim petitions. Learned counsel also contends that while interpreting any rule or law, literal rule of interpretation should be applied if the words of a provision of a statute are clear and unambiguous. Referring Section 34 of the Consumer Protection Act, learned counsel submits that in the matters filed under Consumer Protection Act, jurisdiction may be assumed through the branch office of Insurance Company, which is categorically omitted by Legislature and hence, it can be inferred that the jurisdiction cannot be made through the branch office of the Insurance Company. Learned counsel for the petitioner Insurance Company places reliance on the following judgments:-

1. Subhadra & Ors. v. Pankaj & Ors. (MFA No.31609/2011, decided on 07.08.2012 by Karnataka High Court (Gulbarga Bench): 2013 (3) AKR 553 and
2. Jageshwar Prasad Namdeo v. Kalpana Pathak & Ors. (Misc. Appeal No.2612/2021, decided on 20.03.2023 by Madhya Pradesh (Jabalpur Bench) High Court : 2023/MPHC-JBP/13694

With these submissions, he prays that the writ petitions may be accepted and the claim petitions filed on behalf of the respective claims may be rejected for lack of territorial jurisdiction.



Per contra, learned counsel for the respondents-claimants oppose the submissions advanced by the petitioner's counsel. They submit that the learned tribunal has not committed any error of law in dismissing the applications filed by the petitioner Insurance Company and it has rightly dismissed the applications. It is further submitted that Hon'ble Apex Court has unequivocally observed in the case of Malti Sardar (supra) that

"there exists no bar to a claim petition filed at a place where the insurance company has its place of business. In such cases, there is no prejudice to any party. There is no failure to justice."

They contend that this issue of maintainability of the claim petitions before the MACT, Jaipur on the ground of lack of territorial jurisdiction should be taken at the very initial stage. But here in these cases, same has been raised after almost two years of the filing of the claim petitions and if the petitioner Insurance Company takes a plea that date of filing of the claim petition is of no avail to it then too, it has taken more than one year from the date of filing of written statement, filed on its behalf. It is further submitted that the petitioner Insurance Company has not uttered a single word for lack of jurisdiction in the written statement. They contend that presently, the case is at the stage of recording defence evidence and thus, it is clear that the trial is at fag end and if these writ petitions are allowed, serious prejudice would be caused to the claimants. Learned counsel for the respondents place reliance on the following judgments:-

1. Malti Sardar v. National Insurance Co. : (2016) 3 SCC 43
2. Balveer Batra v. New India Assurance Co. : C.A. No.1842 of 2024, decided on 08.02.2024



I have heard and considered the submissions advanced at bar and perused the material available on record.

Since the issue involved in these writ petitions is regarding the jurisdiction of the Tribunal to try the claim petitions, it would be relevant here to refer Section 166 of the M.V. Act. Section 166 of the Act reads as below:-

"Section 166. Application for Compensation

(1).....

(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:"

The words of the aforesaid provision is very clear that claim petition may be filed before the Claim Tribunal which has jurisdiction over the area in which the accident occurred; the claimants reside or carry business or the defendant resides. The argument of the petitioner's counsel that the registered office of the Insurance Company is in Kolkata and neither the accident occurred in Jaipur nor the claimants and defendant resides in Jaipur and therefore, the MACT, Jaipur does not have any jurisdiction to try the claim is absolutely frivolous. The phrase 'defendant resides' under Section 166 (2) of the M.V. Act, should be given an expansive interpretation and it covers the place of business of Insurer. Does the petitioner Insurance Company have no office at one of the biggest and metro cities like Jaipur? Certainly not. As per the pleadings of the writ petitions, it is clear



that the Insurance Company has its office all over the country and thus, in no manner, it would cause any trouble or hardship to the Insurance Company in defending its cases. Apart from that, the servicing/issuing office of the insurance policy under which the claimants are claiming compensation, is Vaishali Nagar, Jaipur and thus, it cannot be said that the claimants have chosen Jaipur as an unrelated place for pursuing the claim. The learned tribunal has rightly dismissed the applications under Order 7 Rule 11 CPC in light of the clear and unambiguous observation made by Hon'ble Apex Court in the case of Malti Sardar (supra) as per which, there would be no bar to present a claim petition before a tribunal in whose jurisdiction, the Insurance Company has its place of business. Though, it is true that the judgment of Malati Sardar (supra) was passed after the final award at appellate stage but it does not mean that the observations made in a broad sense, regarding filing of claim petition before a tribunal where the defendant has its place of business, does not apply here in this case.

So far as the contention of the learned counsel for the petitioner that if the words of a provision are clear, literal interpretation should be taken, but in my considered opinion before interpreting a provision, firstly the intention of law makers should be taken into consideration. The Motor Vehicles Act is a beneficial legislation which has been enacted with an object of facilitating remedies for victims of accidents and therefore, in such matters, liberal interpretation of the laws, should be made.

Apart from above, the petitioner Insurance Company ought to have raised this objection of lack of jurisdiction at the very





initial stage after completion of service of notice of claim petition, but it did not do so and after two years of the claim petition, when the trial is at fag end, it has filed the application seeking rejection of the claim petition on the ground of lack of jurisdiction. In the written statement, filed on behalf of the Insurance Company, no such objection has been raised.

In my considered opinion, any interference at this belated stage would definitely prejudice the rights of the claimants, who are said to be the dependents of the deceased. We should not forget or overlook the object of the M.V. Act wherein the convenience of the claimants have been given due consideration.

In view of above, this Court is not inclined to interfere in the impugned order dated 21.04.2023. Accordingly, same is affirmed. The instant writ petitions lack merit and are hereby dismissed. Stay applications are also disposed of. There is no order as to costs.

(ANIL KUMAR UPMAN),J

Lalit Mohan/