

**Order Below Ex. 17 In M.A.C. P. No. 37/2018**

1. The present application has been preferred by the opponent No.3 – Oriental Insurance Co. Ltd. to frame the Preliminary Issue regarding the jurisdiction in the said matter, and the Tribunal has not jurisdiction to try this claim petition.
  
2. Heard the Ld.Advocate Mr. M.R.Soni for the opponent No.3; it is submitted that, the present claim petition has been preferred by the claimant pursuant to the injury received by him in the vehicular accident; it is submitted that, in the cause-title of the claim petition, the permanent residence of the claimant has been shown as village-Badela, Thana, Gola, Dist.Gorakhpur, U.P., and present residence is shown as village-Pansora, Ta. Umreth, Dist. Anand. Further, it is submitted that, the accident took place near Rautpar Choraha situated at Badhalganj Gorakhpur Highway, U.P.; the opponents No.1 & 2 i.e. the driver & owner of the truck bearing Registration No. U.P.63.T.8293 are residing at Mirzapur, U.P.; and the insurance of the said vehicle was taken from the Oriental Insurance Co. Ltd. from Calcutta; so as provided under Section-166(2) of the Motor Vehicles Act, no cause of action has been arisen within the jurisdiction of the Kheda District; merely the branch office or the office of

the Oriental Insurance Co. Ltd. is situated at Nadiad; mainly on this base the claim petition has been preferred before this Tribunal, hence this Tribunal has no jurisdiction to entertain the claim petition; hence the present claim petition is required to be returned back to the claimant as this tribunal has no jurisdiction to entertain this claim petition.

3. On the other hand, Ld. Advocate Mr. D.V. Patel for the claimant has opposed the said application and submitted that, the claimant is residing at village-Pansora, Ta. Umreth, Dist. Anand, and the branch office of the insurance company is situated at Nadiad, the summons is also duly served and the insurance company is represented through his advocate, as this Tribunal has jurisdiction to entertain this claim petition. Further, in support of his submission Ld.Advocate Mr. Patel relied upon the Judgment of the Hon'ble Apex Court reported in '**I (2016) ACC 1 (SC)**' in case of '**Malati Sardar v/s. National Insurance Co. Ltd.**' and submitted that the present application is required to be dismissed.
4. After hearing the rival submission of the parties, perusing the authorities on which the Ld.Advocate for the claimant relied upon, it is not in dispute that, the accident took place in U.P.; the opponents No.1 & 2 are the residents of U.P. and the claimant is also permanently resident of U.P.

but at present he is residing at village Pansora, Ta.Umreth, Dist. Anand. It is also not in dispute that, the branch office of the insurance company is situated at Nadiad, where the summons is duly served and the insurance is represented by its advocate. So now the only question is – when the insurance company has its branch office within the jurisdiction of this Tribunal, mainly on this aspect, whether the Tribunal has jurisdiction to entertain the claim petition. In this regard it is profitable to peruse the Judgment of Hon'ble Apex Court in case of **Malati Sardar** (supra). In the said Judgment, the Hon'ble Apex Court has held in para-14 as under:~

*14. The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. 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. There is no bar to a claim petition being filed at a place where the insurance company, which is main contesting parties in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in Manto Sarkar (supra), contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21, CPC.*

5. Considering this, there is specifically held by the Hon'ble Apex Court that, when the insurance company is main contesting parties has its business within the jurisdiction of any Tribunal then in that circumstance the Tribunal has jurisdiction to entertain the claim petition.
6. As discussed above, as in the present case on hand is concerned, admittedly the insurance company has its business at the branch office at Nadiad, which fall under the jurisdiction of this Tribunal, hence considering this I do not find any substance in this application filed by the insurance company disputing the of the jurisdiction this Tribunal, hence considering this I do not find any merits in the present application, hence I pass following order in the interest of justice.

### **ORDER**

1. The present application Ex.17, preferred by the opponent No.3 - insurance company is hereby dismissed.

Pronounced in the open Court.

Date : 15-04-2022.

**(Liyakathussain Shamsuddin Pirzada)**

Chairman –M.A.C.T.(Main),

Nadiad.

Kheda at Nadiad.

**GJ00914**