

KAMS080013342023



**IN THE COURT OF PRINCIPAL SMALL CAUSES & SENIOR
CIVIL JUDGE & M.A.C.T. AT MYSURU.**

Presided Over by SRI AFTHAB.K

MVC.808/2023

Petitioner/s

Sri. Chidananda H.B. @ Ananda S/o. Basavaraju,
Age: 22 years, R/at No.307, Hullekere village,
Gandsi hobli, Arasikere taluk, Hassan district.

(By Sri. H.R. Mahadevaprabhu, Advocate)

Vs.

Respondent/s:

The Manager, KSRTC Rural Division,
Bannimantapa, Mysuru-570015.

Owner of the KSRTC bus bearing No.KA-06/F-1280

(By – Sri. R. Kiran, Advocate)

PARTIES TO I.A.

Applicant:

The Manager, KSRTC Rural Division

Vs.

Opponent:

Sri. Chidananda H.B. @ Ananda

* * * * *

ORDERS ON IA NO.VII

The application in consideration i.e. IA No.VII is filed by the respondent under section 166(2) (1) of M.V. Act read with section 151 of CPC seeking rejection of petition on the ground that this tribunal does not have territorial jurisdiction to try the petition in the interest of justice and equity.

2. In support of IA No.VII, the Divisional Controller of the respondent corporation has filed his affidavit contending that the KSRTC bus bearing No.KA-06/F-1280 pertains to Tumkur Depot and the accident occurred within the limits of Hassan Depot and the same is clear from the fact that FIR is registered at Gandsi police station. Furthermore, the petitioner is resident of Gandsi hobli, Arasikere taluk, as such, if not at Tumkur the petition should have been filed before the tribunal at Arasikere taluk or Hassan and yet the petition is filed before this tribunal, as such, the petition is not maintainable as this tribunal lacks territorial jurisdiction to try the case. Further, even as per the provisions of M.V. Act, the petition can be filed before the MACT within the jurisdiction of which the accident occurred or the petitioner reside or the place of business of respondent and even for this reason, the petition is not maintainable before this tribunal. Further, if the application is rejected the respondent corporation put to irreparable loss or injury whereas if the application is allowed no injustice or prejudice will be caused to petitioner. On these amongst other grounds, it is prayed that the application be allowed.

3. Upon service of copy of the application, the petitioner filed objections contending that the IA is neither maintainable under law nor facts and hence is liable to be dismissed *in limine*. Further the application is filed when the matter stands posted for respondent's evidence and the intention of the respondent is to harass the petitioner, as such the application is liable to be rejected. Further admittedly, the KSRTC is functioning at Mysuru as well and the Mysuru Division is one of the Divisions of KSRTC as such the petitioner is very much maintainable before this tribunal, as the place of business of the respondent is within the limits of this tribunal. Further the intention of the applicant is to protract the proceedings, as such the application is liable to be rejected. Further the application is filed with an intention to drag the matter and the facts asserted in support of the application are all false. On these amongst other grounds, it is prayed that the application be rejected.

4. Heard the learned counsel for the respondent and petitioner.

5. After careful perusal of the averments in affidavit accompanying the application, the following points arise for my consideration.

1) *Whether the applicant has made out sufficient grounds to reject the petition?*

2) *What order?*

6. Upon careful perusal of the plaint averments and after giving its anxious consideration to the arguments canvassed and pleadings, this court answers the aforesaid points are consideration as under:

Point No.1 : In the negative

*Point No.2 : As per final order
for the following reasons*

REASONS

7. POINT No.1:

The respondent corporation has filed the application under consideration seeking rejection of petition on the ground that this tribunal does not have requisite territorial jurisdiction to try the petition. Before venturing to discuss the application on merits, it is necessary on the part of this tribunal to revisit the provision which the applicant has invoked. The section 166 (2) of M.V. Act reads thus:

166. Application for compensation. -

*(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:[***]*

Hence, sub-section (2) of section 166 of M.V. act categorically provides that the claimant may choose to file the petition before the Claims Tribunal having jurisdiction over the area in which-

- a) the accident occurred; or*
- b) within the local limits of whose jurisdiction the claimant resides or carries on business; or*
- c) within the local limits of whose jurisdiction the defendant resides,*

So the provision makes it clear that even if one of the defendants resides or its place of business is within the jurisdiction of this tribunal, then the tribunal can very well entertain the petition irrespective of place of

residence of petitioner and other respondents. Wherefore, it is for the petitioner to decide as to before which claims tribunal he intends to file the petition but the petitioner must ensure that atleast one of the respondents have place of business within the limits of the tribunal where he intends to file the petition. It is in the backdrop of the said provision that the application must be appreciated and disposed of.

8. Further, no doubt, the cause title of the petition reveals that the petitioner is a resident of Gandasi hobli, Arasikere taluk, but when it comes to respondent as rightly pointed out by learned counsel for petitioner, it has its place of business at Mysuru city as its divisional office is functioning at Mysuru. Perhaps, the very fact that the notice of this petition was issued to the address mentioned in the cause title which is the Mysuru address and the notice was duly served and the respondent even appeared through its counsel as such it is clear that one of the places of business of the respondent is at Mysuru. Under such circumstances, since the respondent has its place of business at Mysuru, irrespective of the place of residence or place of business of other respondents, this tribunal has territorial jurisdiction to try the petition.

9. The view taken by this tribunal is fortified by the following decisions:

a) *Malati Sardar Vs. National Insurance Co. Ltd.*, rendered in *Civil Appeal No.10/2016*

b) *APSRTC Vs. P. Nanjireddy and others* rendered in *MFA No.7630/2015 (MV-I)* rendered on *03.07.2023*

c) *Manager, Royal Sundaram Alliance Insurance Co. Ltd., Vs. A. Rajendra and others* reported in *2019 ACJ 2852*

d) *Mantoo Karkar Vs. Oriental Insurance Co. Ltd.*, rendered in *Civil Appeal No.7318/2007*

And essence of the decisions cited supra is that even if one of the parties reside or have place of business within the limits of this tribunal, this tribunal can very well entertain the claim petition. The relevant excerpt from the decision rendered by Hon'ble Apex Court are reproduced hereunder:

a) In *Malati Sardar Vs National Insurance Company Limited* reported in *(2016) 3 SCC 43*

9. *The question for consideration thus is whether the Tribunal at Kolkata had the jurisdiction to decide the claim application under Section 166 of the Act when the accident took place outside Kolkata jurisdiction and the claimant also resided outside Kolkata jurisdiction, but the respondent being a juristic person carried on business at Kolkata. Further question is whether in absence of failure of justice, the High Court could set aside the award of the Tribunal on the ground of lack of territorial jurisdiction.*

10. *In our view, the matter is fully covered by decisions of this Court in Mantoo Sarkar (supra). It will be worthwhile to quote the statutory provision of Section 166(2) of the Act :*

*“166. Application for compensation.— * * * (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:

Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant."

11. *In Mantoo Sarkar (supra), the insurance company had a branch at Nainital. Accident took place outside the jurisdiction of Nainital Tribunal. The claimant remained in the hospital at Bareilly and thereafter shifted to Pilibhit where he was living for a long time. However, at the time of filing of the claim petition he was working as a labourer in Nainital District. The High Court took the view that Nainital Tribunal had no jurisdiction and reversed the view taken by the Tribunal to the effect that since the office of the insurance company was at Nainital, the Tribunal had the jurisdiction. This Court reversed the view of the High Court. It was held that the jurisdiction of the Tribunal was wider than the civil court. The Tribunal could follow the provisions of Code of Civil Procedure (CPC). Having regard to Section 21 CPC, objection of lack of territorial jurisdiction could not be entertained in absence of any prejudice. Distinction was required to be drawn between a jurisdiction with regard to subject matter on the one hand and that of territorial and pecuniary jurisdiction on the other. A judgment may be nullity in the former category, but not in the later. Reference was also made to earlier decision of this Court in Kiran Singh vs. Chaman Paswan[4] to the following effect :*

"With reference to objections relating to territorial jurisdiction, Section 21 of the Civil Procedure Code enacts that no objection to the

place of suing should be allowed by an appellate or revisional court, unless there was a consequent failure of justice. It is the same principle that has been adopted in Section 11 of the Suits Valuation Act with reference to pecuniary jurisdiction. The policy underlying Sections 21 and 99 CPC and Section 11 of the Suits Valuation Act is the same, namely, that when a case had been tried by a court on the merits and judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it had resulted in failure of justice, and the policy of the legislature has been to treat objections to jurisdiction both territorial and pecuniary as technical and not open to consideration by an appellate court, unless there has been a prejudice on the merits. The contention of the appellants, therefore, that the decree and judgment of the District Court, Monghyr, should be treated as a nullity cannot be sustained under Section 11 of the Suits Valuation Act.' "

Further as can be seen the Hon'ble Apex Court relied on the decision rendered in *Mantoo Sarkar Vs. Oriental Insurance Co. Ltd.*, to arrive at said conclusion. Further the very same view is taken by the Hon'ble High Court of Karnataka in *A. Rajendra* and *Nanji Reddy* cases cited supra.

10. To sum up the discussion, as the respondent corporation has its place of business within the territorial limits of this tribunal, the tribunal is well within its powers to entertain the petition on merits. Hence, it is held that this tribunal has territorial jurisdiction and consequentially it is held that the respondent corporation has failed to make out any ground to allow the application. Even otherwise, as per the settled principles of law, if the tribunal were to come to the conclusion that it has no jurisdiction to try the petition, the correct way forward for the tribunal is to return the petition to the claimant for presenting before the tribunal of competent jurisdiction

but by no stretch of imagination, this tribunal can reject the petition on the ground of lack of jurisdiction. Hence viewed from any angle, the application is liable to be dismissed. Wherefore, this court deems it fit to answer *the Point No.1 is answered in the negative.*

11. **POINT No.2:**

In view of the finding of this court on Point No.I, this court answers the point No.II as under, by passing the following:

ORDER

“IA No.VII under section 166(2) of M.V. Act read with section 151 of CPC filed by respondent corporation is hereby dismissed as not maintainable.

Parties to bear their own costs.”

(Dictated to the stenographer, computerized by her, corrected and then pronounced by me in the open court, this the 17th day of February, 2026)

(AFTHAB.K.)

Prl. Judge, Court of Small Causes
& MACT., Mysuru.