
(1995) 11 RAJ CK 0036
In the Rajasthan High Court
Case No : C.R.P. No. 1233 of 1995

Anjana

APPELLANT

Vs

Mangal Singh and Others

RESPONDENT

Date of Decision : 08-11-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 142

Citation : (1996) 1 ACC 486 : (1996) ACJ 1349 : (1996) 3 WLC 398

Hon'ble Judges : Mohini Kapoor, J

Bench : Single Bench

Advocate : Mukesh Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

Mohini kapoor, J.—Parliament in its wisdom has confined the applicability of Section 140 of the Motor Vehicles Act, 1988, to only those cases where the death and permanent disablement of any person is resulted from an accident. The interim compensation on the ground of "no fault liability" has not been allowed in case of accident where disablement is temporary. Where the disablement is temporary, the injured person will be entitled to compensation after the whole matter is inquired into. At the time of moving an application u/s 140 of the Motor Vehicles Act the injured claimant has to satisfy that on account of the accident, he or she has been permanently disabled. In the present case, the certificate given by the doctor is as under:

I certify that I have this day 29.6.1995 examined Anjana, 5 years, who states that she was accidentally injured on 12.11.1994 and was admitted into this hospital and discharged on.. .and treated in O.P.D. at...from 12.11.1994 to till...

M.I. 11/2 cm. x 1 cm. scar (F) forearm.

In my opinion the injury and injuries which she has suffered by reason of the accident involve:

(a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint;

(b) destruction or permanent impairing of the powers of any member or joint;

(c) permanent disfiguration of the head or face.

She sustained fracture of upper 1/3rd shaft of femur left side. She is having limping and wasting of muscles. Disability about 10 per cent (ten).

Sd/

Junior Specialist

2. A five years old girl has sustained fracture of upper 1/3rd shaft of femur left side but there is no mention in the certificate whether the disablement is permanent or temporary.

3. Section 142 of the Motor Vehicles Act provides as to what is the permanent disablement. In this section the injuries suffered as a result of accident are as mentioned in the clauses (a),(b) and (c), which have been scored out in the certificate, amount to permanent disablement.

4. When in the opinion of the doctor who gave the certificate, the injuries of the applicant do not fall within clauses (a),(b), (c) of Section 142 of the Motor Vehicles Act, then at this stage it cannot be said that the applicant has suffered permanent disablement so as to get interim compensation on basis of "no fault liability".

5. The Claims Tribunal has examined this situation in order to refuse interim compensation on the ground of "no fault liability". A reading of Section 140 along with Section 142 of the Motor Vehicles Act makes it clear that interim compensation can be allowed only on basis of permanent disablement and permanent disablement for this purpose is defined u/s 142 of the Act and at present it cannot be said that the case of the applicant is covered by permanent disablement provided u/s 142 of the Motor Vehicles Act. The application for grant of interim compensation has been rightly refused. There is no force in this revision petition and it is dismissed.