
(2000) 02 MP CK 0087
In the Madhya Pradesh High Court
Case No : M.A. No. 18 of 2000

Geetabai	Vs	APPELLANT
Saynarayan and Others		RESPONDENT

Date of Decision : 22-02-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2001) ACJ 2079

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Advocate : Manish Jain, for the Appellant; P.K. Gupta, for the Respondent

Final Decision : Allowed

Judgement

A.M. Sapre, J.—This appeal is by the claimant against an order whereby her application for claiming interim compensation u/s 140 of the Motor Vehicles Act, 1988 is rejected by the learned member of the Tribunal on the ground that the permanent disability having not been proved as yet, in the absence of any material, no interim compensation can be awarded. It is observed that the same will be decided only after the entire evidence is recorded on merits. And hence appeal.

2. In an accident occurred, the appellant has sustained the compound-comminuted fracture of metatarsal bone. This led to filing of claim petition claiming compensation for the loss. An application for claiming interim compensation as per provisions of Section 140 ibid was also made. In support of the application appellant-claimant filed 2 certificates of doctor certifying that the appellant has suffered:

According to ALIMCO she is having total permanent physical impairment of 24 (twenty-four) per cent of the left foot.

On the strength of the aforementioned certificates, appellant claimed an interim compensation of Rs. 25,000 in terms of Section 140(2) of the Act on the principle

of no fault liability and by contending that the injury has resulted in permanent disability. This application has been rejected.

3. Heard Mr. Manish Jain, the learned counsel for the appellant (claimant) and Mr. P.K. Gupta, learned counsel for insurance company, respondent No. 2, finally.

4. Relying upon the decisions of this court in Saurabh Kumar Shukla Vs. Hukum Chand and Others, ; Ashok Vs. Ashok Singh and Others, and Rajan v. Madhya Pradesh State Road Trans. Corporation, M.A. No. 420 of 1998; decided on 14.5.99, learned counsel for the appellant urged that the impugned order is liable to be set aside. He submitted that appellant had laid prima facie evidence as held in the aforesaid 2 cases of Rajan and Ashok (supra) that certificate of medical practitioner certifying the disability factor is sufficient to award interim compensation. In reply, the submission of learned counsel for respondent No. 2 was for upholding of the award as, according to him, the learned Tribunal was right in holding that there was no evidence and, secondly, the same will be gone into at the time of evidence on merits.

5. In my opinion, after hearing the parties and perusing the ratio of decisions cited at the Bar, I am inclined to allow the appeal and set aside the impugned award rejecting the application made by the appellant. This court in aforementioned case has taken the medical certificate to be in the form of prima facie evidence to grant interim compensation as required u/s 140(2) ibid. There is, therefore, no reason for me to depart from the view already taken by the court in earlier cases. Perusal of certificate filed by the appellant in the present case also do indicate at least prima facie that the appellant has suffered permanent disability of her left foot to the extent of 24 per cent. Looking to the object underlying in enacting Section 140 and the manner in which it was liberally put to interpretation by the courts in awarding interim compensation, in my opinion, the appellant was entitled to the benefit of Section 140(2) of the Act by granting an interim compensation of Rs. 25,000 for the injuries. Needless to observe, the award of the interim compensation would depend upon the final outcome of the case when it is tried on its merit,

6. Accordingly, I allow the appeal, set aside the impugned order and award an interim compensation of Rs. 25,000 to be paid jointly and severally by the respondents. This will be subject to final disposal of claim petition.