
(1993) 06 SHI CK 0006
In the High Court Of Himachal Pradesh
Case No : F.A.O. No. 139 of 1990

Himachal Road Transport Corporation and Another	APPELLANT
Vs	
Garji Devi and Others	RESPONDENT

Date of Decision : 07-06-1993

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166

Citation : (1993) ACJ 804 : (1993) 2 ShimLC 476

Hon'ble Judges : L.S. Panta, J;Devinder Gupta, J

Bench : Division Bench

Advocate : Deepak Gupta, for the Appellant; B.K. Malhotra, for the Respondent

Final Decision : Dismissed

Judgement

Devinder Gupta, J.—The order passed on 22nd May, 1990, by the Motor Accidents Claims Tribunal (II), Mandi, Kullu and Lahaul Spiti Districts at Mandi, H.P., directing the appellants to deposit a sum of Rs. 25,000/- u/s 140 of the Motor Vehicles Act, 1988 (Act No. 59 of 1988), (hereinafter referred to as "the Act") is under challenge in this appeal.

2. One Nika Ram expired in a fatal accident. On 11th April, 1990, respondent Nos. 1 to 4, claiming to be the widow and minor children, preferred a claim petition u/s 166 of the Act before the Tribunal. Notices were directed to be issued to the appellants as also to respondent No. 5 for 22nd May, 1990. It is the appellants' case that notices were received a few days prior to the date fixed in the case, which was not accompanied by any copy of the petition. The appellants put in appearance through their counsel on 22nd May, 1990, on which date they were not aware of the facts or particulars of the case or the claim laid by respondent Nos. 1 to 4. They had also no knowledge as to the particulars of the accident or about the claimants. Respondent No. 5, who had been arrayed as driver of the vehicle, had not been served. While adjourning the case to 23rd June, 1990, for the driver's service through affixation, an order was passed directing the appellants to pay a sum of Rs. 25,000/- to the claimant-respondent

Nos. 1 to 4 under no fault liability u/s 140 of the Act on or before the next date of hearing. Claimant-respondent Nos. 1 to 4 were also directed to furnish particulars as regards their respective ages, post-mortem report, income certificate of the deceased, copy of F.I.R. and the expenditure incurred for treatment, etc. Feeling aggrieved against the said order, the appellants preferred this appeal contending that the order is patently wrong and without jurisdiction. The Tribunal has erred in passing the order in a mechanical manner without satisfying itself as to whether the requirements of Section 140 of the Act had been fulfilled or not.

3. We have heard the learned counsel for the parties and gone through the record. The order which the court below passed on 22nd May, 1990, is as follows:

22.5.1990:

Mr. Hemant Kapoor, Advocate, counsel for the petitioner.

Mr. Satish Vaidya, Advocate, counsel for respondent Nos. 1 and 2.

Issue summons to the respondent No. 3 for 23.6.1990. He be served through affixation in case personal service is not effected.

The respondents are directed to pay a sum of Rs. 25,000/- to the petitioners u/s 140 of Motor Vehicles Act on or before 23.6.1990. The petitioners should furnish the following documents to (illegible) Nos. 1 and 2.

- (1) Copy of age certificate.
- (2) Copy of post-mortem report.
- (3) Copy of income certificate.
- (4) Copy of F.I.R.
- (5) Copies of expenditure incurred for treatment, etc.

4. From perusal of the order, one thing is clear that till the date when the impugned order was passed, the information which the Tribunal sought from the claimants was absolutely lacking. Neither the claimants had placed on record a copy of F.I.R. nor any other material by which it could be gathered or ascertained that the person, who was alleged to have died in the fatal accident, had in fact died as a result of an accident arising out of the use of a motor vehicle. There, was also no material on record as to whether the appellants were the owners of the vehicle or whether the vehicle owned by the appellants was involved in any accident. There was also no material on record as to whether the claimants were the legal representatives of the deceased. The Tribunal passed the order before the appellants had put in their reply or had any information about the particulars of the claim. It appears that the order was passed in favour of the claimants since they had lodged a claim against the appellants.

5. It is contended by the learned counsel for the appellants that in order to

clothe the Tribunal with jurisdiction to pass any order u/s 140 of the Act, it was incumbent for the Tribunal to have at least formed an opinion, after prima facie coming to the conclusion that death had, in fact, resulted from an accident, arising out of use of a motor vehicle, and the person against whom the order is proposed to be passed is the owner of the vehicle and further that the claimants are the legal representatives. In the absence of this prima facie satisfaction and in the absence of any other material on record, the order would be vitiated.

6. After having heard the learned counsel for the parties, we find much substance in the submissions made by the learned counsel for the appellants.

7. Section 140 of the Act provides for liability to pay the compensation in certain cases on the principle of no fault.

8. The corresponding provision in the Motor Vehicles Act, 1939, was in Chapter VII-A, namely, Section 92-A, which was introduced in the said Act by the Motor Vehicles (Amendment) Act, 1982 (Act No. 47 of 1982) with effect from 1st October, 1982. Under the Act, in Chapter X bearing the heading "Liability Without Fault in Certain Cases", Sections 140 to 144 have been included which under 1939 Act were from sections 92-A to 92-E. The purpose underlying the enactment of the provisions, as indicated in the Statement of Objects and Reasons appended to the Bill by which Amendment Act 47 of 1982 was introduced, is as follows:

There has been a rapid development of road transport during the past few years and large increase in the number of motor vehicles on the road. The incidence of road accidents by motor vehicles has reached serious proportions. During the last three years, the number of road accidents per year on the average has been around 1.45 lakhs and of these the number of fatal accidents has been around 20,000 per year. The victims of these accidents are generally pedestrians belonging to the less affluent sections of society. The provisions of the Act as to compensation in respect of accidents can be availed of only in cases of accidents which can be proved to have taken place as a result of a wrongful act or negligence on the part of the owners or drivers of the vehicles concerned. Having regard to the nature of circumstances in which road accidents take place, in a number of cases it is difficult to secure adequate evidence to prove negligence. Further, in what are known as "hit and run" accidents, by reason of the identity of the vehicle involved in the accident not being known, the persons affected cannot prefer any claims for compensation. It is, therefore, considered necessary to amend the Act suitably to secure strict enforcement of road safety measures and also to make, as a measure of social justice, suitable provisions first for compensation without proof of fault or negligence on the part of the owner or driver of the vehicle and, secondly, for compensation by way of solarium in cases in which the identity of the vehicle causing an accident is unknown.

9. The Amendment Act was brought in after the Supreme Court had highlighted and emphasised the need for such legislation providing for no fault liability in

motor accident claims cases, namely, *Manjushri Raha v. B.L. Gupta* 1977 ACJ 134 (SC); *State of Haryana v. Darshana Devi* 1979 ACJ 205 (SC); *Bishan Devi v. Sirbaksh Singh* 1979 ACJ 496 (SC) and *N.K.V. Bros. (P) Ltd. v. M. Karumai Animal* 1980 ACJ 435 (SC).

10. In *N.K. V. Bros*'s case 1980 ACJ 435 (SC), it was observed:

Road accidents are one of the top killers in our country, specially when truck and bus drivers operate nocturnally. This proverbial recklessness often persuades the courts, as has been observed by us earlier in other cases, to draw an initial presumption in several cases based on the doctrine of *res ipsa loquitur*. Accidents Claims Tribunals must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability must be inferred from the circumstances where it is fairly reasonable. The court should not succumb to niceties, technicalities and mystic maybes. We are emphasizing this aspect because we are often distressed by transport operators getting away with it, thanks to judicial laxity, despite the fact that they do not exercise sufficient disciplinary control over the drivers in the matter of careful driving. The heavy economic impact of culpable driving of public transport must bring owner and driver to their responsibility to their neighbour. Indeed, the State must seriously consider no-fault liability by legislation...

11. Another background in which Chapter VII-A was introduced in 1939 Act has been as follows, as was observed in *Gujarat State Road Transport Corporation v. Ramanhhai Prabhatbhai* 1987 ACJ 561 (SC):

When the Fatal Accidents Act, 1855, was enacted there were no motor vehicles on the roads in India. Today, thanks to the modern civilization, thousands of motor vehicles are put on the road and the largest number of injuries and deaths are taking place on the roads on account of the motor vehicle accidents. In view of the fast and constantly increasing volume of traffic, the motor vehicles upon the roads may be regarded to some extent as coming within the principle of liability defined in *Rylands v. Fletcher* (1868) LR 3 HL 330. From the point of view of the pedestrian the roads of this country have been rendered by the use of the motor vehicles highly dangerous. "Hit and run" cases where the drivers of the motor vehicles who have caused the accidents are not known, are increasing in number. Where a pedestrian without negligence on his part is injured or killed by a motorist whether negligently or not, he or his legal representatives, as the case may be, should be entitled to recover damages if the principle of social justice should have any meaning at all. In order to meet to some extent the responsibility of the society to the deaths and injuries caused in road accidents there has been a continuous agitation throughout the world to make the liability for damages arising out of motor vehicle accidents as a liability without fault. In order to meet the above social demand on the recommendation of the Indian Law Commission, Chapter VII-A was introduced in the Act...

12. It was in *Motor Owners' Insurance Co. Ltd. v. Jadavji Keshavji Modi* 1981 ACJ 507 (SC), that the Supreme Court emphasised the need for statutory recognition to the State's obligation to compensate victims of road accidents promptly, adequately and without contest, when in para 26 of the report, it said:

We cannot part with this case without impressing upon the Government, once again, the urgent need to provide by law for the payment of reasonable amounts of compensation, without contest, to victims of road accidents. We find that road accidents involving passengers travelling by rail or public buses are usually followed by an official announcement of payment of ex gratia sums to victims, varying between five hundred and two thousand rupees or so. That is a niggardly recognition of the State's obligation to its people, particularly so when the frequency of accidents involving the public transport system has increased beyond believable limits. The newspaper reports of August and September, 1981, regarding deaths and injuries caused in such accidents have a sorry story to tell. But we need not reproduce the figures depending upon newspaper assessment because the newspapers of September 18, 1981, carry out the report of a statement made by the Union Minister of State for Shipping and Transport before the north zone goods transport operators that 20,000 persons were killed and 1.5 lakhs were injured in highway accidents during 1980. We wonder whether adequate compensation was paid to this large mass of suffering humanity. In any event, the need to provide by law for the payment of adequate compensation without contest to such victims can no longer be denied or disputed. It was four years ago that this court sounded a warning and a reminder in *Manjushri Raha v. B.L. Gupta* 1977 ACJ 134 (SC).

XXX XXX XXX With the emergence of the General Insurance Corporation which has taken over general insurance business of all kinds, including motor vehicles insurance, it should be easy to give statutory recognition to the State's obligation to compensate victims of road accidents promptly, adequately and without contest.

13. On repeal of the 1939 Act, similar provisions have been included in Chapter X from Sections 140 to 144 in the Act. Section 144 of the Act provides that the provisions of Chapter X shall have effect notwithstanding anything contained in any other provisions of the Act or of any other law for the time being in force. We may quote at this stage Sections 140 and 141 as follows:

140. Liability to pay compensation in certain cases on the principle of no fault.-

(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under Sub-section (1) in respect of the death of any person shall be a fixed sum of twenty-five thousand

rupees and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of twelve thousand rupees.

(3) In any claim for compensation under Sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under Sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

141. Provisions as to other right to claim compensation for death or permanent disablement.-(1) The right to claim compensation u/s 140 in respect of death or permanent disablement of any person shall be in addition to any other right (hereinafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation u/s 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement u/s 140 and also in pursuance of any right on the principle of fault, the claim for compensation u/s 140 shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in Sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation u/s 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and-

(a) if the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition to the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation;

(b) if the amount of the first-mentioned compensation is equal to or more than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation.

14. Section 140 of the Act provides that where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor

vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay the compensation in respect of such death or disablement, in accordance with the provisions of the said section. The wordings of Sections 140 of the Act and 92-A of 1939 Act are patently the same. To the legal representatives of the victim, where death has occurred on account of motor vehicle accident, immediate relief is provided for, enabling them to claim Rs. 25,000/- under the Act, without proof of any negligence on the part of the owner of the vehicle.

15. In *Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai* 1987 ACJ 561 (SC), these provisions were held to be clearly a departure from the usual common law principle that the claimant should establish negligence on the part of the owner or driver of the motor vehicle before claiming any compensation for the death or permanent disablement caused on account of motor vehicle accident. It was held that to that extent the substantive law of the country stands modified.

16. Considering the scheme of Chapter X and the background in which it has been brought on the statute book, there is no manner of doubt that the provisions of Chapter X are in the nature of beneficial legislation, enacted with a view to confer the benefits of expeditious payment of a limited amount by way of compensation to the victims (and/or their legal representatives) of an accident, arising out of the use of motor vehicle on the basis of no fault liability.

17. The question which has arisen for determination in the instant appeal is that in what circumstances and under what conditions, the Claims Tribunal can pass an order, as contemplated u/s 140 of the Act. Whether a claim u/s 140 of the Act has to be decided in a full-fledged enquiry, similar- to the one applicable to a claim petition preferred u/s 166, which is included in Chapter VIII of the Act?

18. In *Shivaji Dayanu Patil and another Vs. Smt. Vatschala Uttam More*, the Supreme Court in a similar situation, after considering provisions of the 1939 Act, Bombay Motor Vehicles Rules, 1959, prescribing the form for filing claim petitions, etc., particularly rule 291-A, which had been inserted after 1982 Amendment, held that the object underlying the enactment of provisions in Chapter VII-A in 1939 Act was to enable expeditious disposal of a claim petition u/s 92-A of the Act. The object would be defeated, if the Claims Tribunal is required to hold a regular trial in the same manner as for adjudicating it for regular claim petition for awarding compensation. For awarding compensation u/s 92-A of the Act, it was held that the Claims Tribunal is required to satisfy itself of the following three matters:

- (i) an accident has arisen out of a motor vehicle;
- (ii) the said accident has resulted in permanent disablement of the person who is making the claim or death of the person whose legal representative is making the claim;

(iii) the claim is made against the owner and the insurer of the motor vehicle involved in the accident.

19. Rules 291-A and 306-B of the Bombay Motor Vehicles Rules, 1959, provide for some documents to be appended to a claim petition preferred u/s 92-A of 1939 Act. The court held that the documents required to be placed on record will enable the Claims Tribunal to ascertain the necessary facts as regards the aforementioned three matters. The court held:

The documents referred to in Rules 291-A and 306-B will enable the Claims Tribunal to ascertain the necessary facts in regard to these matters. The panchnama and the first information report will show whether the accident had arisen out of the use of the motor vehicle in question. The injury certificate or the post-mortem report will show the nature of injuries and the cause of death. The registration certificate and insurance certificate of the motor vehicle will indicate who is the owner and insurer of the vehicle. In the event of the Claims Tribunal feeling doubtful about the correctness or genuineness of any of these documents or if it considers it necessary to obtain supplementary information or documents, Rule 306-A empowers the Claims Tribunal to obtain such supplementary information or documents from the police, medical or other authorities. This would show that Rules 291-A, 306-A and 306-B contain adequate provisions which would enable the Claims Tribunal to satisfy itself in respect of the matters necessary for awarding compensation u/s 92-A of the Act and in view of these special provisions which were introduced in the Rules by the amendments in 1984, the Claims Tribunal is not required to follow the normal procedure prescribed under the Act and the Rules with regard to adjudication of a claim u/s 110-A of the Act for the purpose of making an order on a claim petition u/s 92-A of the Act.

20. In view of the aforementioned observations, we are of the view that before any direction is made by a Claims Tribunal, while dealing with a claim u/s 140 of the Act, it would be necessary for the Claims Tribunal to at least prima facie satisfy itself with respect to the three matters, as mentioned above.

21. In addition to the aforementioned three factors, it will also be necessary that there should be some prima facie material on record showing that the persons laying claim as the legal representatives of the deceased are in fact the legal representatives of the deceased. The Supreme Court in Shivaji Dayanu Patil and another Vs. Smt. Vatschala Uttam More, had dealt with the provisions of 1939 Act as well as the Bombay Motor Vehicles Rules, 1959. But after the repeal of 1939 Act, there are some additional provisions made in the Act which deserve to be noticed. Section 158 enjoins a duty upon the person driving a motor vehicle, in any public place, to give requisite information to a police officer in uniform, authorised in this behalf by the State Government, with respect to the matters provided for in Sub-section (1) thereof. If owing to the presence of a motor vehicle in a public place an accident occurs involving death or bodily injury to another person, certain other formalities are required to be followed as are

referred to in Sub-section (2) to Sub-section (4) of Section 158. On receipt of such information regarding accident involving death or bodily injury and on recording of the same or on report being completed, the police officer is required to furnish a copy of the same each to the Claims Tribunal and the concerned insurer. Section 158 may be quoted as follows:

158. Production of certain certificates, licence and permit in certain cases.-(1) Any person driving a motor vehicle in any public place shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce-

(a) the certificate of insurance;

(b) the certificate of registration;

(c) the driving licence; and

(d) in the case of a transport vehicle, also the certificate of fitness referred to in Section 56 and the permit relating to the use of the vehicle.

(2) If, where owing to the presence of a motor vehicle in a public place an accident occurs involving death or bodily injury to another person, the driver of the vehicle does not at the time produce the certificates, driving licence and permit referred to in Sub-section (1) to a police officer, he shall produce the said certificates, licence and permit at the police station at which he makes the report required by Section 134.

(3) No person shall be liable to conviction under Sub-section (1) or Sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under Sub-section (1), or as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident:

Provided that except to such extent and with such modifications as may be prescribed, the provisions of this subsection shall not apply to the driver of a transport vehicle.

(4) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the State Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of Section 146 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(5) In this section, the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of Section 146.

(6) As soon as any information regarding any accident involving death or bodily injury to any person is recorded or a report under this section is completed by a police officer, the officer in charge of the police station shall forward a copy of the same also to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer.

22. Section 160 enables any person, who claims that he is entitled to claim compensation, in respect of the accident arising out of use of motor vehicle, to obtain particulars of the vehicle involved in the accident from the registering authority or from officer in charge of a police station and says that:

160. Duty to furnish particulars of vehicle involved in accident.-A registering authority or the officer in charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

23. The special provisions contained in Sections 161, 162 and 163 of the Act providing for a scheme for granting relief to the victims or the legal representatives of victims of "hit and run" motor vehicle accident cases is also a novel effort, as noticed in Gujarat State Road Transport Corporation's case 1987 ACJ 561 (SC), on the part of the Government to remedy the situation created by the modern society, which has been responsible for introducing so many fast moving vehicles on the roads.

24. Section 161 provides for framing of a scheme by the Central Government for the payment of compensation in case of "hit and run" cases. It also lays down the amount which is required to be paid as compensation in respect of the death of any person or in respect of grievous hurt to any person resulting from a "hit and run" motor accident. The compensation, if paid u/s 161, in such like cases is liable to be refunded, in the eventualities provided u/s 162. Scheme which is required to be framed for payment of such compensation in case of "hit and run" motor accident is dealt with u/s 163 of the Act.

25. Section 166 prescribes the manner in which an application for compensation, arising out of an accident of the nature specified in Sub-section (1) of Section 165, is to be made before a Claims Tribunal established for an area. Sub-section (4) of Section 166 is a new provision, which has been incorporated in the Act enabling the Claims Tribunal to treat the information, which is required to be sent by the police officer by virtue of duty enjoined upon him under Sub-section (6) of Section 158 regarding any accident involving death or bodily injury, as an

application for compensation under this Act. This special provision appears to have been introduced in the Act since Sub-section (3) of Section 166 provides for an outer limit for making an application by a claimant for compensation, namely, six months from the date of occurrence of the accident, extendable to a period of next six months only, provided the Claims Tribunal is satisfied that the applicant was prevented by a sufficient cause from making the application in time. Under 1939 Act, there was no such outer limit provided for. Having restricted the time limit within which the Claims Tribunal is to entertain a claim application, it appears that jurisdiction is now vested in the Claims Tribunal under Sub-section (4) of Section 166 to suo motu treat the report made under Sub-section (6) of Section 158 as a claim application. This also appears to have been done for the benefit of innocent victims of accident, who due to poverty or ignorance or due to some other reasons are not in a position to approach the Claims Tribunal within a period of six months of the accident or within a period of next six months by which date the time can be extended by the Claims Tribunal on sufficient cause being shown.

26. Reading of the aforementioned provisions shows that as and when an accident takes place in a public place, involving death or bodily injury, certain information is required to be submitted and it is the duty of the police to obtain such information, which includes particulars of the insurers, particulars of owners, etc. and information thereof is further required to be given by the police officer to the Claims Tribunal. Neither under the Himachal Pradesh Motor Vehicles Rules, nor the Punjab Motor Vehicles Rules, both of which are applicable, there is any procedure prescribed for filing any application under the special provision contained u/s 140 of the Act, since such Rules were framed prior to the introduction of similar provisions in 1939 Act, though these Rules provide for the manner and procedure of filing a regular claim petition. In the absence of any procedure for deciding a claim made u/s 140 of the Act, we are of the view that in the light of the observations made in Shivaji Dayanu Patil and another Vs. Smt. Vatschala Uttam More, and the aforementioned vital changes effected in the Act, before an order is passed, the Tribunal must, on the basis of material on record, prima facie, satisfy itself that:

- (i) the accident has arisen out of a motor vehicle;
- (ii) the said accident has resulted in permanent disablement of the person, who is making the claim or death of the person, whose legal representative(s) is/ are making the claim;
- (iii) the claim is made against the owner and the insurer of the motor vehicle involved in the accident;
- (iv) the claim is made, in the case of the death of a person, by his legal representatives.

27. Without forming an opinion on the essential requirements, or in the absence of any material on record to enable the Tribunal to come to a conclusion that

essential requirements prima facie exist, the order directing a respondent to make deposit of the amount u/s 140 of the Act will be without jurisdiction, since in order to clothe the Tribunal with jurisdiction to make an order, it is essential that basic factors must exist.

28. As a result of the aforementioned conclusions, we have no hesitation in holding that the impugned order, which was passed by the Tribunal without prima facie satisfying about the essential requirements, was bad in law and is liable to be quashed and set aside.

29. Mr. Deepak Gupta, learned counsel for the appellants, states that there is no need now to quash the impugned order, since the Tribunal has proceeded to deal with the respondents' claim on merits and, as such, the appeal is not pressed by him.

30. Consequently, we dismiss the appeal as not pressed by making the aforementioned observations and leaving the parties to bear their respective costs.