
(1991) 09 MP CK 0020
In the Madhya Pradesh High Court
Case No : M.A. No. 139 of 1991

Kishanlal

APPELLANT

Vs

Naveen Kumar and Others

RESPONDENT

Date of Decision : 10-09-1991

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (1992) ACJ 1143 : (1993) 76 CompCas 110

Hon'ble Judges : R.K. Verma, J

Bench : Single Bench

Advocate : G.M. Puneger, for the Appellant; H.M. Zelawat, for the Respondent

Final Decision : Allowed

Judgement

R.K. Verma, J.—This is an appeal filed by the claimant-injured against the order dated March 13, 1991, passed by the Third Motor Accidents Claims Tribunal, Indore, in Claim Case No. 108 of 1990 whereby , the learned Tribunal has rejected the claimant's prayer u/s 140 of the Motor Vehicles Act, 1988, for grant of an interim award of Rs. 12,000 in respect of the injuries sustained by the claimant in the motor accident.

2. It has been stated that, according to the medical certificate issued by Dr. Pradeep Bhargava, filed in the case, the claimant had suffered a permanent disability in his right arm to the extent of 16 per cent, and that the injury sustained in the accident has left a permanent scar admeasuring 21/2" on the cheek of the claimant amounting to permanent disfigurement of his face. The learned Tribunal, however, after considering the said medical certificate, which is prima facie material placed on record by the claimant, has deferred the consideration of the claimant's prayer for interim compensation on the ground that the question of permanent disablement can be determined at the final stage on completion of the trial and has, therefore, rejected the prayer for grant of interim award.

3. Learned counsel for the appellant has challenged the impugned order on the ground that the whole purpose of an interim award u/s 140 of the Act is frustrated by postponement of determination of the question of permanent disability sustained by the claimant injured in the motor accident. It has been submitted that the medical certificate is a prima facie evidence which deserves acceptance at the initial stage for the purpose of giving immediate relief by awarding interim compensation u/s 140 of the Act.

4. In my opinion, the aforesaid submission of learned counsel for the appellant must be accepted. The medical evidence placed on record forms the prima facie material for the Tribunal to assess the nature and severity of the injury and to come to a tentative conclusion as to whether or not the said injury has caused a permanent disability. In a given case where the certificate of the doctor itself records the extent of permanent physical disability which is plausible on the consideration of the nature and severity of the injuries stated in the certificate, there is no good reason to defer the question of awarding interim compensation on the principle of "no-fault liability ". As such, to reject the prayer for interim compensation, in the circumstances, is to act contrary to the spirit underlying Section 140 of the Act which provides for urgent relief to the claimant injured.

5. The thought of a possible conclusion being reached to the contrary upon completion of the trial, as regards the nature of injury or disablement suffered, should not hamper the making of an interim award since an equitable and just order can always be made at the conclusion of the trial when suitable directions to the parties concerned can be made in the ends of justice.

6. Accordingly, I set aside the impugned order of the Tribunal rejecting the claimant's prayer for interim compensation and instead order that the appellant shall deposit Rs. 12,000 (twelve thousand) as interim compensation in the Tribunal which shall be paid to the claimant-injured upon his furnishing adequate security to the satisfaction of the learned Tribunal within a period of one month from this day.

7. This appeal is, accordingly, allowed. There shall, however, be no order as to cost.