

(1993) 09 MP CK 0012

In the Madhya Pradesh High Court

Case No : Civil Revision No. 293 of 1992

Mahendra Prasad Mishra

APPELLANT

Vs

Mohd. Sabbir and Another

RESPONDENT

Date of Decision : 14-09-1993

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Motor Vehicles Act, 1988 — Section 140, 142

Citation : (1994) ACJ 942

Hon'ble Judges : D.M. Dharmadhikari, J

Bench : Single Bench

Advocate : Atul Awasthy, for the Appellant;

Final Decision : Dismissed

Judgement

D.M. Dharmadhikari, J.—The Claims Tribunal, Rewa, by order passed on 27.4.1992 has awarded interim compensation u/s 140 of the Motor Vehicles Act, 1988, in the sum of Rs. 12,000/-, with interest, in favour of non-applicant No. 1, for the injuries sustained by him in a motor accident, which took place on 22.6.1991.

2. The owner of the vehicle involved has preferred this revision u/s 115 of the Code of Civil Procedure, against the interim award of compensation, passed by the Tribunal. The contention advanced is that there was no evidence, even prima facie, on record to hold that the claimant had suffered any "permanent disablement" as defined in Section 142 of the Motor Vehicles Act. The award is, therefore, assailed on the ground that there was no justification for awarding a sum of Rs. 12,000/- as interim compensation.

3. The learned counsel for the claimant points out that it was not disputed before the Claims Tribunal that non-applicant No. 1, Mohd. Sabbir, had suffered an injury in which his left femur, tibia and fibula bones were fractured.

4. "Permanent disablement" for the purpose of interim compensation u/s 140 of

the Motor Vehicles Act has been defined in Section 142 of the Act as under:

142. Permanent disablement.-For the purpose of this Chapter, permanent disablement of a person shall be deemed to have resulted from an accident of the nature referred to in Sub-section (1) of Section 140 if such person has suffered by reason of the accident any injury or injuries involving-

- (a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or
- (b) destruction or permanent impairing of the powers of any member or joint; or
- (c) permanent disfiguration of the head or face.

5. The only question that is to be considered in this revision is whether fracture of bones in a motor accident can be called "privation of any member or joint" as defined in Sub-clause (a) of Section 142 of the Motor Vehicles Act. The dictionary meaning of "privation" to be found in Shorter Oxford English Dictionary is as under:

The action of depriving or taking away; the fact or condition of being deprived of; or the condition of being without some attribute formerly or properly possessed; the loss, or (loosely) the mere absence of a quality.

Understanding the word "privation" in its literal meaning, where a victim suffers fractures, he is deprived of a portion of his body or joint. In the case of fracture of femur, tibia and fibula bones, till he recovers in his health, he is deprived of the enjoyment of that joint or member of the body. The contention advanced on behalf of the owner of the vehicle is absurd that it is only such fractures which cannot be repaired are covered by the expression "permanent disablement" u/s 142 of the Motor Vehicles Act.

6. I find no merit in this revision and it is hereby dismissed.