
(2000) 12 GAU CK 0004
In the Gauhati High Court
Case No : C.R. No. 13 (K) of 2000

National Insurance Co. Ltd.	Vs	APPELLANT
A. Asusu and Others		RESPONDENT

Date of Decision : 04-12-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 140(1), 142

Citation : (2001) 1 GLT 390

Hon'ble Judges : H.K. Sema, J

Bench : Single Bench

Advocate : B.N. Sarma and Sadem Changkija, for the Appellant; C.T. Jamir, for the Respondent

Final Decision : Allowed

Judgement

H.K. Sema, J.—Heard Mr. B.N. Sarmah, learned Counsel for the revisionist as well as Mr. C.T. Jamir, learned Counsel for the Respondents.

2. This revision petition has been filed against the order dated 13.4.2000 passed by the learned Member, Motor Accident Claims Tribunal, Nagaland, Dimapur in MAC Case No. 13/2000 whereby the claimant was awarded Rs. 25,000/- as no fault liability u/s 140 M.V. Act, 1988.

3. It is submitted by Mr. B.N. Sarmah that no fault liability awarded by the Tribunal are contrary to the provision of Sections 140 and 142 of the Act. Section 140 deals with the liability without fault in certain cases. This Section enable the Tribunal to award no fault liability compensation in a case where death or permanent disablement of any person has been resulted from an accident arising out of the use of motor vehicle or motor vehicles. Section 140 of the Act has to be read conjointly with Section 142.

4. Section 142 of the Act define permanent disablement in reference to Sub-section 1 of Section 140 sustained by any person in course of accident arising out of the use of motor vehicle. The following injuries prescribed u/s 142 which

entitles compensation under no fault liability are:

- (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. Learned Member opined that since the claimant suffered from fracture of rib bones, it is likely to cause permanent disablement. Rib fracture has not been described as permanent disablement u/s 142 of the Act as referred to above. Before coming to the conclusion as to whether the claimant is entitled no fault compensation u/s 140 or not, it is the bounden duty of the authority to assess as to whether the bodily injury suffered by the claimant is death or permanent disablement as defined u/s 142 of the Act.

6. In the instant case, the medical report placed on record would show that the injuries are of simple in nature. The X-Ray report of fracture in the rib-bones is by no means a permanent deprivation as defined u/s 142 of the Act. In this view, award of no fault liability made by the Tribunal is not justified. In Ors. words, the award has been made without any basis and not supported by any document on record viz; medical evidence.

7. In the result, this petition is allowed. The impugned order dated 13.4.2000 awarding compensation under no fault liability is hereby quashed and set aside.

8. At the time of hearing of this petition parties desires to settle the matter out of the court. Parties are directed to approach the Tribunal to effect compromise and settle the matter out of the court, if so advised.

Subject to the aforesaid direction this petition is allowed.