
(2004) 08 MP CK 0062

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 2104 of 2004

Neetesh and Another

APPELLANT

Vs

Sudhir

RESPONDENT

Date of Decision : 02-08-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 142, 173

Citation : (2004) 3 MPHT 483 : (2005) 2 MPLJ 3

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Advocate : Alok Hoonka, for the Appellant;

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.

Heard on the question of admission.

By filing this miscellaneous appeal u/s 173 of the Motor Vehicles Act, 1988 the appellants owner and driver of the vehicle bearing registration No. MP/15/J/3098 have challenged the interim award dated 1-7-2004 passed u/s 140 of the Motor Vehicles Act, 1988 in Claim Case No. 55/2004 by the learned Second Additional Motor Accident Claims Tribunal, Damoh.

. Learned Counsel for the appellants has submitted that the alleged injury of amputation of one phalanx of finger of the right hand of the respondent claimant is not an injury which will cover under the term "permanent disablement" as defined in Section 142 of the Motor Vehicles Act and therefore the interim award of Rs. 25,000/- is bad in law.

Section 142 reads as under:--

"Section 142. Permanent disablement.-- For the purposes 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."

To my mind the amputation of distal phalanx of the finger of the right hand would certainly cover under Clause (a) of Section 142 of the Act and would be a permanent disablement. In view of this the submission made by the learned Counsel for the appellants can not be accepted.

It has further submitted by the learned Counsel for the appellants that the respondent claimant has not filed disability certificate and as such the Tribunal should not have passed the interim award.

I find that the learned Claims Tribunal after going through the FIR, the medical papers pertaining to the injury caused to the respondent claimant and also looking to the amputation of distal phalanx of finger has passed the impugned award granting compensation under no fault liability. The approach of the learned Claims Tribunal is correct and I find no infirmity in it. Thus the appeal being devoid of merits is dismissed in limine.