

(1998) 12 MP CK 0007
In the Madhya Pradesh High Court
Case No : L.P.A. No. 439 of 1998

Rajesh Raghunath

APPELLANT

Vs

Dalip Jagannath and others

RESPONDENT

Date of Decision : 15-12-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 140(1), 140(2), 142

Citation : (1999) 2 MPLJ 182

Hon'ble Judges : Shambhoo Singh, J; Bashir Ahmed Khan, J

Bench : Division Bench

Advocate : Rajpal, for the Appellant;

Final Decision : Dismissed

Judgement

B.A. Khan, J.

Appellant allegedly suffered a fracture in his right hand and the doctor certified his partial disability at 8%. He filed claim case No. 176/92 and Vith M.A.C.T., Indore awarded him a compensation of Rs. 20,000/- . He felt dissatisfied and filed M.A. No. 648/96 asserting that he was entitled to compensation of fixed amount of Rs. 25,000/- u/s 140(2) irrespective of his 8% disability. His contention was overruled by the First Appellate Court. He has now filed this L.P.A. in a repeat exercise.

All that remained to be seen was whether Appellant was entitled to statutorily fixed amount of Rs. 25,000/- though his disability was partial and not permanent. The answer will depend upon the interpretation of Sections 140 and 142 of M.V. Act. Relevant portion of these sections are extracted hereunder for proper appreciation:

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 (fifty 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 (twenty five thousand rupees)." 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 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.

A plain reading of these provisions shows that Section 140(1) provides for liability of the vehicle owner in certain cases on the principle of no fault where the motor accident had resulted only in death or permanent disablement of the accident victim. Sub-section (2) fixes the amount of compensation in such cases at Rs. 25,000/- . Similarly Section 142 illustrates "permanent disablement and says it shall be deemed to have resulted if such person had suffered injury/ injuries involving permanent privation of the sight of either eye or hearing of either ear or (b) privation of any member or joint or (e) destruction or permanent impairing of the powers of any member or joint or permanent disfiguration of the head or face. As would be seen the emphasis is on permanent. The legislative intent was thus clear to provide fixed compensation on no fault principle only in certain cases including permanent disability to the accident victim of the nature described in Section 142. Such compensation was not naturally awardable mechanically in all cases of injury irrespective of whether these resulted in permanent disablement or not. Where the injury was minor causing only partial disability and not a permanent one the injured cannot claim the fixed amount of compensation as a matter of right. It was perhaps in this context that first Appellate Court had referred to 100% disability to convey that it should be permanent.

It is not Appellant's case that he had suffered any permanent disability of his hand. His case was not, therefore, covered by Section 140(2) of the Act. The appeal is accordingly dismissed on preliminary hearing.