(1999) 05 MP CK 0038

In the Madhya Pradesh High Court

Case No : M.A. No. 420 of 1998

Ramjan alias Ramjoo — APPELLANT

Vs

Madhya Pradesh State Road Transport Corporation and Another — RESPONDENT

Date of Decision : 14-05-1999

Acts Referred:
Motor Vehicles Act, 1988 — Section 140, 142

Citation : (2000) 2 ACC 212 : (2000) ACJ 108

Hon'ble Judges : Nirmal Kumar Jain, J

Bench : Single Bench

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

Final Decision : Allowed

Judgement

N.K. Jain, J.—By the order impugned, the 5th M.A.C. Tribunal, Indore, has rejected appellant/claimant''s application u/s 140 of the Motor Vehicles Act for interim compensation.

2. The Tribunal below has held that there is no prima facie evidence to establish that the appellant has suffered any permanent disability in the accident in question. However, as per medical certificates filed in the case, it is clear that he has suffered four fractures in his right hand. The doctor has opined that the working capacity of the hand was permanently reduced by 60 per cent.

3. The Tribunal below, in my opinion, misconstrued the provision of Section 142 of the Act and probably expected that in order to constitute permanent disability there ought to be total loss of the limb of the claimant. A perusal of Section 142, clause (b) of the Act would, however, reveal that in order to constitute permanent disability, it was sufficient to show that the power of the limb was permanently impaired. In the instant case as per medical reports, the power of the limb was impaired by 60 per cent. Prima facie, therefore, it was made out that the appellant/claimant has suffered permanent disability. He was, therefore,

entitled to interim compensation of Rs. 12,000 on the basis of no fault liability.

4. I, thus allow this appeal, set aside the impugned order and direct the respondents to pay jointly and severally to the appellant a sum of Rs. 12,000 by way of interim compensation. This amount, if remains unpaid for one month, shall carry interest at the rate of 12 per cent per annum from today till payment.

