
(1996) 01 MP CK 0126
In the Madhya Pradesh High Court

Sanjay Jamindar

APPELLANT

Vs

Biharilal and Others

RESPONDENT

Date of Decision : 25-01-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (1998) 1 ACC 14

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Judgement

J.G. Chitre, J.—This appeal is revolving around the point of payment of interim award in view of the provisions of Section 140 of Motor Vehicles Act, 1988 (hereinafter referred to as the Act). The order which is under challenge shows that the said accident has been prima facie caused by truck bearing number MP-09-D 9358 which on the date and time of the accident was prima facie insured with respondent No. 3. The learned Tribunal has rejected the prayer of the appellant for interim award in view of provisions of Section 140 of the Act because the Tribunal formed the opinion that Dr. R.S. Saluja who happens to be an orthopaedic surgeon was unable to opine about the permanent disability caused to the jaw of the appellant in which myomantic bone was involved. Though the Tribunal pointed out in its order that the X-ray plate from Choithram Hospital, Indore was showing that there was fracture of mandible bone, the Tribunal did not accept the opinion of Dr. Saluja. Dr. Saluja is an orthopaedic surgeon and most obviously he was having sufficiently good knowledge of the bones and was well in position to read the X-ray plate. There was no reason for the Tribunal to come to the conclusion that the opinion of orthopaedic surgeon was not fit to be accepted for the purpose of deciding the application moved by the claimant forgetting interim relief in view of provisions of Section 140 of the Act.

2. It is well settled that for deciding the application moved by the claimant in view of provisions of Section 140 of the Act, detailed enquiry is not necessary.

The Tribunal has to find out prima facie nexus between the vehicle involved in the accident and the claimant. The Tribunal has also to see whether the claimant sustained such bodily injuries in the said accident which prima facie can cause permanent disability to such claimant. The conclusions which have been drawn by the Tribunal differentiating the opinion of Dr. Saluja are, therefore, unwarranted, unreasonable and, therefore, not legal.

3. Thus, the appeal is allowed. The impugned order is set aside and a compensation of Rs. 25,000/- is hereby granted to the claimant. Respondent No. 3, insurance company should deposit the said amount in the office of the Tribunal within a month. The said amount is permitted to be withdrawn by the claimant by furnishing equal amount of security and to the satisfaction of the Tribunal. The said amount be paid to the claimant by crossed cheque as he happens to be an Engineer. If the insurance company fails to deposit the said amount within a month from today, then the claimant would be entitled to get interest on the said amount at the rate of 12% per annum. No order as to costs.