

(1998) 10 MP CK 0032

In the Madhya Pradesh High Court

Case No : Miscellaneous A. No. 758 of 1997

Shivlal and Others

APPELLANT

Vs

Girish Kumar Kailash Narayan Gupta and Others

RESPONDENT

Date of Decision : 29-10-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (1999) 2 MPLJ 519

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : A.P. Kutumbale, for the Appellant; S.V. Dandwate, for the Respondent

Judgement

J.G. Chitre, J.

Shri Kutumbale submitted that the learned tribunal did not peruse the FIR which mentions the name of deceased and the number of the truck involved in the said accident. He further pointed-out that insurance cover note which is on record also mentions that the said truck was insured with respondent No. 3 on the date and time of the said accident. He submitted that in spite of this, the tribunal did not award interim compensation to the appellants in view of the provisions of Section 140 of the Motor Vehicles Act.

Shri Dandwate, counsel appearing for respondent No. 3 submitted that the tribunal was right in rejecting the prayer of appellants for interim compensation because the driver and the owner of the said truck have denied the liability.

I do not find any substance in the submission of Shri Dandwate, counsel appearing for respondent No. 3. Section 140 of the Motor Vehicles Act is the provision studded in benevolent legal provisions of Motor Vehicles Act. What the tribunal has to do is to find out whether prima facie there was an accident in which motor vehicles were involved, whether the claimant was involved in the said accident, whether he sustained injuries which are capable of causing permanent disability or the death and lastly whether the vehicle involved in the

accident was insured with the insurance company,. The FIR mentions the name of deceased/victim. It also mentions the number of the vehicle involved in the accident. The cover note prima facie shows that on the date and time of the accident said truck was insured with respondent No. 3. The tribunal has obviously committed the error in rejecting the interim compensation to the appellants when it was prayed for by them in view of the provisions of Section 140 of the Motor Vehicles Act. Thus the said order which is challenged, stands set aside and it is declared that appellants are entitled to receive interim compensation in view of the provisions of Section 140 of the Motor Vehicles Act. Respondents 1 to 3 are directed to deposit that amount within 2 months in the office of the tribunal, otherwise they would be liable to pay interest on that amount at the rate of 18% p.a. Record be despatched to the tribunal for early trial. Parties to remain present before the tribunal on 10-11-1998 or the date fixed by the Tribunal.