(2004) 08 MP CK 0054

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 105 of 2004

Son Singh Maravi APPELLANT

Vs

Ishwar Singh and Others RESPONDENT

Date of Decision : 17-08-2004

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

Citation : (2005) ACJ 515 : (2004) 4 MPHT 94 : (2004) 4 MPLJ 223

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

Bench : Single Bench

Advocate : Sanjay Saini, for the Appellant; Asadulla Usmani, for the Respondent No. 1 and Sanjay Agarwal, for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Shantanu Kemkar, J.

By this appeal u/s 173 of the Motor Vehicles Act, 1988 the appellant/claimant has challenged the order passed by the II Additional Motor Accident Claims Tribunal, Mandla in Claim Case No. 76/03, rejecting the appellant''s application seeking compensation under no fault liability filed u/s 140 of the Motqr Vehicles Act, 1988 (hereinafter referred to as ''the Act'') holding that the appellant has not suffered any permanent disablement as defined u/s 142 of the Act and the driver was not holding valid driving licence.

Shri Sanjay Saini, learned Counsel for the appellant contended that the Claims Tribunal has committed gross illegality in rejecting the application ignoring the provisions contained in Sections 140 and 142 of the Act.

As per the medical certificate filed by the appellant injury suffered by the appellant was ''permanent disfiguration of face'' and breaking of teeth.

Section 142 of the Act refers to permanent disablement. It reads as under:--

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

The medical certificate filed by the appellant clearly demonstrates that the appellant suffered permanent disablement as referred in Sub-Clause (c) of Section 142. The rejection of the certificate by the Tribunal on the ground that there is no mention of percentage of permanent disability is against the spirit of Section 142 of the Act. Section 142 of the Act provides ''disfiguration of the head or face'' to be permanent disablement. Therefore, the percentage of loss of disablement is hardly relevant while dealing with the aforesaid application as the same is not the requirement of law. If the injury is covered in any of the injuries referred in Section 142 of the Act then it would be deemed to be a permanent disablement.

The Claims Tribunal has also observed that since the driver of the offending vehicle had no valid driving license the Insurance Company can not be made liable to pay interim compensation. In my view at the stage of consideration of application for interim award ''under no fault liability'' the scope of inquiry is limited. The dispute of liability on the basis of breach of policy condition is foreign to the scope of inquiry u/s 140 of the Act and, therefore, rejection of application on this ground also is not tenable.

Accordingly, the appeal is allowed, the impugned order passed by the Claims Tribunal is set aside. The application filed by the appellant for interim award is allowed. The respondent Nos. 1 and 2 are held jointly and severely liable to pay the compensation of Rs. 25,000/- (Rupees Twenty five thousand only) to the appellant. The appellant shall also be entitled for interest at the rate of 9% per annum from the date of the application till payment. No orders as to costs.