

Santosh Kumar Vs. Sanjay More and ors.

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Court : Madhya Pradesh

Decided On : Feb-20-1998

Reported in : 2000ACJ422; AIR1999MP62; 1998(2)MPLJ366

Judge : R.S. Garg, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 140 and 142

Appeal No. : Misc. Appeal No. 868 of 1996

Appellant : Santosh Kumar

Respondent : Sanjay More and ors.

Advocate for Def. : P.K. Jain and ;S.K. Rao, Advs.

Advocate for Pet/Ap. : R.P. Kanojiya, Adv.

Disposition : Appeal allowed

Judgement :

R.S. Garg, J.

1. The Tribunal has rejected the appellant's application filed under Section 142 holding that fracture/extraction of tooth would not be a permanent disablement under Section 142 of Motor Vehicles Act, therefore the appellant would not be entitled to an interim award under Section 140 of the Act. Being dissatisfied by the

said order, the appellant/claimant has filed this appeal.

2. Shri Kanojiya, learned counsel for the appellant contends that the Tribunal was not justified in ignoring the provisions contained in Section 142 and was unjustified in rejecting the application. On the other hand Shri Jain and Shri Rao submit that extraction/destruction of the tooth would not be a permanent disability, therefore Section 140 would not be applicable at this stage. Counsel for the respondents also submit that for the purpose of Section 140 there must be a permanent disablement as defined under Section 142. According to them, nothing further can be added to Section 142.

3. Section 140 provides for liability to, pay compensation in certain cases on the principle of no fault. Section 140 of Motor Vehicles Act, 1988 reads as under :--

'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 twenty-five 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 twelve thousand rupees.

(3) In any claim for compensation under Subsection (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under Subsection (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or

.permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

4. According to Sub-section (1) of Section 140 where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle then the owner/ owners of the vehicle shall be liable to pay compensation in respect of such death or disablement in accordance with the provisions of Section 140. The word 'death' has not been defined in this Act, therefore the ordinary dictionary meaning would be sufficient to mean that where the person has lost his life.

5. Section 142 refers to permanent disablement, it reads as under :--

'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 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 members or joint; or

(c) permanent disfiguration of the head or face.

6. According to Section 142 permanent disablement shall be deemed to have resulted if such person has suffered any injury or injuries involving permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint, it would also include destruction or permanent impairing of the powers of any member or joint and would also include permanent disfiguration of the head or face. When Section 142 provides permanent disfiguration of head or face to be a permanent disablement then the percentage of the loss or disablement becomes immaterial. The question that the disablement should be to a certain extent or should be of a particular percentage is not the requirement of

law. According to Section 142 if the injury or injuries lead to a particular consequence then it would be deemed to be a permanent disablement. It cannot be disputed that permanent disfigurement of the head or face would not in every case affect the working capacity or ability of the person, if there is disfigurement of the upper lip, upper lip of the cheek, upper lip of the nose or upper lip of lips it is not going to affect the work and working condition of a man, that may ordinarily be not permanent disablement under any other law, but if Motor Vehicles Act Section 142 provides that such disfigurement of the head or face which is of permanent nature would be deemed to be a permanent disablement then it cannot be contended that because the ability of the person is not affected adversely it would not be a case falling under Section 142.

7. Similarly permanent privation of the sight of either eye or the hearing of either ear or privation of any member or joint is considered to be permanent disablement for the purposes of the Section 142, in such case or cases, it is not necessary that the injury should affect the ability of the person to work. Assuming it is a case of privation of the phalange of little finger it may not affect the working capacity or ability of the person but it would certainly be permanent privation of some member of the body. Again under Section 142, the law does not require that the Court should be satisfied that this privation would permanently affect the ability or working capacity of the person. The law only requires that if the injury has resulted into permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint, then on proof of such fact, Section 142 would immediately come into operation.

8. Coming to Clause (b) of Section 142, it is to be seen that the clause uses two words for qualifying the result of the injury. The Clause reads 'destruction or permanent impairing of the powers of any member or joint'. To make it very clear it can be read as (a) destruction of any member, (b) destruction of any joint, (c) permanent impairing of the powers of any member and (d) permanent impairing of the powers of any joint. If the facts project that the injury has caused any result out of above four then Section 142 would immediately come into play because all the above four situations are deemed to be permanent disablement under Section 142 of the Act. It may be a case where the man suffers some injury on his knee or

ankle making it absolutely stiff and he is unable to move it, but it may not affect his ability to work if he is doing the table work. The Insurance Company in such a case cannot contend that because his ability and working capacity is not affected he would not be entitled to an amount under Section 140. Similarly the Insurance Company cannot be permitted to say that in case of destruction of any member or destruction of any joint if the working ability or capacity is not adversely affected and the percentage of loss is very low then Section 140 would not be applicable. The requirement of the law only is, that if there is destruction or permanent impairing of the powers of any member or joint then Section 140 would come into play and under the no fault liability the owner/driver would be liable to answer the interim award and if the vehicle is insured then the Insurance Company would be jointly and severally liable to answer the claim of the claimant.

9. In the present case, undisputedly there is destruction or loss of one tooth and impairment of another tooth because of the fracture. It may appear to be little fallacious that for fracture/ dislocation or extraction of the tooth an interim award has to be made, even if it does not affect adversely the working condition, working capacity or ability of the person but when the law requires the provisions to be considered in their true legal perspective then the Court only has to consider the meaning of the plain words which are not otherwise ambiguous. The principle of interpretation clearly lays down that the Court must not add anything to the provision of law unless the provision in the statute book appears to be incomplete or little foolish. The law on interpretation makes it clear that the plain meaning should be given to the plain words, if those are understandable and are clear in their terms.

10. Reading the provisions as those stand, this Court is of the view that the destruction or permanent impairment of the powers of any member or joint would certainly provide a ground for making an award under Section 140 of the Motor Vehicles Act irrespective of the percentage of loss or the grievousness of the injury or the resultant effect. If the Court presses upon the fact of extent of injury or the percentage of the permanent disablement then the Court would be reading or demanding something which is not there in the provision of law or is not the requirement of law. Such an interpretation or addition of the words to suit the

purpose of one party would not would conic when there appears to be some ambiguity, but if the words are understandable and do not need any external assistance or aid the Court should not read anything in the statute beyond what is written.

11. Considering the totality of the circumstances specially in view of the language employed under Section 142 this Court is of the opinion that the Tribunal was unjustified in rejecting the application under Section 140. The application deserves to and is accordingly allowed. The Respondents Nos. 1 to 3 are held severally and jointly liable to pay the amount to the claimant. The amount (Rs. 25,000.00) shall be deposited by the respondents within six weeks from today. The claimant shall also be entitled to 12% interest on the said amount from the dale of filing of the main petition till the payments are made.

12. There shall be no orders as to costs.

13. C.C. be given within a week, if applied on urgent charges.

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