

CHAPTER X

LIABILITY WITHOUT FAULT IN CERTAIN CASES

140. 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 vehicles 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 ⁸⁵ [fifty 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 ⁸⁶ [twenty – five thousand rupees].

(3) In any claim for compensation under sub-section (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 sub-section (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.

⁸⁷ (5) Notwithstanding anything contained in sub-section (2) regarding death or bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation

under any other law for the time being in force :

Provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or under section 163– A].

Corresponding Law. - Section 140 corresponds to section 92 – A of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 140 provides for liability to pay compensation in certain cases on the principle of no fault.

NOTES

Section does not contemplate filing of an application. – Filing of petition under S. 166 for compensation is not a condition precedent for making an application under S. 140 based on “no fault liability”. The dismissal of a petition for compensation under S. 166 on the ground of limitation only cannot stop operation of S. 140 which is based on “no fault liability”: *United India Insurance Co. Ltd. v. Maganlal Hirabhai Patel* (1998) 1 Acc. C.C. 138: 1999 Acc.C.J. 268 (Guj.).

85. *Substituted for “twenty – five thousand rupees” by Act 54 of 1994, S. 43 (w.e.f. 14-1-1994).*

86. *Substituted, ibid, for “twelve thousand rupees” (w.e.f. 14-11-1994).*

87. *Inserted, ibid (w.e.f. 14-11-1994).*

Filing of a petition under section 166 is not condition precedent for grant of interim compensation. – Chap. X of the Act is an independent provision and the Tribunal is bound to decide the claim application filed under S. 140 of the Act of grant of interim compensation notwithstanding the claimant having filed any other application under S. 166 or under any other provisions of the Act; the provision of Chap. X has overriding effect over any other provision of the Act and the Legislature have made it clear under S.144 of the said Act: *Oriental Insurance Co. Ltd. v. Sarju Ram* A.I.R. 2001 Pat. 47: (2000-1) 48 B.L.J.R. 21.

In case of tortuous liability, negligence or rashness of the driver has to be established, while it need not be established in case of no fault liability: *Darakonda Venkatrama Seshachalapati v. Vijaywada Co-operative Central Bank* (1991) 1 Acc. C.C. 324: 1990 Acc.C.J. 746 (Andh. Pr.) (D.B).

“No fault liability” envisaged in S. 140 of the Motor Vehicles Act is distinguishable from the rule of strict liability. In the former, the compensation amount is fixed and is payable even if any one of the exceptions to the rule can applied. It is a statutory liability created without which the claimant should not get any amount under that count. Compensation on account of accident arising from the use of motor vehicles can be claimed under the common law even without the aid of a statute. The provisions of the Motor Vehicles Act permits that compensation paid under “no fault liability” can be deducted from the final amount awarded by the Tribunal. Therefore, Motor Vehicle Act, a victim in an accident which occurred while using a motor vehicle, is entitled to get compensation from a Tribunal unless any one of the exceptions would apply: *S. Kaushnuma Begum v. New India Assurance Co. Ltd.* A.I.R. 2001 S.C. 485: J.T. (2001) 1 S.C. 375 : (2001) 2 M.L.J. 112.

No fault liability is cast on owner and not directly on insurer. – A reading of S. 140 would make it clear that no fault liability is cast on the owner of the vehicle and not directly on the insurer. If the owner of the vehicle is found liable under S. 140, naturally, the liability of the insured also would arise. Where the owner herself has come forward for compensation under S. 140 against the insurer of her own vehicle which was held to be the offending vehicle, such a claim cannot be maintained under S. 140: *National Insurance Co. Ltd. v. Sasilatha* (2000) 1

Acc. C.C. 264 (Ker.) (D.B.).

Application for no fault liability filed after about six years from the date of the accident, is barred by time: *Yeshwant v. Kishore* (1997) 1 Acc. C.C. 204; 1998 Acc.C.J. 672 (Madh. Pra.). Before an order is passed under S. 140, the Tribunal must, on the basis of material on record, prima facie satisfy itself that: (i) the accident arose out of a motor vehicle; (ii) which resulted in permanent disablement or death of a person; (ii) and the claim is made against the owner and the insurer of the motor vehicle involved in accident. Without forming an opinion on the essential requirements, or in absence of any material on record to enable the Tribunal to come to a conclusion that essential requirements were prima facie exist, the order directing deposit of the amount under S. 140 would be without jurisdiction: *Himachal Road Transport Corporation v. Garji Devi* (1993) 2 Acc. C.C. 652 (Him. Pra.) (D.B); *New India Assurance Co. Ltd. v. Dinanath Agrawalla* 2000 A.I.H.C. 1081; (2000) 3 An. W.R. 268(C.C.C) (Ori.) (F.B.)

141. Provisions as to other right to claim compensation for death or permanent disablement -

(1) The right to claim compensation under section 140 in respect of death or permanent disablement of any person shall be in addition to ⁸⁸ [any other right, except the right to claim under the scheme referred to in section 163 – A (such other right hereafter] in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under section 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 140 and also in pursuance of any right on the principle of fault, the claim for compensation under section 140 shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under section 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and –

(a) if the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition to the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation;

(b) if the amount of the first-mentioned compensation is equal to or more than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation.

Corresponding Law—Section 141 corresponds to section 92-B of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 141 makes provision to claim compensation for death or permanent disablement besides the claim for compensation for no fault liability.

142. 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.

Corresponding Law. – Section 142 corresponds to section 92 – C of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 142 seeks to classify injuries which are considered as permanent disablement for the purpose of this Act.

143. Applicability of Chapter to certain claims under Act 8 of 1923. – The provisions of this Chapter shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen’s Compensation Act, 1923 (8 of 1923) resulting from an accident of the nature referred to in sub-section (1) of section 140 and for this purpose, the said provisions shall, with necessary modifications, be deemed to form part of that Act.

88. *Substituted for “any other right hereafter” by Act 54 of 1994, S. 44 (w.e.f. 14-11-1994)*

Corresponding Law. – Section 143 corresponds to section 92 – D of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 143 lays down that the provision of this Chapter shall also apply in relation to any claims under Workmen’s Compensation Act.

144. Overriding effect. – The provisions of this Chapter shall have effect notwithstanding anything contained in any other provision of this Act or of any other law for the time being in force.

Corresponding Law. – Section 144 corresponds to section 92 – E of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 144 provides for overriding effect of this Chapter over any other provisions of this Act or any law for the time being in force.
