ORDER BELOW EXH.3
IN
MACP NO. 386of 2012

[1] This is an application preferred for Rs.25,000/- for the injury of the applicant, in a vehicular accident, for no fault liability. Accident occurred on 29.01.2012 at about 08.30 p.m., opp. Majara Bus Stand,on national highway no-8. At the time of accident, the applicant was traveling on motor cycle.

[2] Notice is duly served upon the opponents. Opponent No-3 have filed reply vide Exh.23 respectively.

[3] Applicant has produced complaint at Mark 5/1, Panchnama of the scene of offence at Mark 5/2, copy of chargesheet at Mark 5/3, discharge card at mark 5/4,injury certificate at mark 5/5indore case sheet at mark 5/6,injury cetificate at mark 5/7 driving license at Mark 5/8, R.C.Book at Mark 5/9, insurance policy at Mark 5/10. The applicant has not produced the permanent disability certificate.

[4] (I) At the stage of proceedings under section 140 of the MV Act, the Claims Tribunal has to verify only following three aspects:

(a) the accident has arisen out of use of motor vehicle,

(b) the said accident resulted in permanent disablement of a person filing the claim or in case of death his legal representatives.

(c) the claim is made against the owner and the insurer of the motor vehicle involved in the accident.

(II) If the insurance company has raised dispute with any of these aspects, the Claim Tribunal would give its findings through a summary inquiry.

(III) If the insurance company has not raised any dispute with respect to any of these aspects or if raised, is decided against the insurance company by the Claims Tribunal, the same would be bound the insurance company at the later stage of deciding the Claim Petition under section 166 of the M V Act.

(IV) No other defences including those referred to in section 149(2) of the MV Act would be available to the insurance company at the stage of application under section 140 of the MV Act. It would therefore, not be necessary, in fact, not permissible for the insurance company to raise such defences at this stage and if raised the Tribunal shall not decide the same at that stage.

[5] In a case on hand, it appears that applicant has not produced permanent disability certificate on the record, therefore, applicant is not entitled for the amount of no fault liability.

[6] In view of the above discussions, I pass the following order:-

:: O R D E R ::

- This application stands rejected.

Signed and Pronounced in open Court on this 17th day of March 2017.

Date : 17/03/2017 **[SARANGA V VYAS]**
GJ00675
Place: Gandhinagar. **M.A.C.TRIBUNAL (AUX-IV)**
GANDHINAGAR