

ORDER BELOW APPLICATION EXH.6
IN
M.A.C. PETITION NO. 301/2021

1. The applicant who sustained injuries in motor accident occurred on 24/07/2019 has preferred the petition or compensation against the opponents and along with the petition, he has also preferred this petition for interim compensation under Section 140 of the M.V. Act, on “**No Fault Liability**“ basis.
2. Heard the Ld. Advocate Mr. T.B. Patel for the applicant and also Learned Advocate Mr.D.G. Shah appearing on behalf of the opponent No.3. Read this application and papers on record.
3. In this case, on perusal of the record, it transpires that on being presented the petition, it was ordered to issue notice to the other side and they are duly served with the notices. The opponent No. 1 and 2 have duly served the notice but did not remain present and not contest this petition. On other hand the opponent No. 3 has appeared through its Ld. Advocate Mr.D.G. Shah. The opponent No.3 has produced its written statement vide Ex.24. Learned Advocate on behalf of Opponent No.3 has strongly objection regarding the grant of present application. He has stated that claimant is not entitled to interest because delaying produce of disability certificate
4. While dealing with the application under Sec. 140 of the M. V.

Act, it is also required to be kept in mind that interim compensation payable under Sec.140 of the M. V. Act is for the benefit of the person who have suffered injuries causing permanent disablement meaning thereby the provisions are enacted for the benefit of the persons who are permanently disabled and as a result of the same likely to be incapacitated or handicapped in earning for themselves or for their dependents or for legal heirs in cases of death of victims.

5. It is well settled by our Hon'ble High Court in First Appeal No.2103/2005, New India Assurance Co. Ltd. V/s. Kalabhai Maganbhai Koli and also by the Apex Court that for awarding interim compensation under Sec.140 of the Act, the Tribunal is required to satisfy itself in respect of the following points.

1. The accident has arisen out of the use of the motor vehicle.
2. The said accident has resulted in permanent disablement of the person who is claiming compensation or the accident has resulted into the death of the person whose legal representatives are claiming compensation.
3. The petition is filed against the owners and insurers of the motor vehicles involved in the accident.

6. In the case of **Eshwarappa @ Maheshwarappa v Gurushanthappa, reported in 2010(3) GLR (NOC-43) SC**, Hon'ble Supreme Court has held that while deciding application under Section 140, only factor to be considered is, whether the accident has arisen

out of the use of motor vehicle resulting into death or permanent disability and no other question regarding fault liability etc. could be gone into for deciding application u/s.140 of M.V. Act. Therefore, in view of the above decision, I hold that Insurance Company cannot raise defense regarding the breach of conditions. Such defense can be dealt with at the time of deciding Main Claim Petition u.s.166 of the Act after recording evidence.

7. When interim compensation is prayed for under “**No Fault Liability**”, Section 140 being the relevant provision must be borne in mind. As per requirements of the said section as stated herein above, involvement of vehicle or use of the vehicle has to be established and also because of the use of the vehicle, it is to be shown that the injuries are sustained or death is caused. Who is at fault for the accident is not to be investigated for the purpose of awarding compensation under the principle of “No Fault Liability”. If the insurance company is to be fastened with the liability under No Fault Liability principle, it is to be prima facie shown that the vehicles involved in the accident was insured with the insurance company at the time of accident and the insurance was in force at the time of accident covering the risk.

8. On perusal of the record, it transpires that after the occurrence of the accident, the Complaint before the Police was filed therefore, during the course of investigation and after lodging the F.I.R., the Panchnama of the scene of offence was drawn. The copy of the F.I.R.

Panchnama, RC Book and Insurance Policy of the said Vehicle, Injury Certificate of applicant are produced on record. On perusal of all these documents, it seems that it supports the say of the applicant. Furthermore, it reveals from the record that the vehicle of **car No.GJ-05-RD-6927** referred in the petition and involved in the accident was owned by the opponents-owner. On perusal of the FIR and Panchnama, it also seems that because of the said vehicular accident, the applicant had caused serious injuries which has resulted into the permanent disablement. Thus, the requirements of Sec. 140 of the MV Act are satisfied and therefore, the applicant is entitled to the compensation under “**No Fault Liability**” with interest as per the decision of **Hon’ble High Court First Appeal No.21/03, New India Assurance co. Ltd**, opponent No. 3 objections are not acceptable. The opponent No. 1 to 3 being the driver, owner and Insurance Company of the vehicle involved in the accident are jointly and severally liable to pay the amount of interim compensation with interest at the rate of 9% p.a., from the date of this petition till its realization and hence, I pass the following order.

:: ORDER ::

- [1] The present application is hereby allowed.
- [2] The applicants do recover from the opponent No.1to3 jointly and severally, sum of Rs.25,000/- with interest at the rate of 9% p.a. from the date of application till realization.

- [3] The opponent No.3 shall deposit the aforesaid amount before this Tribunal within 30 days from the date of this Order.
- [4] The amount coming to the share of the applicant, be paid to him in cash by way of account payee cheque after due verification.

Pronounced in the open Court on this 25th July, 2025.

Place : Surat
Date : 25.07.2025

[Rakesh Rajnikant Bhatt]
M.A.C. Tribunal (Auxi.) &
Additional Sessions Judge
Surat. Code No. GJ00608