

Order Below Exhibit-6:-

1. This petition is preferred by the applicant is under Section 140 of Motor Vehicles Act,1988 for interim compensation under the heading of “***NO FAULT LIABILITY***”.
2. Looking at records, Ld. Advocate Mr. P. G. Mittal has appeared for the applicant.

The notice was duly served upon the Opponents.

Ld. Advocate Mr. Chhagan H. Dudhat has appeared for opponent No.1 and submitted a written statement vide Exh-12.

Ld. Advocate Mr. Bhavin P. Modi has appeared for opponent No.2 but they have not submitted any written statement and his reply right has been closed on 05-04-2023.

Heard the present learned advocate appearing on behalf of the parties.

3. The Opponent No.1 has filed reply vide Exhi-12 along with Mark no.13/1 to 13/3 which are Driving licence of the driver which was involved offending Vehicle No.GJ-05-RE-8094 (hereinafter referred to as the “Car”), Insurance Policy of the said vehicle and R. C. Book respectively of the present petition.

The Driver and Owner of the Car, who is the involved offending vehicle in the said accident due to his negligence and has almost denied the claim petition other details. It is not denied that the vehicles were involved in the accident as stated by the applicant. It is denied the facts narrated in the application regarding the accident. It has further denied the age, income and occupation of the deceased without proving. He stated that the applicant should prove all the documentary evidence submitted in support of the application. He has refused to accept all the documents submitted by the applicant as those of Respondent No.1.

Further, He stated that if there is no negligence or fault of the driver/owner of Respondent No.1 in this accident, he is not legally liable to pay accident compensation to the applicant and however, if any liability of Respondent No.1 is found in the accident, he has taken out a Car insurance policy from the insurer / Universal Sompo General Insurance Company Ltd. (Universal Sompo General Insurance Com. Ltd) dated 15/10/2021 to 14/10/2022, the policy No.USG/WEBAG/0713833/00/000) which was in force at the time of the accident.

Further, He has submitted the relevant documents so that the liability of compensation to be paid to the counter party is borne by the counter party No.2, Universal Sompo General Insurance Company Ltd.

Moreover, he did not accept that the application of the applicant under Section 140 of the Motor Vehicle Act is not valid. Since there was no negligence or fault on the part of our respondent No. 1 in the said accident and he is not liable to pay any amount of no fault liability under Section 140 of the MV Act. In short all the grounds the opponent No.1 has prayed to dismiss the present application against him.

4. In the case of Eshwarappa @ Maheshwarappa vs. 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 no 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 defence can be dealt with at the time of deciding main claim petition under Section 166 of the Act after recording evidence.

Moreover, as the latest judgment of Hon'ble High Court of Gujarat in the case of New India Assurance Co. Ltd. v. Kalabhai M. Koli and Ors. In F. A. No.2103 of 2015, it is laid down that at the stage of proceedings under section 140 of the M. V. Act, the Climes Tribunal has to verify only following three aspects.

(1) The accident has arisen out of use of motor vehicle, (2) The said accident resulted in permanent disablement of a person filling the claim or in the case of death his representatives, (3) The claim is made against the owner and insurer of the motor vehicle.

5. I have heard the Ld. advocates of the parties and pursued the record, the applicant has produced copies of the relevant documents vide Mark No.5/1 to 5/5 i.e FIR, Panchnama, Insurance Policy of the said vehicle, Inquest Panchanama From, R. C. Book.

Looking at the facts from the documents produced by the applicant, it is established that offending vehicles are involved in the accident and the opponent No.1 is the Car driver and owner and opponent No.2 is the insurer of offending vehicle Car. Moreover looking at the prima facie facts of the documentary evidence and the reply of the opponent No.1, which has been shown that the accident was occurred on 03-02-2022 at about 17.30 pm, On the Canal road from Valthan to Puna on the outskirts of Moje Kosmada village, On the road opposite the Shiv Shakti Party Plot, Ta-Kamrej, District- Surat.

Moreover, on further perusal of papers produced in this case, it transpires that the policy of offending vehicles was in force on the date of accident, hence all the requirements and conditions mentioned in Sec.140 of M. V. Act has been satisfied.

Moreover, it is not necessary at this stage to prove as to who was negligent and who was liable and to what extent for this accident. As

the applicant has claimed compensation on the basis of no fault liability, in this event without ascertaining the negligence of the driver, it is desirable to decide this application without looking into the issue of negligence. Hence, I pass the following final order:-

- ORDER -

The application is hereby allowed.

The applicant do recover Rs.25,000/- (Rs. Twenty Five Thousand only) from the opponents jointly and severally with running interest at the rate of 9% p.a. from the date of main claim petition till realization.

All the opponents are hereby directed to deposit in the office of this Tribunal the amount of award, as above, within one month from the date of this order.

Out of the deposited amount, the applicant shall get the amount.

The above referred amount is to be paid to applicant by account payee cheque after proper verification.

Pronounced in the Open Court today on 15th of December, 2025.

Date : 15-12-2025
Place : Surat.

(Jayeshkumar Laxmanbhai Shrimali)
4th Addl. District Judge & M. A. C.
Tribunal (Auxi.), Surat.
(UID NO. GJ00672)