

ORDER BELOW Exh. 6 IN
M.A.C.P. NO. 397/2021

[1] This application is preferred by the applicant, namely, Manoj Vijay Tiwari through his wife and legal representative, namely, Saritadevi Manoj Tiwari under Section 140 of Motor Vehicles Act for interim compensation under the head "NO FAULT LIABILITY".

[2] Ld. Advocate Shri R. B. Soni has appeared for applicant, Ld. Advocate Shri H. K. Barad has appeared for opponents no. 1 and Ld. Advocate Mr. D. G. Shah has appeared for opponent No. 2 insurance company. Heard the Ld. Advocates appearing for the parties.

[3] Opponent No. 2 Insurance Company has filed its Written Statement vide **Exh. 27** and has almost denied the claim petition in toto. It has further denied the age, income and occupation of the applicant. It has been further stated that the accident in question has taken place on account of 100% negligence on the part of applicant, and hence the insurance company is not liable to compensate the claimant. Opponent insurance company has emphasized that the driver of the offending vehicle was not holding valid and

effective driving license at the time of the accident and hence also present application of the applicant needs to be dismissed.

[4] In the case of **Eshwarappa @ Maheshwarappa v Gurushanthappa**, reported in **2010(3) GLR (NOC-43) SC**, the Hon'ble Supreme Court has held that while deciding application under Section 140 of the M. V. Act, the 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 the M. V. Act. Therefore, in view of the above decision, I hold that the 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.

[5] The applicant has produced the relevant documents viz. FIR, Panchnama of place of accident, Discharge Card, R. C. Book, the copy of the insurance policy as well as the copy of the disability certificate. From the said documents produced by the applicant, it is established that offending

vehicle/s are involved in the accident and the Opponents are the driver/owners and insurer/s of offending vehicle/s. Moreover, on further perusal of papers produced in this case, it transpires that policy of offending vehicle was in force on the date of accident, hence all the requirements and conditions mentioned in Sec. 140 of the M. V. Act have 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 driver/s, it is desirable to decide this application without looking into the issue of negligence. Hence I pass the following final order:

:: ORDER ::

1. The present application is hereby **allowed**.
2. The applicant do recover **Rs. 25,000/- (Rupees Twenty-Five Thousand Only)** from the Opponents jointly with running interest at the rate of 7.5% p.a. from the date of main claim petition till realization.
3. 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.

4. Above referred amount is to be paid to applicant by account payee cheque after proper verification.

Signed and pronounced today on this

12th day of August, 2025.

Date : 12.08.2025
Place : Surat.

(Rahul Arunkumar Trivedi)
Principal District Judge,
Surat.
Code No. **GJ01495.**

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