

ORDER BELOW EXH.2
IN APPLICATION NO. 426 OF 2022

Perused the application and written statement (Exh.11) filed by the insurer. Opposite party is ex-parte. Heard Ld. advocate of both the parties. They argued as per their application and written statement respectively.

2. Applicant claims to have received injuries in motor vehicular accident occurred on 23/12/2021 in which Autorickshaw No.MH-02-FB-8381 was involved. Case of the applicant is very well supported by documentary evidence such as certified copy of FIR, Spot Panchnama, original hospital paper and original Disability Certificate which fortify the contention of applicant. The injuries have prima facie resulted in her permanent partial disablement.

3. It is the contention of insurer that alleged Autorickshaw No.MH-02-FB-8381 was not insured with it on the date of accident and the copy of Insurance Policy filed by the applicant is fake & fabricated. It is further contended that insurer has issued a policy in respect of said Autorickshaw vide policy No.Do56743108 for the period from 08/02/2022 to 07/02/2023 i.e. after the date of accident. Moreover, vide letter dtd.12/09/2022, Insurer has also informed concerned Sr. Inspector of Police, D. N. Nagar Police Station, Andheri (W), Mumbai, regarding said fact of fake policy. Office copy of said letter along with its registration receipt is also produced on record along with List (Exh.12). Accordingly, it is contended that as the alleged Autorickshaw involved in accident was not insured with the insurer on the date of accident, the claim against the insurer is not maintainable.

4. Ld. Counsel for applicant has argued that the documents of police papers including the document of insurance policy etc. were supplied by the police to the applicant. The opposite party has not contested the claim petition. He has further submitted that defence of insurer regarding fake policy need not be considered at the interim stage of claim application. The insurer can establish its contention at the time of final hearing of the case. In support of his submissions, Ld. Advocate for applicants has rightly relied upon the ratio of **Manager, HDFC Ergo General Insurance Co. Ltd. Vs. Kalpana and others, 2015 (4) T.A.C. 25 (Bom.)**.

5. Certified copy of insurance policy filed by the applicant shows that offending Autorickshaw was owned by the opposite party and it was insured with the insurer on the date of accident. Defences raised by the insurer can be considered at the time of final hearing of the petition and it is not necessary to go into those details at this stage, as the claim for interim compensation under Section 140 of the M. V. Act. is based on the principle of No Fault. All the ingredients of Section 140 of the M. V. Act thus, said to have prima facie proved. Hence, the following order :-

ORDER

1. Application is allowed.
2. Opposite Party and Insurer do pay jointly and severally an amount of Rs.25,000/- to the applicant on account of NFL, within two weeks from today, failing which the interim

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compensation shall carry interest @7% p.a. from the date of order, till realisation of the amount.

3. Opposite party and Insurer are directed to deposit the awarded amount to the credit of the below stated bank account of this Tribunal directly by NEFT/RTGS.

Account Name	MOTOR ACCIDENT CLAIMS TRIBUNAL, MUMBAI	
Account No.	IFSC	MICR
00000040777482356	SBIN0030002	400002273

4. On deposit of the amount, it be paid to the applicant by NEFT/RTGS in her bank account in a Nationalised bank of her choice, against proper identification and by following the necessary office procedure, subject to payment of deficit Court fees, if any.

5. Costs in cause.

Date : 10/01/2025

GDE

[N. K. Brahme]
CHAIRMAN
MACT, MUMBAI