

ORDER BELOW EX.2 IN APPLICATION NO.1579 OF 2017

1. By this Application U/s.140 of M.V. Act, 1988, the Applicant has claimed compensation under no fault liability for the injuries sustained by him in a vehicular accident dated 15.04.2017.
2. It is alleged that on 15.04.2017 at about 19-00 hrs., he was riding Motorcycle No.MH-03-BZ-7489 on Thane-Mumbai Vahini, Eastern Express Highway, Mulund, at that time offending Motor Car No.MH-01-BV-9945 came from right side in rash and negligent manner and gave dash to the Motorcycle of the applicant, due to which he fell down on the road and sustained serious injuries. He was immediately removed to the hospital for medical treatment. Matter was reported to the Police.
3. Insurance company has entered appearance but did not file its say whereas Opposite Party filed his written statement including say vide Ex.13 and thereby submits that the offending vehicle was validly insured with the Insurer on the date of accident.
4. In order to substantiate its contention, the Applicant has filed certified copies of FIR, Police Statement, Spot Panchnama, Insurance Policy, Vehicle Particulars and Disability Certificate along with Lists Exs.6 and 15. I have also perused DAR. Doctor recommended 33% permanent partial disability.
5. Heard learned Advocates for the Applicant and the Insurer. Section 140 of Motor Vehicles Act lies in very limited sphere. While deciding application U/s.140 of the Act one has to ascertain ;
 - i) Whether the accident has arisen out of use of motor vehicle.
 - ii) Whether the said accident has resulted in permanent disablement of the person who is making the claim, or death of the person whose legal representatives are making the claim, and
 - iii) Whether the claim is made against the owner and Insurer of

the motor vehicle involved in the accident.

Once these factors are established prima facie, the claimant is entitled to succeed in an application U/s.140 of the Act.

6. Bearing in mind, the aforesaid principles and relying in the documents available on record, I find no difficulty holding that the Applicant is entitled for the compensation of Rs.25,000/- on no fault basis for the injuries sustained to the Applicant in an accident. Accordingly, I pass the following order:-

ORDER

1. The Application is allowed.
2. The Opposite Party and the Insurance Company shall pay jointly and severally a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the Applicant on account of NFL within a period of one month from the date of this order, failing which they shall pay interest on the said amount @ 7.5% p.a. from the date of order, till realization of the amount.
3. They are directed to make the payment by A/c payee crossed cheque drawn in the name of Applicant by depositing the same in the Tribunal. The Account Officer shall handover the cheque to the Applicant after the payment of deficit court fee, if any.

Date : 27.09.2019
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(A.S. Jadhav)
Member, C.R. No.3
MACT, Mumbai