

**ORDER BELOW EX.2 IN APPLICATION NO.1162 OF 2021**

1. By this application under Section 140 of the M.V. Act, 1988, the applicant has claimed compensation under no fault liability for the injuries sustained by him in a vehicular accident on 25.05.2021 involving Motorcycle No.MH-03-DD-8410.

2. The Opposite Party is absent. Insurance company has filed its Written Statement (Ex.11) and thereby denied all the averments made by the applicant in the application. However, the learned advocate of the Insurer has admitted the Insurance policy of the offending vehicle.

3. Perused the documents filed on record like certified copies of FIR along with Police Statement, Spot Panchanama, Insurance Policy, original Medical Papers and original Disability Certificate along with List Ex.6 & Ex.12. The doctor has recommended 55% permanent partial disability.

4. Heard learned advocates for the applicant and 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 applicant is entitled to succeed in an application U/s.140 of the Act.

5. In the present case, the documents available on record indicate the involvement of offending vehicle in the accident. The defences taken by the Insurance company in the written statement is a matter to be decided on the merit of the case, but *prima facie*, it appears that this vehicle was insured with the Insurer at the relevant time. So, this implies that NFL amount can be granted in this case.

6. Bearing in mind the aforesaid principles and relying on 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 the accident. Accordingly, I pass the following order :-

**ORDER**

1. Application is allowed.
2. The Opposite Party and Insurer do pay jointly and severally Rs.25,000/- (Rupees Twenty-Five Thousand Only) to the applicant within one month from today, failing which the interim compensation shall carry interest @7.5% p.a. from the date of order till realization.
3. The Opposite Party or the Insurer is 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.	00000040777482356
IFS Code.	SBIN0030002
MICR Code.	400002273

4. On deposit of the amount, it be disbursed to the applicant by NEFT/RTGS on submitting his bank account passbook photocopies duly verified by his banker and against proper identification by following the usual office procedure.
5. The applicant shall pay deficit court fees, if any.

Date :07.12.2022

(Dr. Srishty Neelkanth)  
Member, C.R. No.3  
MACT, Mumbai