

ORDER BELOW EX.2 IN APPLICATION NO.1811 OF 2019

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 06.04.2019 involving Motor Truck No.MH-43-BG-6718.

2. The Opposite Party is absent. Insurance company has filed its Reply (Ex.15) and opposed the application under section 140 of the M.V. Act. The Insurance company contended that the driver of the Motor Car was not holding a valid and effective driving license at the time of the accident. It is further contended that the claim is bad for non-joinder of driver of vehicle as a party to the proceeding. It is also contended that the FIR was filed against the unknown vehicle driver. However, the learned advocate of the Insurance company has confirmed the Insurance policy on Ex.2.

3. Perused the documents filed on record like certified copies of FIR, Police Statement, Spot Panchanama, Insurance Policy, Medical Papers of Government Hospital and original Disability Certificate along with List Exs.6 and 10. The doctor has recommended 32% 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 claimant 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 defence 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 is directed to deposit the awarded amount to the credit of the bank account of this Tribunal directly by NEFT/RTGS. The details of the bank account of this Tribunal are as under:-

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 her bank account passbook photocopy duly verified by her banker and against proper identification by following the usual office procedure.

5} Deficit court fee, if any, be recovered from the applicant.

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

Date : 05.05.2022
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