BEFORE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL,
PUSAD, DIST. YAVATMAL
(Presided over by V. B. Kulkarni)

M.A.C.P.No.23/2020
(CNR No.: MHYA-04-000-157-2020)

APPLICANT : Bandu Kashiram Chavhan,
R/o. Manjarjawala, Taq. Pusad,
Dist. Yavatmal,

- V E R S U S -

NON-APPLICANTS : 1) Chandan Kanhaiyalal Baretiya,
R/o. Gawalipura, Washim,
Taq. and Dist. Washim,

2) The Manager, Oriental General
Insurance Company, Patni Square,
Washim, Dist. Washim.

O R D E R Below Exh.2
(Passed on 18th January 2022)

1] Perused the application and the written statement filed by the non-applicant No.2 vide Exh.15. Heard both the learned counsels.

2] The applicant has filed the present application, as per provisions of section 140 of the Motor Vehicles Act, 1988, for interim compensation of Rs.25,000/-, on account of the injuries sustained by him in vehicular accident.

3] The applicant has filed on record the certified copy of F.I.R., spot panchanama, insurance policy, certificate of registration, disability certificate, etc. The non-applicants No.1 and 2 filed their written statement vide Exh.19 and challenged the entire contentions raised and submitted that, the vehicle Car involved in the accident is insured with non-applicant No.3 and therefore non-applicant No.3 is liable to pay the compensation, if any, in this case.

4] Whereas the insurer i.e. non-applicant No.2 admitted that the vehicle i.e. Tata ACE Truck bearing No.MH-37-B/1083 was insured with it, and the insurance was valid for the period from 09-11-2013 to 08-11-2014, however, it denied the involvement of said vehicle in the said accident. The learned counsel for insurer argued that, the applicant was pillion rider on the said motorcycle and it is rashly and negligently drove by its rider. Bu the truck was not drove by rashly by the truck driver. Therefore, the insurer is not liable to pay any compensation. Hence, application be rejected.

5] Whereas learned counsel for the applicant argued that, as present application came to be filed as per the provisions of section 140 of M.V. Act, therefore, at this stage nothing is to be seen and it is only to be seen that, applicant met with vehicular accident and sustained disability or grievous injury. As the applicant has filed on record the disability certificate and the documents i.e. police papers and as on the day of incident, the Tata ACE was duly insured with non-applicant No.2. Therefore, insurer cannot escape from it's liability.

6] Having regard to the submissions made by both learned counsels and considering the documents on record, I found that the accident took place on 28-05-2014, on which the vehicle was duly insured. It is also clear from the other documents filed on record that, petitioner met with an accident and sustained grievous injuries and disablement also. The disability certificate filed on record prima facie disclosed the said fact.

7] Therefore, considering the documents on record and the submissions made, applicant is entitled for interim compensation, as per the provisions of Section 140 of the Motor Vehicles Act and at this stage, it cannot be seen as to who is at fault. Therefore, non-applicants are jointly and severally liable to pay interim compensation to applicant. Hence, I proceed to pass the following order.

<u>O R D E R</u>

1) The application is allowed.

2) Non-applicants No.1 and 2, shall jointly and severally deposit the amount of Rs.25,000/- with Tribunal towards the claim of 'No Fault Liability', within two months from the date of this order.

3) If the non-applicants failed to deposit the said amount, within the stipulated period, then the applicant is entitled to recover the same alongwith simple interest @ 9% per annum, from the date of order, till its realization.

4) The applicant is entitled to withdraw Rs.25,000/- deposited by non-applicants with Tribunal.

5) Pre-award be drawn accordingly.

(V. B. Kulkarni)
Date : 18-01-2022. Member, M.A.C.T.,
Pusad, Dist. Yavatmal.