BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUMBAI

Application No.885 of 2017

Kum. Bhumi Paresh Panchal
Through N.F. Mrs. Amita P. Panchal. ....Applicant.
V/s.
Ola Fleet Technologies Pvt. Ltd. ....Opp. Party.
And
Bajaj Allianz General Insurance Co. Ltd. ....Insurer.

Order below Ex.2.

1. Applicant has filed this application u/s. 140 of the Motor Vehicles Act,1988 for grant of interim compensation in respect of partial permanent disability sustained by applicant which occurred in motor vehicular accident on 03-03-2017 involving the Motor Car bearing registration No.MH-04-HN-2897.

2. Heard argument of Adv. B. H. Trivedi for applicant and also perused case papers.

3. Opposite party failed to file its say or contest the matter. Insurer has filed its Written Statement on record and confirmed the policy in para No.10 of WS but took some strong objections to pass the NFL Order. However, at this initial stage only points required consideration of the Tribunal are involvement of vehicle in accident, injuries sustained to applicant in the accident and coverage of insurance policy.

4. Applicant has produced on record certified copies of FIR, Spot Panchanama, Insurance Policy, Original Medical Papers and Original Disability Certificate. Alleged documents filed on record prima facie reveal that injuries to applicant were caused in motor vehicular accident. Admittedly at the time of accident offending vehicle was insured with insurer. At this interim stage, tribunal is duty bound to

grant compensation on basis of prima facie material produced before it. Because basic ambit and object of section 140 is of social nature. At the same time liability is created on basis of no fault. Claimant is not required to plead and prove liability of opposite party who is owner of offending vehicle strictly in accordance with law. Furthermore, at this stage tribunal is not required to enter in to merits and demerits of the case. At the same time considering social purpose to provide minimum financial help in the form of interim compensation to the victim of accident liability is created u/s. 140 on the basis no fault. Considering above reasons, I am of the view that opposite party and insurer are jointly and severally liable to pay compensation amount to applicant on the principle of No Fault Liability. Hence, the following order.

ORDER

Application Ex.2 stands Allowed.

1. The opposite party along with insurer shall jointly and severally pay an amount of Rs.25,000/- (Rupees Twenty Five Thousand only) to applicant by A/c payee cheque on proper identification within a period of one month from the date of interim award failing which Opponents shall pay interest @ 7.5 % p.a. from the date of award till its realisation.

2. **Apportionment Order is as under** :

   a) An Amount of Rs.10,000/- alongwith accrued interest thereon, if any, be paid to minor applicant and said amount be invested in fixed deposit in any nationalized bank till she becomes major.

   b) Remaining amount of Rs.15,000/- alongwith accrued interest thereon, if any, be paid to next friend i.e. mother of minor applicant.

3. The amount be disbursed to the applicant on due identification on payment of deficit court fees.

(S. M. Yallatti)
Member, C.R. No.8
MACT, Mumbai

Dated: 05.07.2018