

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUMBAI.
Order below Ex.2 in Claim Application No. 401 of 2017.

This is an application for grant of compensation under No Fault Liability u/s.140 of the M. V. Act 1988 filed by the applicant for permanent disablement suffered by her due to injuries sustained in the motor vehicular accident dated 16-01-2017 involving Motor car (Ola) vehicle No.MH-02-EH-0936.

1. Heard the learned counsel for the applicant and Insurer. The insurer have filed the Written Statement at Ex.14 and admitted the Insurance policy of the Ola taxi Vehicle but opposed the application on various grounds including breach of terms and conditions of the insurance policy. It is contended that as per Charge sheet filed against the driver of the vehicle he is charged with the offence u/s.181 r/w. Sec.-3 of the M. V. Act for not possessing driving licence. Such defence can be considered on merits at the hearing of the application u/s.166 of the M. V. Act. The Opp. Party has appeared and filed an application Ex.12 under order-1 Rule 10 of CPC for discharge from this proceeding with contention that the Opp. Party is a registered owner of the taxi vehicle but the Opp. Party has entered into Lease Agreement with one Mohammed Rahmate Alam and handed over the vehicle in his possession as a lessee and therefore as per definition of the owner under Motor Vehicles Act the said lessee is liable to pay compensation. However, original lease Agreement is not produced on record. Further the alleged lessee is also not made party to this discharge application. Further since after filing of the application the Opp. Party and their learned Advocate continuously remained absent. On the contrary the learned advocate for the applicant has pointed out that the Insurance policy of the said taxi vehicle is issued in the name of the Opp. Party i.e. Ola Fleet Technologies Pvt. Ltd. Therefore, the Opp. Party is jointly and severally liable to pay compensation under No Fault Liability under section 140 of the M. V. Act.

The applicant has produced on record the certified copies of the

FIR, Spot Panchnama, Statement, Medical papers and Insurance policy. He has also produced on record the disability certificate at list Ex.13/2. Therefore the applicant is entitled for compensation of Rs.25,000/- under section 140 of the M. V. Act. Hence I pass the following Order.

ORDER

1. Application Ex.2 is allowed.
2. The Opponents No.1 and 2 shall jointly or severally deposit compensation amount Rs.25,000/-(Rupees Twenty Five Thousand only) towards No Fault Liability within a period of 30 days from the date of this order by A/c. Payee cheque in the name of the applicant, failing which the compensation amount shall carry interest @ 9% p.a.
3. On deposit of the cheque in the office, the same be delivered to the applicant after due verification of her identity, on recovery of deficit court fees if any.

Date:17-07-2018.

(M. S. Mungale),
Member,
MACT, Mumbai.