



2026:AHC:177994

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2403 of 2011

National Insurance Company Limited

.....Appellant(s)

Versus

Jai Prakash Rathor And Others

.....Respondent(s)

Counsel for Appellant(s)	:	Nishant Mehrotra, Vivek Kumar Birla
Counsel for Respondent(s)	:	Arvind Kumar Singh

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Sri Nishant Mehrotra, learned counsel for the appellant, Sri Arvind Kumar Singh, learned counsel for the respondents and perused the records.
2. The present appeal has been preferred against the judgment and award dated 13.10.2010 passed by MACT Etah in MACP No. 179 of 2008 (Jai Prakash Rathor and Another Vs. Sri Krishna Kant Upadhyay and Anr.).
3. Learned counsel for appellant submitted that respondent-claimants have stated in their claim petition that deceased died in an accident on 14.12.2004 at about 1:30 p.m. when the motorcycle he was driving slipped after being overturned on a speed breaker with an intention to escape it a collusion with a Maruti Van. It was submitted that said version in the claim petition itself indicates that the deceased was a driver of the motorcycle from which he fell down and succumbed to the injuries which were caused to him in the said accident.
4. There is no allegation in the claim petition that the motorcycle of the deceased was either taken over or had collided with another vehicle. He further submitted that the deceased being himself negligent and the death being due to an accident caused by his own rash and negligent act could not make him entitled for the compensation that had been set up in the claim petition alleging that the deceased had been injured in the said case. If the deceased himself could not have been entitled to any compensation for the injuries sustained in the said accident, had he

survived, then the respondent-claimants, being his legal heirs, would also not be entitled to claim compensation by filing a claim petition under Section 163-A of the Motor Vehicles Act. He next submitted that the object of Section 163-A of the Motor Vehicle Act is not to provide relief to those persons, who suffered a road accident only on account of their own rash negligent driving.

5. In support of his contention, he has placed reliance upon a judgment in the case of **Ramkhiladi and Another Vs. United India Insurance Company and Another (2020) 2 SCC 550**.

6. Per contra, learned counsel for the respondents' counsel submitted that Insurance Company has no right to raise an issue of negligence on the part of victim in a proceeding initiated under Section 163-A of the Motor Vehicle Act. In support of his contention, he has relied upon the judgment in the case of **United India Insurance Company Limited Vs. Sunil Kumar and Another AIR 2017 Supreme Court 5710**.

7. Heard learned counsel for the parties and perused the records. It is admitted fact on behalf of claimants that the deceased died in a road accident on 14.12.2004 at the time when his motorcycle being driven by him slipped on a speed breaker in order to save it from a Maruti Van. It was not the case of the claimants that the deceased died either been collided himself with any vehicle or his motorcycle was hit by any offending vehicle. However, the learned trial Court in ignorance of the provisions of 163-A of the Motor Vehicle Act allowed the claim petition filed on behalf of the respondents and awarded the compensation of Rs. 3,64,500/-.

8. The provisions of Section 163-A of the Motor Vehicle Act is very much specific as the same is intended to compensate the victims either of injury or of death, who suffered a vehicular accident. Before the injured or claimants of deceased could succeed in any Claim Petition filed either under Section 163-A or 166 of the Motor Vehicle Act, it is incumbent upon them to bring on record before the Tribunal that the cause of injury or death was a result of vehicular accident. Unless the cause of death is a vehicular accident and the death or injury had occurred for the deceased

or injured fell down from the motor vehicle, in such cases compensation is not liable to be awarded under the aforementioned Sections of the Motor Vehicle Act. The judgment of **Ramkhiladi (Supra)** is very much specific on this issue, wherein it has been held that an owner, borrower or permissive user of the motor vehicle cannot maintain a claim under Section 163-A of the Motor Vehicle Act in relation to use of their own vehicle.

9. On the forgoing discussions, this Court is of the view that learned tribunal had clearly fell in error in allowing the claim petition of the respondents. Therefore, the impugned judgment and order dated 13.10.2010 is **set aside** and this appeal is **allowed**.

(Anil Kumar-X,J.)

August 19, 2026

Neetu