

---

**(2013) 04 AHC CK 0266**  
**In the Allahabad High Court**  
**Case No : F.A.F.O. No. 384 of 2008**

|                             |    |            |
|-----------------------------|----|------------|
| National Insurance Co. Ltd. | Vs | APPELLANT  |
| Tribhuwan Maurya and Others |    | RESPONDENT |

---

**Date of Decision :** 05-04-2013

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 163A, 173

**Citation :** (2013) 3 AWC 2379

**Hon'ble Judges :** Brijesh Kumar Srivastava, J

**Bench :** Single Bench

**Advocate :** Prashant Kumar, for the Appellant; R.K. Dubey, for the Respondent

**Final Decision :** Dismissed

---

## Judgement

Brijesh Kumar Srivastava-II, J.—The present appeal has been preferred u/s 173 of Motor Vehicles Act, 1988 against the award dated 12.12.2007 passed by Motor Accident Claims Tribunal/Additional District Judge, Court No. 1, Lucknow in Motor Accident Claim Petition No. 194 of 2006, Tribhuwan Maurya and another v. Rukmendra Pratap Singh and others. The appeal has been filed mainly on the ground that the impugned Judgment and order is illegal and is against the factual evidence adduced. It is alleged in the grounds of appeal that Tractor No. U.P. 34F/6254 can be used by the respondents No. 3 and 4 only for the agricultural purposes.

2. It is also alleged that the entire negligence is on the part of the Driver of Tractor No. U.P. 34F/6254.

3. I have heard learned counsel for the appellants and the learned counsel for respondents No. 1, 2 and 3.

4. Respondent No. 4 is reported to be dead.

5. In short, it appears from the record that M.A.C.P. No. 194 of 2006 was filed by claimant and by Tribhuwan Maurya and Smt. Munni Devi against respondents u/s

163A of the Motor Vehicles Act, 1988 with the allegation that accident took place on 14.6.2006 at about 6.00 p.m. due to rash and negligent driving of driver of Tractor No. U.P. 34F/6254 resulting into grievous injuries. The injured, Harish was taken to the medical college where he died on 17.6.2006 at about 2.30 p.m. The deceased was aged about 13 years at the time of accident and was earning Rs. 4,000 per month and request for compensation amounting Rs. 11,59,000 has been filed.

6. Rukmendra Pratap Singh did not file any written statement. The National Insurance Company Limited filed written statement. Four Issues were framed and the learned Tribunal passed an award on 12.12.2007.

7. The main argument of learned counsel for the appellants was that the tractor could have been used for agricultural purposes only and, therefore, the insurance company was not liable to pay any compensation. It was also pleaded and argued that accident took place because of negligence of the driver of the offending vehicle. Admittedly, the petition has been filed u/s 163A of the Motor Vehicles Act, 1988 which relates to the special provision as to payment of compensation on structured formula basis. The provision clearly mentions that in any claim for compensation under sub-section (1) of Section 163A of the said Act, the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

8. Therefore, the negligence of driver of offending vehicle was not of much importance and the argument advanced in this respect does not hold ground.

9. It was also pleaded and argued that the tractor could have been used for the agricultural purposes only. Admittedly, no evidence has been produced by the respondents to substantiate their argument on this point. It was not disputed that P.W. 3, Tribhuwan Maurya has accepted the fact that the bricks were loaded on the trolley. The tractor did not contain any passenger and was insured with a premium of third party as well. At the time of accident, driver was alone sitting on the offending vehicle and the deceased was not sitting either on the tractor or on trolley. Therefore, in view of the beneficial legislation, liability of the insurance company cannot be ignored.

10. It also appears from the record that the learned Tribunal while relying certain citations as mentioned in the body of the judgment awarded Rs. 1,80,000 with interest. The amount cannot be said to be excessive or arbitrary. More than six years have gone after the accident. The age of the deceased is not disputed and, therefore, amount in question cannot be interfered with. No other point was raised and argued.

11. I am of the view that the appeal is devoid of merit and is liable to be dismissed. Accordingly, the appeal is dismissed with costs.