Karnataka High Court Appaji (Since Deceased) And Anr. vs M. Krishna And Anr. on 17 December, 2003 Equivalent citations: 2004 ACJ 1289 Author: T S Thakur Bench: T S Thakur, S A Nazeer JUDGMENT Tirath S. Thakur, J. 1. This miscellaneous first appeal is directed against a judgment and award made by Motor Accidents Claims Tribunal, Bangalore Rural District, Bangalore, whereby M.V.C. No. 936 of 1997 has been allowed in part and a sum of Rs. 50,000 with interest at the rate of 6 per cent per annum awarded as compensation for the death of late Arun Kumar in a road accident. 2. The deceased Arun Kumar was on 8.7.1997 riding a scooter on his way from Maddur to Malavalli. When he reached a place near the Sugarcane Mill owned by one Malleshanna situated on the said road, he met with an accident resulting in his death. A claim petition in M.V.C. No. 936 of 1997 was presented by the parents of the deceased for payment of compensation. According to the averments made in the said claim petition, the deceased was engaged as a driver by respondent No. 1, the owner of the scooter involved in the accident and the accident in question had taken place while the deceased was trying to avoid a cyclist who had suddenly emerged on the road. The claim petition specifically stated that claimants were exercising their right of filing a claim before the Motor Accidents Claims Tribunal instead of one under Workmen's Compensation Act, 1923 and that the claim was in terms of Section 163-A of the Motor Vehicles Act, 1988 on 'no fault basis' only. Objections filed on behalf of the owner of the scooter involved in the accident, inter alia, stated that the deceased had been engaged by respondent owner and that he was going to Malavalli in connection with the work assigned to him. The allegation that accident had taken place because the deceased was trying to avoid hitting the cyclist was denied. It was on the contrary alleged that the accident in question had taken place on account of the rash and negligent driving of the scooter by the deceased himself. The deceased was according to the respondent owner of the scooter, working as a helper and driver with him on payment of Rs. 2,500 per month towards salary. 3. The insurance company denied the allegations made in the claim petition and, inter alia, stated that the policy of insurance issued for the scooter involved in the accident was an Act policy which did not cover the risk of a driver. The allegation that the deceased was an employee of the owner and that the accident had occurred during the course of the alleged employment was also denied. It was stated that the deceased was in the employment of a private company unconnected with the respondent owner and that the accident had taken while the deceased was on private work riding the scooter borrowed from the owner. 4. On the above pleadings the Tribunal framed three issues for determination which have been answered against the claimant in terms of the impugned judgment and award. The Tribunal held that the accident in question had taken place on account of rash and negligent driving of the scooter by the deceased which fact was proved even in the course of the police investigation. It relied upon the first information report lodged by the cyclist hit by the deceased and declared that deceased was driving the two-wheeler in a rash and negligent manner, struck against the cyclist causing injuries to him, apart from sustaining some injuries on his body which resulted in his death. Insofar as the question of liability was concerned,

the Tribunal held that the claimants were entitled to a sum of Rs. 50,000 only towards compensation under Section 140 of the Motor Vehicles Act on 'no fault basis'. Their claim for payment of any further amount in terms of Section 163-A was negatived and the claim petition disposed of accordingly. The present appeal calls in question the correctness of the above findings and the award made on the basis thereof. 5. Mr. Bhat, learned counsel for the appellants submitted that appellant No. 1, the father of the deceased had during the pendency of the appeal passed away on 20.9.2001 leaving behind appellant No. 2 as the only legal representative. That position was not disputed by counsel appearing for the respondents. The cause-title shall accordingly stand amended and the name of the appellant No. 1 deleted from the array of appellants. 6. Coming to the merits of the case, Mr. Bhat, learned counsel for the appellants did not seriously dispute the finding recorded by the Tribunal that the accident in question had taken place on account of the rash and negligent driving of the scooter by the deceased himself. Even otherwise, that finding appears to us to be perfectly justified on the basis of the material available on record. The first information report, marked Exhs. P-1 and P-2, spot mahazar, marked Exh. P-3 and the charge-sheet drawn up by the police, marked Exh. P-5, clearly suggest that the accident in question had taken place on account of the rash and negligent driving of the scooter by the deceased himself. Apart from the said material, there is no other evidence directly related to the genesis of the accident upon which a contrary view may be formulated. PW 1 Jayalakshmi who happens to be the mother of the deceased and the solitary witness examined in support of the claim was not admittedly present on the spot at the time of the accident. That being so, the Tribunal was in our opinion justified in holding that the accident had indeed taken place on account of the rash and negligent driving of the deceased himself. 7. Mr. Bhat, all the same argued that even when the accident may have been caused by the rash and negligent act of the deceased in the use of the motor vehicle, the claimants would in law be entitled to the payment of compensation on no fault basis under Section 163-A of the Motor Vehicles Act. In support of that submission, Mr. Bhat has placed considerable reliance upon the 'non obstante clause' appearing in Section 163-A of the Motor Vehicles Act to argue that any provision in the Motor Vehicles Act or any other law for the time being in force disentitling the claimants from payment of compensation in cases where the death or injury was caused on account of the rash and negligent act of the deceased or the injured person himself would stand neutralised and rendered ineffective. What was according to Mr. Bhat important was whether the accident resulting in the death of the deceased had arisen out of the use of the motor vehicle regardless whether the same was on account of the rash and negligent act of the deceased himself or of some other person or agency. Section 163-A of the Act had, argued the learned counsel, revolutionised the concept of award of compensation and introduced a social security measure by which any loss of life or limb would entail payment of compensation on a no fault basis even when such loss had arisen on account of the rash and negligent act of the person who dies or suffers injury. Reliance in support of that contention was placed by Mr. Bhat upon a Division Bench judgment of the High Court of Hi-

machal Pradesh in Kokla Devi v. Chet Ram, 2002 ACJ 650 (HP) and a similar Bench decision of the High Court of Gujarat in New India Assurance Co. Ltd. v. Muna May a Basant, . 8. Mr. Angadi, learned counsel for the respondent insurance company, on the other hand, contended that the view taken by the Tribunal was justified for even after the introduction of Section 163-A of the Act, the basis of the liability to pay compensation remained the same. He urged that the liability' governing payment of compensation to the person who suffers any injury or the legal heirs of the victim who dies continue to envisage payment only in cases where such injury or death was caused because of a tortious act committed by another person. Any injury sustained by the claimant on account of his own act of rashness or negligence or any claim based on death of a person who was responsible for causing the same could not be maintained even after the introduction of Section 163-A to the Act. The said provision was limited to making proof of fault on the part of any such outside agency unnecessary in a claim for payment of compensation. The other requirement that the death or injury must arise out of any act of omission or commission on the part of any such agency was not so dispensed with. 9. We have given our anxious consideration to the submissions made at the Bar. The legal basis for payment of compensation in this country continues to be the common law or the law of Torts as recognised in Anglo Saxon Jurisprudence. Subject to any statutory modification to the general rule, a right to claim compensation arises only when the person against whom the claim is made is proved to have failed to perform a legal obligation causing an injury to any other person or to have committed an act of omission or commission causing a legal injury to the person making the claim. The Motor Vehicles Act, 1939 which was a precursor to the 1988 Act provided a statutory mechanism for enforcement of the rights and obligations flowing under the law of Torts or the common law. Such statutory support notwithstanding if a person was not legally liable to pay any compensation, the support of statutory mechanism provided by the Act did not make him so, except in situations and the extent the statute made a specific departure from that general principle. The question whether proof of fault was essential for claiming compensation under the Motor Vehicles Act first fell for consideration of the Apex Court in Minu B. Mehta v. Balkrishna Ramchandra Nayan, 1977 ACJ 118 (SC). The court held that the proof of fault of the owner or driver of the vehicle involved in the accident that caused death or injury to the claimant or his legal heir was essential. It observed: "The right to receive compensation can only be against a person who is found to compensate due to the failure to perform a legal obligation. If a person is not liable legally he is under no duty to compensate anyone else. The Claims Tribunal is a Tribunal constituted by the State Government for expeditious disposal of the motor claims. The general law applicable is only common law and the law of Torts... It may be that a person bent upon committing suicide may jump before a car in motion and thus get himself killed. We cannot perceive by what reasoning the owner of the car could be made liable." 10. The above position in law continued to hold good till Parliament amended the Motor Vehicles Act, 1939 by amending Act 47 of 1982, incorporating Section 92-A which introduced for the first time the concept of

payment of compensation without proof of fault or negligence on the part of the owner or driver of the vehicle. The objects and the reasons for the notable shift in the settled legal position were summarised as under: "Having regard to the nature of circumstances in which road accidents take place, in a number of cases it is difficult to secure adequate evidence to prove negligence. Further, in what are known as 'hit-and-run' accidents, by reason of the identity of the vehicle involved in the accident not being known, the persons affected cannot prefer any claims for compensation. It is, therefore, considered necessary to amend the Act suitably to secure strict enforcement of road safety measures and also to make, as a measure of social justice, suitable provisions, first, for compensation without proof of fault or negligence on the part of the owner or driver of the vehicle, and secondly, for compensation by way of solatium in cases in which the identity of the vehicle causing an accident is unknown." 11. In Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai, 1987 ACJ 561 (SC), the Apex Court recognised that the provisions of Section 92-A of the Motor Vehicles Act, 1939 were a clear departure from the common law principle that a claimant should establish negligence on the part of the owner or driver of the motor vehicle before claiming any compensation for the death or permanent disability caused on account of use of any such vehicle. The court held a pedestrian entitled to recover damages on the principle of social justice regardless whether or not he was in a position to prove negligence on the part of the owner or driver of the vehicle involved in the accident. The court observed: "Where a pedestrian without negligence on his part is injured or killed by a motorist, whether negligently or not, he or his legal representatives, as the case may be, should be entitled to recover damages if the principle of social justice should have any meaning at all. This part of the Act is clearly a departure from the usual common law principle that a claimant should establish negligence on the part of the owner or driver of the motor vehicle before claiming any compensation for the death or permanent disablement caused on account of a motor vehicle accident. To that extent the substantive law of the country stands modified." 12. In K. Nandakumar v. Managing Director, Thanthai Periyar Trans. Corporation Ltd., 1992 ACJ 1095 (Madras), a Division Bench of the Madras High Court took the view that even for purposes of Section 92-A of the old Act it was necessary for claimant to prove that he was not in any manner responsible for the accident. In cases where the injured or dead was himself responsible for the accident, payment of compensation on no fault basis was not permissible even under the provisions of Section 92-A of the old Act. The court in the process dissented from the contrary view taken by other courts in the country including High Courts of Orissa, Bombay, Kerala and Andhra Pradesh. That view was successfully assailed in appeal before the Supreme Court in K. Nandakumar v. Managing Director, Thanthai Periyar Trans. Corporation Ltd., . The court held that the provisions of subsection (4) of Section 92-A made it clear that payment of compensation on no fault basis could not be rejected even if the person making claim was himself responsible for such death or permanent disablement. Sub-section (4) of Section 92-A reads as under: "A claim for compensation under Subsection (1) shall not be defeated by reason

of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement." 13. The decisions of the Supreme Court have thus settled the legal position insofar as payment of compensation on no fault basis under Section 92-A of the old Act and Section 140 of the Motor Vehicles Act, 1988 is concerned. Regardless whether the person injured or killed in a road accident was himself partially or wholly responsible for the accident, compensation under the said provision is payable to the victim or his legal heirs. 14. The fate of the case in hand, however, turns on the true scope of Section 163-A introduced by amendment by Act 54 of 1994 with effect from 14.11.1994. Since the answer to question that falls for consideration before us rests entirely on the interpretation of the said provision, it is necessary to extract the same in extenso: "163-A. Special provisions as to payment of compensation on structured formula basis.–(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be. Explanation,–For the purpose of this sub-section, permanent disability shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923). (2) In any claim for compensation under Sub-section (1), 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. (3) The Central Government may, keeping in view the cost of living by notification in the official gazette, from time to time amend the Second Schedule." A brief review of the legislative history of the above provision may be helpful for a proper appreciation of the true purpose underlying the said provision. The Law Commission of India had in its 119th Report recommended amendment to the Motor Vehicles Act for the protection of the victims of hit-and-run accidents in cases where the particulars of such offenders cannot be ascertained. It referred to the changing judicial thought and the compulsions of providing social security to victims of road accidents by dispensing with proof of fault. The recommendations of the Commission were followed by a Committee for review of the provisions of the Act set up by the Government somewhere in the year 1990. This Committee also suggested certain changes in the provisions of the Act taking into consideration that such claim cases pending before the Tribunal take a long time. The recommendations envisaged award of compensation on a structured formula basis where the affected party could have the option of accepting a lump sum compensation as notified under the scheme or of pursuing claims through the normal channels. The recommendations eventually culminated in the introduction of Sections 163-A and 163-B of the Motor Vehicles Act in the year 1994. The Statement of Objects and Reasons for the intro-

duction of the said provisions read as under: "(2) After the coming into force of the Motor Vehicles Act, 1988, Government received a number of representations and suggestions from the State Governments, transport operators and members of public regarding the inconvenience faced by them because of the operation of some of the provisions of the 1988 Act. A Review Committee was, therefore, constituted by the Government in March 1990 to examine and review the 1988 Act. The recommendations of the Review Committee are in para (3). The relevant part whereof reads as under: The recommendations of the Review Committee were forwarded to the State Governments for comments and they generally agree with these recommendations. The Government also considered a large number of representations received, after finalisation of the Report of the Review Committee, from the transport operators and public for making amendments in the Act. The draft of the proposals based on the recommendations of the Review Committee and representations from the public were placed before the Transport Development Council for seeking their views in the matter. The important suggestions made by the Transport Development Council relate to or are on account of– (b) Providing adequate compensation to the victims of road accidents without going into long-drawn procedure." 15. In Oriental Insurance Co. Ltd. v. Hansrajbhai V. Kodala, , the Apex Court held that the object underlying the above amendment could be discovered from the recommendations of the Review Committee which in turn showed that the purpose behind the amendment was to give earliest relief to the victims of motor vehicle accidents. Prolonged litigation in the Tribunals for determination of compensation was the primary reason why the Committee and eventually Parliament felt that introduction of a structured formula for payment without insisting upon proof of fault would remedy the situation. The court also declared that the compensation payable under Section 163-A was based on a criteria underlying determination of compensation even on fault basis by taking into consideration the annual income, the age of the victim and by applying an appropriate multiplier to the same. The court repelled the contention that compensation under Section 163-A was in addition to the fault liability under Section 168 and held that the non obstante clause in Section 163-A simply excluded determination of compensation on the principle of fault liability. To the same effect is the decision of a Full Bench of this court in Guruanna Vadi v. General Manager, Karnataka State Road Transport Corporation, , where Section 163-A was declared to be a substantive provision available only for claims based on post-1994 accidents. 16. It is evident from the above that Section 163-A was never intended to provide relief to those who suffered in a road accident not because of the negligence of another person making use of a motor vehicle, but only on account of their own rash, negligent or imprudent act resulting in death or personal injury to them. The recommendations of the Law Commission were concerned more with the victims of hit-and-run accident cases where the particulars of offenders could not be ascertained. It also expressed concern about the security of victims, of road accidents and recommended dispensing with proof of fault on the part of the owner or driver of the vehicle. The recommendations, it is clear, were made from the point of view of victims of accidents on the roads more than those

who were responsible for the same. The Review Committee too had viewed the situation from the point of view of such victims and expressed concern about the time it took for disposal of ordinary cases before the Tribunals. The objects and reasons underlying the introduction of the provision also envisaged adequate compensation to victims of road accidents without going into what was described as long-drawn procedure. The decision of the Apex Court in Kodala's case, , elucidated the purpose underlying the introduction of Section 163-A in the light of recommendations of the Law Commission and the Review Committee. There is nothing in any one of the above to suggest that Section 163-A was intended to be available even in a situation where the accident in question had caused death or physical injury to none except the person who was rash and negligent in using the motor vehicle. The universal concern was for the safety and the social security of an innocent user of the road and not for a person who had because of his own imprudence, rashness or negligence met with an accident and suffered an injury or death. 17. It is truism to say that legislative history of a provision including the aims and objects which the bill sets out before the legislature are only aids for interpretation of the provision eventually enacted for enforcement. A statutory provision cannot be understood or interpreted only on the touchstone of its historical background or aids like the subject heading or the aims and objects stated in the bill preceding the legislation. While the object of any exercise aimed at interpreting a statute is to ascertain the intention of the legislature enacting it, the golden rule among numerous other rules of interpretation that have been judicially evolved is that the intention of the legislature is to be primarily gathered from the language used in the provision. A statute is an edict of the legislature and the language employed in the same is the determinative factor for understanding the true legislative intent. "Statutes should be construed not as theorems of Euclid" said learned Judge Hand, "but words must be construed with some imagination of the purposes which lie behind them". [See Lenigh Valley Coal Co. v. Yensavage, 218 FR 547; Union of India v. Eilip Tiago De Gama of Vedem Vasco De Gama, AIR 1990 SC 981; Institute of Chartered Accountants of India v. Price Waterhouse, AIR 1998 SC 74 and Shiv Shakti Co-op. Housing Society v. Swaraj Developers, 2003 AIR SCW 2445]. 18. Let us then turn to Section 163-A of the Motor Vehicles Act. It envisages payment of compensation for death or permanent disablement due to an accident arising out of the use of motor vehicle to the victim or his legal heirs as the case may be. The term 'victim' has not been defined in the Act. The literal meaning of the word as given in Chambers 20th Century Dictionary is: "a living being offered as a sacrifice; one subjected to death, suffering or ill-treatment; a prey; a sufferer". Black's Law Dictionary explains the term thus: "The person who is the object of a crime or tort, as the victim of a robbery is the person robbed". Person whom court determines has suffered pecuniary damages as a result of defendant's criminal activities; that person may be individual, public or private corporation, government, partnership, or unincorporated association. 19. The right to receive compensation under Section 163-A presupposes that the person who makes a claim is a victim or the legal heirs of a victim. The provision on the plain language employed in

the same does not entitle a person who is neither a victim nor his/her legal heir to claim any compensation. In other words, one who is the victim of his own actions of rash or negligent driving cannot invoke Section 163-A for making a claim. The concern of the legislature and the jurists is understandably for the victim in contradistinction to the victimiser or one who falls a victim to his own action. While road accidents generally affect innocent third parties or those making use of public transport, cases where the owner or driver of the vehicle alone suffers on account of his rash and negligent driving are not uncommon. Drunken driving, speeding in what are high performance new generation of automobiles including two-wheelers are accounting for a large number of accidents every day. Quite often these accidents kill or wound even the person who is driving the vehicle. Parliament did not in our opinion intend to provide for compensation to the person responsible for the accident on structured formula basis in such cases. Neither the provisions of Section 163-A nor the background in which the same were introduced disclose any such intention. The argument that Section 163-A is a panacea for all ills concerning the accidents regardless of whether the person who is killed or injured is or is not a victim must therefore be rejected. 20. The issue can be examined from yet another angle. Section 147 of the Motor Vehicles Act prescribes the requirement of a policy of insurance in order that the same may be said to comply with the provisions of Chapter XI. It, inter alia, envisages a policy of insurance which insures the person or class of persons specified in the policy against any liability which may be incurred by him in respect of the death or bodily injury or damage to any property of a third party arising out of the use of the vehicle in a public place. What is important is that the policy must insure the owner against "any liability which arises against him" on account of any death or injury arising out of a motor accident. In the case of an accident where the person who is killed or injured is himself responsible for the accident without the involvement of any other vehicle or agency, no liability qua the insured would arise except where the person who is killed or injured is an employee of the insured and the accident arises out of his employment. In any such case, rashness or negligence of the employee may be inconsequential for purposes f holding the employer liable to pay the compensation under the Workmen's Compensation Act. The decision of this court in Y.R. Shanbhag v. Mohammed Gouse, 1991 ACJ 699 (Karnataka), has taken the view that where the driver had sustained injuries due to his own driving he cannot maintain a petition under Motor Vehicles Act, his remedy being under Workmen's Compensation Act. Reference may also be made to another Division Bench decision of this court in B. Prabhakar v. Bachima, 1984 ACJ 582 (Karnataka), where the court observed: "From Section 110-AA, it is clear that before an application can be entertained, the accident must have occurred due to the actionable negligence of the owner or the driver of the vehicle... When the accident has occurred due to actionable negligence of the deceased who was himself the driver, no claim by his legal representatives can be entertained under the Act. That being so Section 110-AA will not come into play at all." 21. We need not dilate on the rights and liabilities of the parties in such a case for that aspect even though raised before us does not strictly speaking fall for a

detailed examination. Suffice it to say that in a case where no liability arises against the driver or owner of the vehicle on account of the accident no such liability will arise even against the insurance company with whom the vehicle involved in the accident is insured. Section 163-A of the Act does not in our opinion alter that legal position. It does not alter the legal basis on which a liability arises under Section 147 of the Act nor does it provide a different or modified basis for the same. That being so, in the case of an accident where the person killed or injured is himself responsible for the accident, no liability would arise against the insured nor can any such liability be enforced under Section 163-A of the Act. For a liability under Section 163-A to arise against insurance company, it is essential that such a liability must first arise against the insured and the insurance company under Section 147 of Motor Vehicles Act. 22. Two decisions relied upon by the appellants may at this stage be noticed. In Kokla Devi v. Chet Ram, 2002 ACJ 650 (HP), a Division Bench of the High Court of Himachal Pradesh held that Section 163-A had brought about a drastic change in the concept of tortious liability prevailing prior to it. The court was of the view that the 'non obstante' clause in Section 163-A permitted even the tortfeasor to claim compensation on the principle of no fault liability. With respect to the Hon'ble Judges who delivered the said decision we find it difficult to subscribe to that view. Section 163-A of the Act no doubt brings about a significant change in the legal position as regards the obligation to prove fault is concerned, but the change is not so drastic so as to make even a tortfeasor entitled to claim compensation for his own act of rashness, negligence or imprudence. The 'non obstante' clause in Section 163-A simply dispenses with proof of fault by the claimants against the driver or the owner of the vehicle involved in the accident. The claimant under Section 163-A therefore need not prove that the driver or the owner of the vehicle was at fault in the sense that the accident had occurred on account of any negligence or rashness on his part. That does not, however, mean that claimant can maintain a claim on the basis of his own fault or negligence and argue that even when he himself may have caused the accident on account of His own rash and negligent driving, he can nevertheless make the insurance company pay for the same. Inasmuch as Section 163-A dispenses with proof of fault, it does so only where the claimant is not solely responsible for the accident. The correct approach appears to us to be to find out whether in the absence of Section 163-A, a claim could on the facts pleaded be maintained by claimant, if the answer is 'no' because the claimant was himself the tortfeasor, the provisions of Section 163-A would not come to his rescue and make such a claim maintainable. If the answer is 'yes' the beneficial provisions under Section 163-A would absolve the claimant of the obligation to prove that the accident had taken place on account of the fault of the driver or owner of the vehicle provided he is willing to accept the amount of compensation offered according to the structured formula prescribed in the Schedule. That is the only way in which the anomaly arising out of a contrary interpretation can possibly be avoided. 23. In New India Assurance Co, Ltd. v. Muna Maya Basant, , a Division Bench of Gujarat High Court also took the view that non obstante clause appearing in Section 163-A permitted even the

tortfeasor to claim compensation and that the insurance company can contest the claim only on the ground of total absence of a contract of insurance and not otherwise. For the reasons that we have set out above, we regret our inability to follow that line of reasoning. As held by the Apex Court in Oriental Insurance Co. Ltd. v. Hansrajbhai V. Kodala, , the non obstante clause simply excludes determination of compensation on the principle of fault liability. The said provision does not permit a person to place a premium upon his own fault and make the insurance company pay for the same. 24. We may before parting make it clear that the accident in the instant case had taken place while the deceased was himself riding a two-wheeler. No other vehicle was involved in the accident against whose driver or owner could the claimant make a claim for payment of compensation on no fault basis under Section 163-A of the Act. There was no possibility of even accusing another vehicle or its driver of negligence or rashness. In cases where the accident involves two vehicles one accusing the other of negligence, it may be open to both to maintain a claim on no fault basis under Section 163-A of the Act. That is because such a claim will be permissible no matter the driver or the owner of the other vehicle involved in the accident may dispute his negligence in the matter. The argument that while the claimant may not be required to prove fault, the respondents can prove that the accident had not occurred on account of any fault on their part must fail for once the respondent is allowed to set up that defence, the claimant will have to necessarily lead evidence to rebut the same by proving that the accident had indeed occurred on account of the fault of the respondents. Any such requirement of proving the fault having been dispensed with by Sub-section (2) to Section 163-A, permitting the respondents to set up the defence that the accident was without their fault would amount to negating the effect of the statutory provision dispensing with proof of fault. 25. The only aspect that remains to be examined is, whether the deceased was an employee of the owner of the two-wheeler involved in the accident. The Tribunal has disbelieved the version of the claimants that he had been engaged by the owner of the scooter as his driver to drive the same. We find no reason to differ. The version does ex facie appear to us to be unacceptable apart from being highly improbable. The owner of the two-wheeler is an employee of the I.T.I. Ltd. There is no earthly reason for him to engage a driver for driving his scooter, when he is not shown to be even possessed of a driving licence. The story about the deceased being an employee is clearly unbelievable and has been rightly rejected. The claimants cannot, therefore, maintain a claim even on that basis as rightly held by the Tribunal. 26. In the result, we see no merit in this appeal which fails and is hereby dismissed, but in the circumstances without any orders as to costs.