

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****132****FAO-5590-2024(O&M)
Date of decision: 29.09.2025****Smt. Babli Devi & Others****...Appellant(s)****Vs.****Vijay Bahadur & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Aman Arora, Advocate for
Mr. Mukesh Yadav, Advocate
for the appellants.

*********NIDHI GUPTA, J.**

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.17,37,900/- awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter 'the learned Tribunal') vide Award dated 12.09.2024 passed in MACP-150 dated 04.08.2020 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 5 claimants are the 38-year-old widow, 18-year-old daughter, and 17-year-old son, 59-year-old father and 66-year-old mother of deceased Dharmender, who was 37 years old at the time of accident.



2. The pleaded case of the appellants in the Claim Petition before the learned Tribunal as recorded in Paras 2 and 3 of the impugned Award is as follows:-

“2. The case of the petitioners is that on 01.10.2019, Dharmender (since deceased) along with Vikram and Deepak was enroute from village Bewal to Bahadurgarh in a traulla bearing No. HR63D/9656 being driven by Arjun at a moderate speed in a cautious manner to the extreme left side to the road observing all traffic rules of the road. At about 3.30 P.M., when they reached within the revenue estate of village Talav near R.E.D. school, a truck No. HR-69C/3755 (hereinafter called the offending vehicle), which was parked by respondent no.1 Vijay Bahadur without switching on its parking/back lights and without observing the rules of the road. There were no stones/branches of tree or any other type of signal of parking of the offending vehicle was put by Arjun who was driving the traulla no. HR-63D-9656 at a moderate speed by observing all the rules of the road, could not notice the stationery offending vehicle, due to high beam lights of the vehicles which was coming from opposite side. As a result the abovesaid traulla No. HR-63D-9656 struck against the rear portion of the stationary offending vehicle. As a result of which, Dharmender, Vikram and Deepak sustained multiple and grievous injuries on their person. The traulla was also damaged. Dharmender succumbed to his injuries sustained in the accident at the spot. This accident took place due to parking of offending vehicle in the middle of the road by respondent no.1 without switching on its parking/back lights and without putting any stones, branches of trees or any



other type of signal of parking of the offending vehicle and without observing the rules of the road. Respondent No.2 is the owner of the offending vehicle and it is insured with respondent No.3. Thus, all the respondents are liable to pay compensation to the petitioners jointly and severally.

3. The deceased Dharmender at the time of his death was 37 years of age and was doing the work of agriculturist and dairy farming and was earning Rs.20,000/- per month. The future of deceased was very bright. The petitioners were dependent upon the income of deceased. Due to untimely death of deceased, petitioners are facing financial hardship. They have been deprived of earning, love and affection, better guidance and the company of the deceased. The future of the petitioners has been ruined. Therefore, the petitioners are entitled to compensation of rupees Eighty Lacs as compensation along-with interest @ 18% per annum. With regard to accident, FIR No.306 dated 01.10.2019 under Sections 283, 304-A, 337 of IPC was registered at P.S. Jhajjar.” (Emphasis added)

3. The Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Dharmender had died due to the injuries suffered by him in a motor vehicular accident that took place on 01.10.2019 at about 3:30 pm as the respondent No.1 had parked the truck bearing registration No.HR-69C-3755 (hereinafter “the offending vehicle”) *“in the middle of the road without switching on its parking/back lights and without observing the rules of the road by respondent no.1...”*. The offending vehicle was owned by respondent No.2 and insured by respondent No.3. The learned Tribunal also held the deceased



Dharmender liable for contributory negligence to the extent of 10% as the deceased had hit into stationary vehicle. It is also held that “...Arjun, driver of the truck No. HR-63D-9656 also appears to have contributed to the accident. Neither he nor owner nor insurance company of truck No. HR-63D-9656 are impleaded as party to this petition for the reasons best known to him. Be as it may, the case remains that Arjun also contributed in causing accident. Therefore, he also would have been liable to pay compensation to the extent of his contributory negligence with regard to the accident. Consequently, liability of the Insurance company has to be reduced to the abovesaid extent. Contributory negligence of Arjun, driver of the truck No. HR-63D-9656 in the facts and circumstances of the case is assessed and restricted to 10%. Therefore, the amount of compensation of Rs.19,31,000/- as assessed above abovesaid shall be reduced by 10% i.e. Rs. 1,93,100/-. Therefore, total amount of Rs. 17,37,900/- would be payable to the petitioners as compensation for death of Dharmender in the accident.”

4. It is inter alia submitted by learned counsel for the appellants that the learned Tribunal was in error in holding Arjun/driver of the truck in which the deceased Dharmender was travelling, liable for contributory negligence of 10% on account of the fact that admittedly, the accident had taken place on 01.10.2019 at about 3:30 am at night. It is submitted that it is the clear pleaded case of the appellants that it was pitch dark at that time. The offending vehicle was parked in the middle of the road without any sign



or indication. It is submitted that in this circumstance, compensation of the appellants could not have been reduced by 10%, as there was no negligence on part of Arjun.

5. It is further submitted that even under the conventional heads, less compensation has been awarded to the appellants. The learned Tribunal also completely failed to appreciate that deceased Dharmender was earning Rs.20,000/- per month by doing agricultural work and was having 3 acres of land. Yet the learned Tribunal has considered income of the deceased as only Rs.9,000/- per month as unskilled daily wager. Future prospects should have been awarded at the rate of 50%. Very meagre amount under the head of transportation and last rites has been given which is liable to be enhanced. Interest is also less @ 7.5% per annum which should be modified to 18% per annum. Deduction of 1/5th ought to have been made. It is accordingly submitted that the appellants are entitled to compensation of Rs.80 lakh along with interest @ 24% per annum.

6. No other argument is made on behalf of the appellants.

7. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

8. It has been submitted on behalf of the appellants that the accident had taken place on 01.10.2019 at about 3:30 am, however, perusal of the Claim Petition as also the evidence of PW1 Vikram eyewitness, shows that it is the own case of the appellants that the accident had taken place on



01.10.2019 at about 3:30 pm. It is only in Para 25 of the Award that it is mentioned that “...traula No. HR-63D-9656 had dashed against the stationary offending vehicle/truck at about 3.30 A.M. on 1.10.2019...”. There is nothing else on record to indicate that the accident had occurred at 3:30 AM. Moreover, a perusal of the present Grounds of Appeal shows that even no ground/objection has been raised by the appellants in respect of deduction of 10% of compensation made by the Tribunal towards contributory negligence.

9. It has next been contended by the appellants that the income of the deceased has been taken on the lower side. It was the pleaded case of the appellants that the deceased was an agriculturist however, no Revenue Record or J-Forms have been produced by the appellants in support of their said contention. In fact, PW2/claimant No.1/widow of the deceased Dharmender has admitted in her cross-examination that she had not brought any record regarding work or income of her deceased husband. In these circumstances, as there is no proof either of the fact that deceased was an agriculturist or that he was earning Rs.20,000/- per month as claimed, I find no error in the income of Rs.9,000/- per month as assessed by the learned Tribunal. Further, age of the deceased was determined to be 37 years on the basis of Post-Mortem Report (Ex.P2). Accordingly, the learned Tribunal has correctly made an addition of 40% towards future prospects. Thus, calculating total monthly income of the deceased to be Rs.12,600/-



(Rs.9,000/- + Rs.3,600/-) or Rs.1,51,200/- per annum. As there were 5 claimants, deduction of 1/4th was correctly made; thereby taking annual income of the deceased to be Rs.1,13,400/- (Rs.1,51,200/- - Rs.37,800/-). As deceased was 37 years old, multiplier of 15 was correctly applied; thereby calculating total dependency to be Rs.1,13,400/- x 15 = Rs.17,01,000/-. The learned Tribunal had further awarded Rs.40,000/- towards spousal consortium; Rs.80,000/- towards parental consortium; Rs.80,000/- towards filial consortium; Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate; thereby granting total compensation of Rs.19,31,000/-.

10. While deducting 10% of the compensation amount towards contributory negligence, the learned Tribunal has taken note of the fact that Arjun/driver of the truck No.HR-63D-9656 was not even examined by the appellants for the reasons best known to them; that PW1 eyewitness Vikram, who was travelling in the said truck along with Arjun and deceased Dharmender, in his testimony has stated that the road was wide enough for two vehicles to easily pass; and that Arjun was driving the truck No.HR-63D-9656 at a moderate speed in a cautious manner to the extreme left side of the road observing all traffic rules and therefore, the learned Tribunal accordingly observed that if Arjun had been vigilant, he would have seen the offending truck from some safe distance.



11. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings.

12. In view of the above, no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

13. Pending application(s) if any also stand(s) disposed of.

29.09.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No