

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

243

FAO-1400-2021

Date of decision: 15.12.2022

BALBIR KAUR AND ANR

..Appellant (s)

Versus

JIWAN PAUL AND ORS

..Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Achin Gupta, Advocate for the appellants.

NIDHI GUPTA, J (Oral)

Learned counsel for the appellants-claimants assails the Award dated 13.01.2020 passed by the Motor Accidents Claims Tribunal, Bathinda in MACT No.59 of 2019 only on the ground that income of the deceased was taken on lower side as Rs.1,00,000/- per annum; whereas as per testimonies of CW2 who is son of the deceased and claimant No.2 herein and CW1 Gurcharan Singh, the deceased was taking land on lease from Gurcharan Singh and was earning Rs. 6 lakh per annum.

However, learned counsel is unable to controvert the findings of the Tribunal as recorded in paras 23 and 24 reproduced hereinbelow:-

23. I have considered the aforesaid contentions raised by the learned counsel for the claimants as well as the learned counsel for the respondents. The perusal of Jamabandi for the year 2014-2015 Ex.PA shows that the deceased Tara Singh son of Ajmer Singh was owner of 1/24 share of land measuring 2 Kanals 18 Marlas. Further perusal of Jamabandi for the year 2014-2015 Ex.C6, it reveals that Gurcharan Singh son of Dhanna Singh was owner of 73/297 share in land measuring 14 Kanals 17 Marlas, and said Gurcharan Singh while appearing in the witness box as CW-1 in his affidavit deposed that he is owner of 13 acres of land and use to give the said land on lease/theke to Tara Singh @ Jagtar Singh for cultivation of the same, but in his cross-examination, he deposed that he has not in possession of any document of lease. The Girdawari is in the name of Gurcharan Singh. So the contention of counsel for claimant that the deceased has taken land on lease from Gurcharan Singh is not tenable.

24. It is a settled law that income of the deceased in cases where the deceased was an agriculturist is liable to be assessed as per his managing skills being contributed by him in cultivating the land. As such, the deceased Tara Singh was holding only 1 acre agricultural land in his name. As such keeping in view that the deceased had one acre of land as well as considering him as labourer, his income from the same would be liable to be assessed as Rs.1,00,000/- per annum.

Perusal of the Award further shows that compensation awarded under all other heads is just and proper.

Accordingly, I find no error and no ground to interfere in the Award passed by the Ld. Tribunal.

Dismissed.

(NIDHI GUPTA)
JUDGE

15.12.2022

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No