IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2795-2025(O&M)
Reserved on: 08.09.2025
Date of decision: 15.09.2025

Oriental Insurance Company Limited
..Appellant

Versus

Mandeep Kaur and others ..Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Harsh Aggarwal, Advocate
for the appellant

Mr. Tarun Sharm, Advocate
for respondents no.1 to 3

Mr. Vikas Gupta, Advocate
for respondents No.4 and 5

MANDEEP PANNU, J.

1. The present appeal has been filed by the appellant-Oriental Insurance Company Limited, who was respondent no. 3 before the Tribunal, challenging the award dated 11.02.2025 passed by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'Tribunal' whereby compensation of ₹52,44,000/- was awarded to the claimants-respondents no.1 to 3 on account of the death of Harjit Singh @ Harjeet Singh Gill in a motor vehicle accident which took place on 26.10.2023.

2. The brief facts of the case are that on 26.10.2023, at about 10/11 AM, the deceased Harjit Singh along with Satnam Singh,

son of Karnail Singh, had gone to plough his fields and while returning on his motorcycle bearing registration no. PB-47B-1415, Satnam Singh followed him on a separate motorcycle then at about 7:00 PM, when they reached the area of village Sunwan, it was dark and a Trolla bearing registration no. PB-02EF-9821 was found parked on the metalled road without switching on the parking lights. On account of the high beam lights of vehicles coming from the opposite side, the deceased could not notice the stationary Trolla and his motorcycle struck against it. He received grievous injuries on his head and other parts of the body. He was first taken to Sukhmani Hospital and thereafter referred to DMC Hospital, Ludhiana, where he remained admitted from 26.10.2023 to 11.12.2023. He was discharged on 11.12.2023 but unfortunately succumbed to the injuries at his home on 12.12.2023. Post-mortem was conducted at Civil Hospital, Zira.

3. It was pleaded that the accident occurred due to sheer and gross negligence of respondent no. 1, who had parked the Trolla without any parking lights or indicators. During the treatment of the deceased, the claimants spent approximately ₹14,00,000/- on medicines, attendants and other expenses. They claimed compensation of ₹2,00,00,000/-.

4. Upon notice, respondent nos. 1 and 2 (before the Tribunal) filed their separate written statements, denying the accident with their vehicle and asserting that respondent no. 1 was falsely implicated in the criminal case. They claimed that the driver was holding a valid licence and the vehicle was insured with the appellant-

Insurance Company. The appellant-Insurance Company in its written statement raised objections that the driver was not holding a valid and effective driving licence at the time of accident, denied the occurrence of accident with the insured vehicle, and alleged that the claim petition was a collusive attempt to extract money. Age, income and dependency were also denied.

5. On the basis of pleadings, the following issues were framed:

> *"1. Whether Harjit Singh @ Harjeet Singh died in a motor vehicle accident on 26.10.2023 due to rash and negligent driving of respondent no. 1 of Trolla PB-02EF-9821? OPP*
>
> *2. If issue no. 1 is proved, whether the petitioners are entitled to claim compensation, if so, to what extent and from which of the respondents? OPP*
>
> *3. Relief."*

6. Both parties led evidence. On appreciation thereof, the learned Tribunal held that CW-2 Satnam Singh, who was following the deceased, categorically deposed that the Trolla was standing parked on the road without any parking light and because of the high beam lights of vehicles from the opposite side, the deceased could not notice the same. The Tribunal found no material to disbelieve this testimony. It was further noticed that the Apex Court in **Jumani Begum v. Ram Narayan (Civil Appeal No. 9343 of 2019, decided on 11.12.2019)** held that once it is established that a heavy vehicle was parked on the road at night without any reflectors, there was no

justification to attribute contributory negligence to the victim. Reliance was also placed on the decision of this Court in **Harnek Singh @ Goldi v. Mohammad Musteen and others (FAO-1704-2017 decided on 05.08.2019)**, wherein it was held that in absence of parking lights or any warning signal, a cyclist or motorist cannot anticipate that a vehicle is standing on the road and therefore, attributing contributory negligence to the deceased was wrong.

7. With regard to the quantum, the Tribunal examined income tax returns Ex.C-59 for assessment year 2016-17 showing agricultural income of ₹4,00,000/- and other income of ₹2,22,956/-, Ex.C-60 for assessment year 2018-19 showing agricultural income of ₹4,35,500/- and other income of ₹1,20,631/-, and Ex.C-3 for assessment year 2019-20 showing agricultural income of ₹5,15,500/- and other income of ₹2,49,942/-. Besides, jamabandis and 'NJ' forms also established that the deceased was cultivating agricultural land. Considering his age of 41 years and the consistent pattern of income shown in income tax returns, the Tribunal assessed agricultural income at ₹10,000/- per month and income from other sources at ₹20,000/- per month, thus holding total monthly income to be ₹30,000/-. Applying multiplier and adding future prospects, the Tribunal awarded total compensation of ₹52,44,000/- under various heads.

8. Aggrieved, the present appeal has been filed by the Insurance Company primarily on two grounds—firstly, that the accident was a case of contributory negligence on part of the

deceased, and secondly, that the quantum of income assessed by the Tribunal is excessive.

9. Learned counsel for the appellant argued that the Trolla was parked on the side of the road and not in the middle, and that the deceased had struck from behind. CW-2 himself admitted in cross-examination that the deceased could not see the parked Trolla due to the glaring lights from the opposite side. It was, therefore, submitted that the deceased was negligent in not maintaining proper distance and in not being cautious while driving his motorcycle, and thus, it was a case of contributory negligence.

10. I have considered this contention of learned counsel for the appellant and do not find any merit in the same. The argument that the deceased struck from behind and therefore, must be guilty of contributory negligence cannot be accepted in the peculiar facts of this case. The Trolla was lying stationary on the road without any parking lights or warning indicators. When a vehicle is parked on a public road at night without reflectors or lights, the primary negligence lies with the person who had parked it. It was clearly the duty of the driver of the Trolla to ensure that proper parking lights or indicators were switched on so as to alert other vehicles on the road. Had the parking lights been on, the deceased could have noticed the parked Trolla in time and the accident could have been avoided altogether. The fact that the deceased could not see the Trolla because of glaring headlights from the opposite side does not dilute the negligence of the

parked Trolla. On the contrary, it highlights the necessity of having parking lights switched on for such situations.

11. As regards the plea that the deceased failed to maintain proper distance, it deserves outright rejection. Once a vehicle is parked and stationary on the side of the road, the question of maintaining distance in the manner urged by the Insurance Company does not arise. The concept of keeping safe distance applies between moving vehicles in traffic, not to stationary vehicles wrongfully parked without lights or warning signals. The deceased was proceeding normally on his side of the road. He could not have anticipated a heavy vehicle parked without lights, and therefore, the plea of contributory negligence based on this argument is wholly untenable.

12. The Tribunal has rightly relied upon binding precedents which clearly lay down that attributing contributory negligence in such situations on the basis of conjectures is impermissible. Accordingly, I hold that there was no contributory negligence on the part of the deceased and the entire responsibility for the accident rests with the driver of the Trolla, whose vehicle was negligently parked without switching on the parking lights. The finding of the Tribunal fastening liability upon the Insurance Company to indemnify the owner is thus correct and calls for no interference.

13. Turning to the second contention that the Tribunal erred in assessing the income of the deceased, I also find no merit in the same. The appellant argued that since agricultural land remains with

the claimants, only a managerial loss of 10–15% should be taken into account, and that in any case, the Tribunal should have taken the average of three years' income tax returns, which comes to about ₹6.4 lakhs per annum. This argument ignores the settled position of law that while the corpus of land remains with the legal heirs, what is lost to the family are the services, supervision and skill of the deceased in managing the agricultural operations, which cannot be reduced to a mere 10% calculation. Moreover, deceased is survived by his widow, minor daughter and old mother, who are not expected to do the agricultural work. The Tribunal has assessed income from agriculture only at rate of Rs.10,000/- which cannot be held to be higher since the claimants would be requiring services of manager for looking after the agricultural work despite the fact that land still remains with them and as per the prevailing minimum wages at the time of accident, even a skilled worker has monthly salary of Rs.12030/-, which claimants would be required to pay to hire the services of a Manager to look after the land. Therefore, the Tribunal, after examining the income tax returns Ex.C-59, Ex.C-60 and Ex.C-3, showing agricultural as well as non-agricultural income, and considering the oral evidence and jamabandi entries, has rightly concluded that the deceased was earning around ₹30,000 per month, i.e. ₹10,000 from agriculture and ₹20,000 from other sources. This assessment is well reasoned, as the income tax returns consistently show substantial agricultural income, besides other sources, and the age of the deceased being 41 years also entitled the claimants to addition for future prospects.

14. Therefore, the contention that only ₹1,00,000 per annum from agriculture should have been taken, or that the Tribunal erred in not averaging three years' income, is not sustainable. The Tribunal's approach of assessing a realistic monthly income of ₹30,000, keeping in view the evidence of Income Tax returns and landholding, is justified and calls for no interference.

15. In view of the above discussion, I hold that both contentions raised on behalf of the appellant fail. The finding of the Tribunal that there was no contributory negligence on the part of the deceased and that the entire negligence lay with the driver of the Trolla is affirmed. The assessment of income and consequent quantum of compensation made by the Tribunal is also upheld. The award of ₹52,44,000/- made in favour of the claimants is, therefore, maintained. The appeal filed by the Insurance Company is dismissed.

16. All the pending miscellaneous applications, if any, are also disposed of.

(MANDEEP PANNU)
JUDGE

15.09.2025
rekha

Whether speaking/reasoned Yes/No
Whether reportable Yes/No