

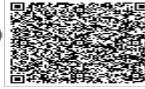
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****110****FAO-3597-2022 (O&M)****Date of decision: 29.08.2025****Bharti Devi and another****...Appellant(s)****Vs.****Laxman and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ashutosh, Advocate for
Mr. Jitesh Sharma, Advocate
for the appellants (on V.C.).

NIDHI GUPTA, J.

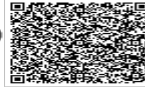
The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.6,90,500/- awarded by the Id. Motor Accident Claims Tribunal, Panchkula (hereinafter "the Id. Tribunal") vide Award dated 16.04.2022 passed in MACP Case No. 25 dated 12.02.2020 filed under Section 166 of Motor Vehicles Act, (hereinafter "the Act"). The 2 claimants are the widow; and minor son of the deceased Ram Parbesh.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Ram Parbesh had died due to the injuries suffered by him in a motor vehicular accident that took place on 20.10.2019 at about 6:30 p.m. due to the rash and negligent driving of an Eicher Truck bearing registration No. HP-62-4716 (hereinafter "the offending vehicle") being



driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. Learned Tribunal also found that there was contributory negligence on part of the deceased as well; and that the offending Truck was responsible only to the extent of 50% in causing the accident in question. Ld. Tribunal had accordingly made a deduction of 50% from the total compensation amount of Rs.13,81,000/- and had awarded compensation of Rs.6,90,500/- along with interest @ 6% per annum. All the respondents were held liable to pay the said compensation jointly and severally.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that first and foremost, the learned Tribunal had misread the evidence on record in holding that there was contributory negligence on the part of the deceased. It is submitted that it has been categorically noted by learned Tribunal in para 21 of the impugned Award that the offending Truck was parked on a National Highway, where parking is prohibited by the Highway Authority. It is contended that accordingly, there was no negligence on the part of the deceased in causing the accident in question; and therefore, 50% of the compensation amount could not have been deducted. It is submitted that no contributory negligence was attributable to the deceased as PW2 Nitesh Kumar, eye witness to the accident, had deposed that offending Truck was wrongly parked on the road without any indicator or reflector on, due to which deceased Ram Parbesh could not see the offending vehicle parked in the middle of the road and struck against the same. PW2



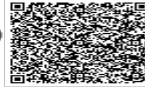
also deposed that it was dark on the date of occurrence and that there was no light on the spot. It is submitted that similar statement has been made by the driver of the offending vehicle who had appeared as RW2 and during cross-examination, he deposed that it was dark and no light was there. Admittedly, respondent No.1 has also failed to prove on record any evidence that the indicators or parking lights were on. Learned Tribunal has also recorded that neither any photograph nor any witness was brought to corroborate his contention qua the indicators/parking lights blinking at the time of accident. It is contended that therefore, the driver of the offending vehicle was wholly responsible for causing the accident in question.

4. On quantum of compensation, it is submitted that income of the deceased has been taken on lower side as Rs.7,500/- p.m. It was the clear case of the appellant No.1 while deposing as PW1 that the deceased was working as a Plumber and was earning Rs.40,000/- p.m. Even deduction of 1/3rd has been wrongly made. Even amount under the conventional heads are also on lower side.

5. It is accordingly prayed that present Appeal be allowed; and the compensation be enhanced in the above manner.

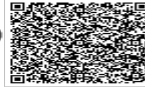
6. No other argument is raised on behalf of the appellants. I have heard Id. Counsel and perused the case file in detail. I find no merit whatsoever in the submissions made on behalf of the appellants.

7. It has firstly been contended on behalf of learned counsel for the appellants that the deceased could not have been held liable for



contributory negligence as it was the offending Truck that was wrongly parked on the National Highway. Even if that is so, it is admitted fact on record that the deceased had hit into the stationary Truck. Further, perusal of the Mechanical Inspection Report Ex.P8 (also Ex.R6) in respect of the offending Truck reveals that its rear bumper was damaged from its right side and the right side back light cover was twisted. A perusal of the Mechanical Inspection Report Ex.P9 (also Ex.R7) in respect of the TVS Scooty being driven by the deceased, shows damage to the left side of the Scooty. From the above, it is clear that the left side of the Scooty had hit into rear side of the offending Truck. Thus, learned Tribunal has correctly opined that the offending Truck was not parked in the middle of the road, as had been wrongly claimed by the claimants; and the same was parked on the left side of the road; into which the deceased had struck from behind. It has further been contended on behalf of the appellant that it was dark at the time of accident. However, admittedly, accident has occurred on 20.10.2019 at about 6:30 p.m. Therefore, it cannot be said that it was a winter night when it was pitch dark. In the month of October, it is twilight at 6:30 PM. Clearly therefore, contributory negligence on the part of the deceased is also made out. As such, there is no error made by Id. Tribunal in deduction of 50% compensation towards contributory negligence.

8. As regards quantum of compensation, it has been contended by the appellants that the deceased was working as a Plumber and was earning Rs.40,000/-p.m. However, a perusal of the record shows that



besides the fact that the appellants have been unable to produce any evidence in support of the said contention, it has also been admitted by claimant No.1 as PW1 in her cross-examination that the deceased was uneducated and was not having bank account; and that she had no proof regarding the said earning of Rs.40,000/- p.m. Accordingly, learned Tribunal on the basis of the Notification of Himachal Pradesh Govt. bearing No. Shram (A) 4-2/2018 dated 06.08.2019, had taken income of the deceased as Rs.7,500/- p.m. as admissible to an unskilled worker w.e.f. 01.04.2019; thereby taking annual income to be Rs.90,000/-. Age of the deceased was proved to be 37 years on the basis of his learner licence Ex.R5 as per which, his date of birth is shown to be as 15.05.1982. Accordingly, addition of 40% towards future prospects was correctly made; thereby calculating annual income to be Rs.1,26,000 (90,000+36,000). Learned Tribunal had further made deduction of 1/3rd towards personal expenses; calculating total dependency to be Rs.84,000 (Rs.1,26,000-42,000). The Tribunal had correctly applied multiplier of 15; thereby calculating compensation as Rs.12,60,000 (Rs.84,000 x 15). Tribunal had further awarded Rs.16,500/- for loss of estate; Rs.16,500/- for funeral expenses; and Rs.44,000/- each towards loss of consortium; thereby granting total compensation of Rs.13,81,000/- (Rs.12,60,000+16,500+16,500+44,000+44,000), of which 50% was deducted towards contributory negligence. Hence, net compensation of Rs.6,90,500/- was awarded to the appellants.



9. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellants. Nothing has been shown to this Court that would merit enhancement of the compensation granted to the appellants. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in ***"State of Haryana Vs. Jasbir Kaur"*** Law Finder Doc ID # 64043 and ***"Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty and another"*** (2003) 7 SCC 197, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. In case of ***"General Manager, KSRTC Vs. Susamma Thomas & others"*** (1994) 2 SCC 176, Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be guiding factor for determining compensation.

10. In view of the above, no ground is made out to interfere in the impugned Award. Accordingly, the present appeal is hereby **dismissed**.

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

29.08.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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