107 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4280-2005 (O&M)
Date of Decision: 08.04.2026

PARSANNI DEVI AND OTHERS

....Appellants

Versus

TARSEM AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Ajay Bhardwaj, Advocate
for appellants.

Mr. Harsh Aggarwal, Advocate
for respondent No.3.

PARMOD GOYAL, J. (ORAL)

CM-7051-CII-2025

The present application has been filed for fixing actual date of hearing in the present appeal.

In view of the averments made in the application, the same is allowed.

Main case is taken on board today itself.

Main Case

Appellants/claimants have challenged the impugned award dated 07.06.2005, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'Tribunal') vide which an amount Rs.5,91,000/- was awarded as compensation on account of death of Dharam Singh @ Dharam Pal (hereinafter referred to as 'Deceased') in accident dated 29.05.2003 due to rash and negligent driving of respondent No.1 while driving the tractor trolley bearing No.HR-07-C-6645 (hereinafter referred to as 'offending vehicle'). Appellants/claimants are aggrieved by quantum of compensation.

2. The case of appellants/claimants is that deceased was partner in a finance company. It is asserted that deceased was an income tax payee and filing return of Rs.1,58,000/- per year (Rs.48,000/- from business and Rs.1,10,000/- from agriculture). Reliance has been placed upon income tax returns for the year 2001-02 wherein income of deceased from business and profession is shown to be Rs.48,000/- and from agricultural work is shown to be Rs.1,10,000/-. However, learned Tribunal while determining income of deceased has disbelieved the agricultural income and has concluded that since appellants/claimants have failed to show that deceased owned any land in his name or was having any lease, therefore, income of deceased was taken to be Rs.48,000/- instead of Rs.1,58,000/-. This finding of learned Tribunal is being challenged by learned counsel for appellants/claimants.

3. PW2-Shiv Kumar from whom land was taken on lease was duly examined. He duly stated that his land was taken by deceased on lease. PW2 claimed that he is the owner of 20 acres of land and has given the same on lease to the deceased. However, learned Tribunal concluded that oral assertions with regard to agricultural income in absence of any corroborative evidence in the shape of ownership of land, lease agreement, jamabandi, khasra girdawri to show occupation of deceased or even any proof regarding sale and purchase of agricultural produce, cannot be accepted to determine income from agriculture.

4. Even on re-appreciation of evidence, this Court is unable to

arrive at a different conclusion than as arrived at by learned Tribunal. Admittedly, except for ITR for the year 2001-02 wherein agricultural income is shown to be Rs.1,10,000/-, there is no material to support the assertions made by the appellants/claimants. It is worth noticing that no income tax was paid by deceased while filing ITR. The income shown in ITR is to the extent of non-taxable income. In absence of any cogent evidence to show that deceased was involved in agricultural activities, his ITR cannot be taken as a gospel truth to conclude income of deceased. The onus to prove income of deceased was upon appellants/claimants. It is they who have to prove that deceased was involved in agricultural activities and was earning money from that. In the present case, no document has been placed on record to justify involvement of deceased in agricultural activities. No document has been produced to show that any land was owned by deceased. The claim of appellants/claimants was that deceased was cultivating land after taking the same on lease and accordingly, they had relied upon statement of PW2-Shiv Kumar. Even evidence of PW2-Shiv Kumar is of no help to the case of appellants/claimants as though he stated that he had given his 20 acres of land to deceased on lease, however, he has failed to prove his own ownership over the said land. No jamabandi or khasra girdawri was placed on record showing his ownership over the land and lease in favour of deceased. The mere statement that he had given 20 acres of land without showing any corresponding/corroborative evidence, makes oral assertions liable to rejection and it has been rightly rejected by learned Tribunal.

5. There is no justification for taking income from agriculture to be income of deceased only on the basis of ITR for the year 2001-02,

therefore, I do not find any error in income of deceased determined by learned Tribunal.

6. However, I agree with the contentions of learned counsel for appellants/claimants that compensation so determined by learned Tribunal needs to be enhanced. The learned Tribunal has not taken into consideration future prospects and has applied 1/3rd as deduction instead of 1/4th as there were four dependents. Accordingly, it is held that appellants/claimants are entitled to addition of future prospects to the extent of 40% for determination of loss of dependency and personal deduction while determining loss of dependency has to be taken as 1/4th instead of 1/3rd. Admittedly, age of deceased was 30 years as his date of birth is 25.07.1972 and had died on 29.05.2003, therefore, multiplier of 17 would be applicable. Appellants/claimants shall also be entitled to Rs.15,000/- each under the head spousal and parental consortium as well as Rs.7,500/- towards funeral expenses and Rs.7,500/- towards loss of estate.

7. Reworked compensation is as under :-

Income	Rs.48,000/- per annum	Rs.48,000/- per annum
Deduction	1/4th (48,000 – 12,000)	Rs.36,000/-
Future prospects	40% (36,000 + 14,400)	Rs.50,400/-
Multiplier	17	17
Total loss of dependency	Rs.50,400/- x 17	Rs.8,56,800/-
Funeral expenses		Rs.7,500/-
Loss of estate		Rs.7,500/-
Spousal consortium to claimant No.1		Rs.15,000/-
Parental consortium to claimants No.2 to 4	Rs.15,000 x 3	Rs.45,000/-

Compensation awarded by Tribunal	Rs.5,91,000/-	
Compensation awarded in appeal		Rs.9,31,800/-
Enhancement of compensation	Rs.9,31,800/- (awarded in appeal) – Rs.5,91,000/- (awarded by Tribunal)	Rs.3,40,800/-

8. Appellants/claimants shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Apportionment and liability to pay compensation shall be as per award.

9. Appeal is accordingly partly allowed in above terms.

10. Pending application(s), if any, is/are disposed of accordingly.

(PARMOD GOYAL)
JUDGE

08.04.2026
chiranjeev

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No