

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

FAO No.1648 of 2014 (O&M)

Date of decision: 11.07.2018

SHRI RAM GEN INSURANCE COMPANY LIMITED ... Appellant

Versus

GEETA & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Goyal, Advocate
for the appellant.

Mr. Amit Singla, Advocate
for respondents No.1 to 4.

Respondent No.1 in person.

REKHA MITTAL, J. (Oral)

CM-5733-CII-2014

Heard.

Allowed as prayed for. Delay of 76 days in filing the appeal
stands condoned.

Main Case

The present appeal directs challenge against award dated
27.09.2013 passed by the Motor Accidents Claims Tribunal, Hisar whereby
compensation has been assessed on account of death of Parveen Kumar in a
motor vehicular accident that took place on 25.02.2011.

The Tribunal has awarded compensation of Rs.36,83,862/-,

detailed hereunder:-

1. Annual income of the deceased	Rs.2,79,240/-
	(Rs.23,270/- per month)
2. Liability to pay income tax	Rs.11,924/-
3. Addition in income for future prospects	30%
4. Multiplier	14
5. Deduction for personal expenses	1/4 th
6. Loss of dependency	Rs.36,48,862/-
7. Loss of love and affection, consortium	Rs.25,000/-
8. Loss to estate	Rs.5000/-
9. Funeral expenses	Rs.5000/-

The sole submission made by counsel for the appellant is that as the deceased was posted as Social Education Panchayat Officer (SEPO), Agroha being an employee of the State of Haryana, family of the deceased shall be entitled to benefit of amount equal to pay and other allowances drawn by the deceased for a period of 12 years in the light of Section 5 of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (in short 'Rules of 2006') and the said amount is liable to be deducted out of compensation assessed by the Tribunal. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Reliance General Insurance Co. Ltd. Vs. Shashi Sharma, 2016(4) RCR (Civil) 569.**

Counsel representing the claimants, on the other hand, would urge that adequate compensation may be allowed under conventional heads in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC**

1270. Another submission made by counsel is that as job of the deceased was pensionable, had the Rules of 2006 been not in existence, family of the deceased would have been entitled to benefit of pension to the extent of 50% of the last drawn pay of the deceased, therefore, deduction, if any, should only be made to the extent of 50% of financial assistance available under the Rules of 2006. For this purpose, reference has been made to judgment of this Court **New India Assurance Co. Ltd. Vs. Ajmero and others, FAO No.2648 of 2016, decided on 31.07.2017.**

The Tribunal has rightly assessed loss of dependency and the same is affirmed. However, claimants shall be entitled to Rs.70,000/- under conventional heads, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Expenses on funeral	Rs.15,000/-
3. Loss of estate	Rs.15,000/-

In this manner, total compensation is calculated at Rs.37,18,862/-.

The family of the deceased shall be entitled to financial assistance @ Rs.23,270/- per month for a period of 12 years. The amount comes to Rs.33,50,880/- (Rs.23,270 x 12 x 12). In the light of judgment of this Court in **Ajmero and other's case (supra)**, only 50% of this amount shall be deducted i.e.Rs.16,75,440/-. After deducting Rs.16,75,440/-, net amount payable to the claimants comes to Rs.20,43,422/- (37,18,862 - 16,75,440). Compensation assessed by the Tribunal is reduced to the extent of Rs.16,40,440/- (36,83,862 - 20,43,422). The insurance company shall be

at liberty to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

The statutory amount of Rs.25,000/- be remitted to the Tribunal.

(REKHA MITTAL)
JUDGE

11.07.2018
ashok

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