

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**1. FAO No. 5652 of 2014 (O&M)
Date of Decision : 26.04.2018**

Shriram General Insurance Co. Ltd.

....Appellant

Versus

Pinki and others

.....Respondents

2. FAO No. 5653 of 2014 (O&M)

Shriram General Insurance Co. Ltd.

....Appellant

Versus

Satish Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Akash Girdhar, Advocate
for Mr. Ashwani Talwar, Advocate
for the appellant in both the appeals.

None for respondents.

Surinder Gupta, J.

The above captioned appeals have been filed by Shriram General Insurance Company Ltd. challenging the award dated 10.01.2014 passed by the Motor Accident Claims Tribunal, Kurukshetra (later referred to as 'the Tribunal'), whereby claimants, Pinki and others, were awarded compensation of ₹13,72,500/- for death of Krishan (later referred to as 'the deceased') and claimant-Satish Kumar was allowed compensation of ₹80,195/- for the injuries suffered by him, in a motor vehicle accident with Canter bearing Temp. registration no. HR-99-LG-6229 (later referred to as 'the offending vehicle').

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2. Learned counsel for the appellant has argued that deceased-

Krishan was 26 years of age. The Tribunal assessed his notional income as

₹5000/- per month and allowed 50% addition in his income towards future prospects and after making deduction of 1/4th from his income towards personal expenses, allowed compensation of ₹2,25,000/- under the conventional heads. As per law settled by Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, claimants are entitled to 40% addition income of the deceased, who was not in a permanent job, towards future prospects and ₹70,000/- under the conventional heads .

3. As per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, contentions of learned counsel for appellant have merit and are accepted. Addition in income of the deceased towards future prospects is restricted to 40% and compensation under the conventional heads to ₹70,000/-. Compensation to which claimants are entitled is reassessed as follows:-

(i)	Monthly income of the deceased as assessed b the Tribunal	₹5000 per month
(ii)	40% of (i) above added towards future prospects	(₹5000+ ₹2000)= ₹7000 per month
(iii)	1/4 th of (ii) deducted towards personal expenses	(₹7000- ₹1750) = ₹5250 per month
(iv)	Compensation calculated after applying the multiplier of 17	(₹5250X12X17) = ₹1071000
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation for funeral expenses	₹15000
Total		₹1141000

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4. Learned counsel for the appellant has argued that claimant-Satish Kumar, aged 28 years, has suffered 11% disability due to shortening of left lower limb. The Tribunal has allowed him compensation of ₹80,195/-,

which is on higher side.

5. On examination of bifurcation of compensation awarded by the Tribunal, I find that under neither of the pecuniary or non-pecuniary head, compensation awarded by the Tribunal is on higher side. The Tribunal has rather confined the compensation awarded under heads of pain and suffering, special diet, attendant charges etc. to ₹10,000/- despite the fact that claimant-Satish Kumar remained hospitalized from 31.01.2012 to 06.02.2012. During the period, claimant remained admitted in hospital and also afterwards till his recovery he suffered lot of pain and suffering and required services of attendant, special diet and transportation. Amount of compensation as awarded by the Tribunal is not on higher side, as such, I find no reason to accept submission of learned counsel for the appellant that the Tribunal has awarded exorbitant amount of compensation in this case.

6. As a sequel of my above discussion, the appeal (**FAO No. 5652 of 2014**) filed by appellant has merit. Award of the Tribunal is modified and the compensation allowed to claimants for death of **Krishan** is reduced from ₹13,72,500/- to ₹11,41,000/-.

7. The appeal (**FAO No. 5653 of 2014**) seeking reduction of compensation as awarded by the Tribunal for the injuries suffered by **claimant-Satish Kumar** has no merit and the same is dismissed.

April 26, 2018
jk

(**SURINDER GUPTA**)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No