

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

267

FAO-5312-2016 (O&M)  
Date of decision: 10.12.2018

SHRIRAM GENERAL INSURANCE COMPANY LTD ... Appellant

Versus

GEETA @ RAJNI AND ORS

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Punit Jain, Advocate for the appellant.  
None for the claimants.

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**REKHA MITTAL, J. (Oral)**

The present appeal directs challenge against award dated 22.04.2016 passed by the Motor Accidents Claims Tribunal, Kurukshetra whereby compensation has been assessed on account of death of Pawan in a motor vehicular accident that took place on 11.02.2015.

Notice to respondents No.6 and 7 could not be issued as counsel for the appellant did not comply with order dated 17.12.2016, despite last opportunity being allowed vide order dated 15.02.2018 passed by this Court. In the given scenario, there is no option with the Court except to dismiss the appeal against respondents No.6 and 7 and its adverse affect qua appeal against other respondents would be seen at the time of final disposal.

Counsel for the appellant-insurance company would inform that even if appeal against respondents No.6 and 7, the driver and owner of offending vehicle, is dismissed, it would not cause any prejudice to right of the insurance company to seek disposal of the appeal qua quantum of compensation allowed to the claimants (respondents No.1 to 5).

The Tribunal has awarded compensation of Rs.22,83,950/-, detailed hereunder:-

|                                            |           |
|--------------------------------------------|-----------|
| 1. Monthly income of the deceased          | Rs.8100/- |
| 2. Addition in income for future prospects | 50%       |
| 3. Multiplier                              | 17        |

|                                                 |                   |
|-------------------------------------------------|-------------------|
| 4. Deduction for personal expenses              | 1/4 <sup>th</sup> |
| 5. Loss of dependency                           | Rs.18,58,950/-    |
| 6. Expenses on funeral and transportation       | Rs.25,000/-       |
| 7. Loss of consortium                           | Rs.1,00,000/-     |
| 8. Loss of care and guidance for minor children | Rs.3,00,000/-     |
|                                                 | (Rs.1 lakh each)  |

Counsel for the appellant would urge that income of the deceased assessed by the Tribunal is on higher side and needs reduction. The income has been assessed by taking into consideration order dated 01.07.2014 passed by the Deputy Commissioner, Kurukshetra but DC rates are meant for employees to be paid out of contingency fund. It is further argued that in absence of clear evidence with regard to avocation and income of the deceased, the minimum wage fixed by the State of Haryana should be the criteria for assessing loss of dependency. Addition in income for future prospects should be 40%, in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

With regard to conventional heads, it is argued that the same is liable to be restricted to Rs.1,30,000/- in the light of judgment in **Pranay Sethi and others's case (supra)** and latest judgment of Hon'ble the Supreme Court **Vimla Devi and others Vs. National Insurance Company Ltd. and others, Civil Appeal No.11042 of 2018 (arising out of SLP (C) No.17321 of 2016), decided on 16.11.2018.**

There is no representation on behalf of the claimants, despite service.

The plea of claimants is that the deceased was working as driver with Rahul resident of Kurukshetra at salary of Rs.15,000/- per month. The Tribunal has noticed that the claimants failed to place on record any document in support of their plea that the deceased was working as driver with Rahul much less his salary. The Tribunal had assessed income of the deceased at Rs.8100/- per month by relying upon order dated 01.07.2014 passed by Deputy Commissioner, Kurukshetra. As has been rightly argued by counsel for the insurance company, DC rates are meant

for payment out of contingency fund to employees engaged by the government departments. However, the deceased sustained injuries while he was driving vehicle No.HR-65-6340 and the same substantiates plea of claimants that the deceased was a driver. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.6400/- per month. Addition in income for future prospects would be 40% in the light of judgment of **Pranay Sethi and others's case (supra)**. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.13,70,880/-  $[(6400 \times 12 \times 17) + (40\% \text{ future prospects}) - (1/4^{\text{th}} \text{ deduction for personal expenses})]$ .

Under conventional heads, the Tribunal has awarded a sum of Rs.4,25,000/-. When the case is examined in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra)**, **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333** and **Vimla Devi and others's case (supra)**, in my considered opinion, interest of justice would be served if the claimants are awarded amount of Rs.1,90,000/- under conventional heads, detailed hereunder:-

- |                                               |                                      |
|-----------------------------------------------|--------------------------------------|
| 1. Loss of consortium to claimants No.1 to 3A | Rs.1,60,000/-<br>(Rs.40,000/- each ) |
| 2. Expenses on last rites                     | Rs.15,000/-                          |
| 3. Loss to estate                             | Rs.15,000/-                          |

Total compensation is Rs.15,60,880/- and compensation allowed by the Tribunal is reduced to the extent of Rs.7,23,070/- (22,83,950 - 15,60,880). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

The appeal is disposed of in the aforesaid terms.

10.12.2018

ashok

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No