

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

**FAO No. 6075 of 2012 (O&M)
Decided on : 20.07.2015**

Smt. Nijarbi and Others

...Appellants

Versus

Mohd. Rahis and Others

...Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? YES
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? YES

Present : Mr. Ashish Gupta, Advocate
for the appellants.

None for respondents No. 1 & 2.

Ms. Vandana Malhotra, Advocate
for respondent No. 3-Insurance Company.

SHEKHER DHAWAN, J. (ORAL)

Appellants-claimants have challenged the award dated 30.07.2012, whereby the Motor Accidents Claims Tribunal, Nuh (hereinafter to be referred as 'The Tribunal'), awarded a sum of ₹ 6,68,000/- as compensation on account of death of Jakir Hussain in a motor vehicular accident.

Admitted facts of the case that on 17.07.2011, Shri Jakir @ Jakir Hussain was died in a motor vehicular accident. The Tribunal awarded the compensation keeping in view the age of deceased as more than 39 years and income of the deceased was taken to be ₹ 4,800/- per month. Learned counsel for the appellants took a plea that 'The Tribunal'

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has not taken into account the future prospectus of enhanced earnings because deceased was less than 40 years of age on the date of death and he had a bright future ahead. The Tribunal has also deducted a sum of ₹ 1 lac on account of payment having been received by the claimants under the *Rajiv Gandhi Family Insurance Yojna* though the same could not be deducted from the amount of compensation because the same was made under some benefit scheme and these are two separate remedies available for the claimants.

Learned counsel for the appellants also took a plea that 'The Tribunal' has not awarded any amount on account of loss of consortium for the widow, loss of love and affection for four minor children and only meager amount has been awarded on account of funeral expenses. So, the amount of compensation be enhanced.

Learned counsel for respondent No. 3-Insurance Company, took a plea that 'The Tribunal' has already awarded just compensation. So, the appeal be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that 'The Tribunal' fell in error while deducting a sum of ₹ 1 lac on account of payment having been received under the *Rajiv Gandhi Family Insurance Yojna* because these are two separate benefit schemes and no deduction can be made on that account, in view of authority of the **Division Bench of this Court in FAO No. 1322 of 2010 (O&M), titled as Reliance General Insurance Company Limited Versus Purnima and Others, decided on 21.12.2012.**

'The Tribunal' has completely ignored the fact that age of the deceased was less than forty years and survived by widow, mother and

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four minor children. He was working as labourer and his earnings were to grow with the passage of time. As per law laid down by the Hon'ble Supreme Court in case "**Rajesh and Others Versus Rajbir Singh and Others, 2013 ACJ 1403 and 2013(3) Recent Apex Judgments (R.A.J.) 659**", 50% of the amount is to be enhanced on account of future earnings because the age of deceased was less than forty years. But that has not been taken into account by 'The Tribunal'. 'The Tribunal' has also not awarded any amount of loss of consortium for the widow and loss of love and affection for four minor children and minimum amount of ₹ 25,000/- on account of funeral expenses has also not been awarded. Accordingly the amount of compensation is being re-assessed as under:-

	Amount (₹)
Monthly Income	4,800/-
Annual Income (₹ 4,800 X 12)	57,600/-
Less: 1/4 th on account of dependency	14,400/-

Total	43,200/-
Add 50% on account of future prospects	21,600/-
Multiplier of 15 (₹ 64,800 X 15)	9,72,000/-
Loss of consortium for wife	1,00,000/-
Loss of love and affection for four minor children (₹ 1 lac each)	4,00,000/-
Funeral expenses	25,000/-

Total compensation	14,97,000/-
Less: Compensation already awarded	6,68,000/-

Total enhanced compensation	8,29,000/-

The total amount of enhanced compensation ₹ 8,29,000/- shall be payable from the date of claim petition along with interest @ 7.5% per annum till its realization.

Resultantly, the present appeal accepted partly.

July 20, 2015

(**SHEKHER DHAWAN**)
JUDGE