

UNITED INDIA INSURANCE CO. LTD.

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v.

INDIRO DEVI &amp; ORS.

(Special Leave Petition (Civil) Nos. 7104-7105 of 2016)

JULY 03, 2018

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**[S. A. BOBDE AND L. NAGESWARA RAO, JJ.]**

*Fatal accidents – Compensation – Claim of – Rash and negligent driving by truck driver – Death of victim-employee of a company – Tribunal passed the award relying on the salary certificate issued by the employer of the deceased – Income tax record produced by claimant not taken into account since claimants did not lead any evidence to explain contradiction between the two figures emerging from the evidence of the employer – In Revision, the High Court took into account the income of the deceased as found in the income tax assessment – On appeal, held: Salary certificate not to be the only basis to assess income of the deceased for arriving at a just and fair compensation to be paid to the claimants for the loss of life – Income of the deceased as stated in the Income Tax return not to be totally ignored – Thus, order passed by the High Court does not call for interference.*

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**Dismissing the petitions, the Court**

**HELD:** There is no doubt that if the salary certificate is taken into account the salary of the deceased should be taken as Rs. 1,06,176/- since the gross salary was Rs.8848/-per month. That, however, does not mean that the income of the deceased as stated in the Income Tax return should be totally ignored. It is not possible to agree with the observation of the tribunal that it was necessary for the claimants to “explain the said contradiction” between two figures of income. The claimants had led reliable evidence that the deceased had returned an income of Rs. 2,42,606/- for the assessment year 2004-05. This piece of evidence has not been discredited. Indeed, it was possible that the deceased had income from other sources also. There is nothing in the law which requires the tribunal to assess the income of the deceased only on the basis of a salary certificate for arriving at a just and

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**A fair compensation to be paid to the claimants for the loss of life. In the circumstances, there is no reason to interfere with the judgment of the High Court. [Paras 9, 10][172-D-G]**

CIVIL APPELLATE JURISDICTION: Special Leave Petition (C) Nos. 7104-7105 of 2016.

**B** From the Judgment and Order dated 27.08.2015 of the High Court of Punjab and Haryana at Chandigarh in C.R. No.408 of 2006 and C.A. No. F.A.O. No. 4086 of 2005.

A. K. Raina, Binay Kumar Das, Advs. for the petitioner.

**C** Satish Kumar, Adv. for the respondents.

The Judgment of the Court was delivered by

**S. A. BOBDE, J.** 1. The deceased was 39 years old. He was employed with the Food Corporation of India (hereinafter referred to as 'FCI'). He met with an accident when the three-wheeler he was travelling in collided with a rashly driven Canter truck and died. The claimants claimed compensation before the Motor Accident Claims Tribunal (hereinafter referred to as "Tribunal").

**D** 2. These petitions arise from the order dated 27.08.2015 passed in C.R. No. 408 of 2006 and the Civil Appeal FAO No. 4086 of 2005 by the High Court of Punjab and Haryana at Chandigarh. The Insurance Company is before us (hereinafter referred to as "the petitioner") in the instant petitions.

**E** 3. The Tribunal found that the accident occurred because of rash and negligent driving and held the owner of the truck, the insurer and the driver jointly and severally liable to pay the amount of compensation determined.

**F** 4. The Tribunal passed an award of a sum of Rs. 12,90,000/- in favour of the claimants recoverable @ 9% per annum from the date of filing of claim petition, till its realization from the respondents jointly and severally.

**G** 5. The issue in this case revolves around the income of the deceased. On behalf of the accounts section of the employer of the deceased, it was deposed that the deceased was getting Rs. 8848/- as gross monthly salary. The deponent proved the salary certificate. The

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amount of salary was not questioned. The Tribunal passed the award on the basis that the salary he was receiving i.e. Rs. 8848/-.

6. The Tribunal did not take into account the fact that the Income Tax Returns of the deceased showed an income of Rs. 2,42,606/- per annum for the assessment year 2004-05 and Rs. 2,17,130 for the assessment year 2003-04. The Tribunal held that the claimants had not led any evidence to explain the contradictions between the two figures of income emerging from the evidence of the employer of the deceased and the income tax record, and passed the award relying on the salary certificate issued by the employer of the deceased.

7. In a revision carried to the High Court by the Insurance Company and appeal by the claimants, the High Court took the income of the deceased as found in the income tax assessment and provided for 50% increase as future prospect. The High Court applied the lower multiplier of 15 instead of 16 and after making a deduction of 1/4<sup>th</sup> for the personal expenses, increased the compensation to Rs. 44,03,980/- with interest @ 7.5% per annum from the date of petition till the date of payment. The amount payable was tabulated as follows:-

<b>FATAL ACCIDENTS</b>		27.2.2004	
	Date of accident		
Age	39 years		
Occupation	Employee in FCI	8848/-	
Claimants	Widow, 4 children and mother		
<b>Heads of claim</b>		<b>Tribunal</b>	<b>High Court</b>
Sl.No.		Amount (Rs.)	Amount (Rs.)
1.	Income	10,000 (monthly)	2,42,606 (annual)
2.	Add, % of increase 50%		3,63,909
3.	Less, Deduction		2,72,932
4.	Multiplicand (annualized by multiplying 12)	80,000	2,72,932
5.	Multiplier	16	15
6.	Loss of dependence	12,80,000	40,93,980
7.	Medical Expenses & Transportation		
8.	Loss of Consortium & funeral expenses	10,000	1,00,000
9.	Loss of love and affection		2,00,000

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10.	Loss to estate		5000
11.	Funeral expenses		5000
	Total	12,90,000	44,03,980

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8. It was argued before us on behalf of the petitioner that the High Court has committed a gross error and perversity in taking into account the income of the deceased as per the income tax returns. According to the petitioner, the income of the deceased was Rs. 8848 per month, i.e. the amount according to the salary certificate of the deceased and the High Court ought to have relied upon the salary certificate for the calculation of the compensation.

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9. We have given our anxious consideration to this contention. There is no doubt that if the salary certificate is taken into account the salary of the deceased should be taken as Rs. 1,06,176/- since the gross salary was Rs.8848 per month. That, however, in our view does not mean that the income of the deceased as stated in the Income Tax return should be totally ignored. It is not possible to agree with the observation of the Tribunal that it was necessary for the claimants to “explain the said contradiction” between two figures of income. The claimants had led reliable evidence that the deceased had returned an income of Rs. 2,42,606/- for the assessment year 2004-05. This piece of evidence has not been discredited. Indeed, it was possible that the deceased had income from other sources also. There is nothing in the law which requires the Tribunal to assess the income of the deceased only on the basis of a salary certificate for arriving at a just and fair compensation to be paid to the claimants for the loss of life.

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10. In the circumstances, we see no reason to interfere with the judgment of the High Court. The SLPs are accordingly dismissed.