

## United India Insurance Co. Ltd. vs Indiro Devi . on 3 July, 2018

**Equivalent citations:** AIR 2018 SUPREME COURT 3107, (2018) 2 WLC(SC)CVL 460, (2018) 3 ACC 520, (2018) 3 RECCIVR 455, (2018) 71 OCR 680, (2018) 8 SCALE 413, 2018 (3) SCC (CRI) 317, (2018) 3 ACJ 2051, (2018) 4 ALL WC 3881, (2018) 190 ALLINDCAS 198 (SC), (2018) 3 CURCC 288, (2018) 131 ALL LR 252, 2018 (7) SCC 715

**Author:** S.A. Bobde

**Bench:** L. Nageswara Rao, S.A. Bobde

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) Nos. 7104-7105 OF  
2016

UNITED INDIA INSURANCE CO. LTD.

Versus

INDIRO DEVI & ORS.

JUDGMENT

S.A. BOBDE, J.

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 CHARANJEET KAUR Date: 2018.07.03 16:31:45 IST Reason:

referred to as "Tribunal").

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.

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.

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.

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 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 th 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:-

	FATAL ACCIDENTS	27.2.2004
	Date of accident	
Age	39 years	
Occupation	Employee in FCI	8848/-
n		

Claimants Widow, 4 children and mother Heads of claim Tribunal High Court Sl.No. Amount  
Amount (Rs.

(Rs.)

1. Income 10,000 2,42,606 (monthly) (annual)

2. Add, % of increase 50% 3,63,909
3. Less, Deduction 2,72,932
4. Multiplicand (annualized by 80,000 2,72,932 multiplying 12)
6. Loss of dependence 12,80,000 40,93,980
7. Medical Expenses & Transportation
8. Loss of Consortium & funeral 10,000 1,00,000 expenses
9. Loss of love and affection 2,00,000
10. Loss to estate 5000
11. Funeral expenses 5000 Total 12,90,000 44,03,980

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.

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.

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

.....J. [S.A. BOBDE] .....J. [L. NAGESWARA RAO]  
NEW DELHI JULY 03, 2018