

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 319/2026

The United India Insurance Company Limited

----Appellant

Versus

Smt. Seema and Ors.

----Respondents

Connected With

S.B. Civil Miscellaneous Appeal No. 815/2026

Smt. Seema and Ors.

----Appellants

Versus

Dhanraj So Of Shri Dev Lal,

----Respondent

For Appellant(s)	:	Mr. Amarnath Pareek
For Respondent(s)	:	Mr. Vinay Mathur

JUSTICE ANOOP KUMAR DHAND

Order

20/02/2026

In S.B. Civil Misc. Appeal No. 319/2026

1. Counsel for the appellant submits that as per the claim petition submitted by the claimants, the deceased was self employed as a proprietor of the firm, which was engaged in business of gardening and housekeeping work. Counsel submits that there was no stable income of the deceased but inspite of above, the Income Tax Return of the deceased was taken into count and the Tribunal has determined his income on higher side. Counsel submits that there was no documentary evidence produced on record of the Tribunal that the deceased was earning a particular amount every year. Counsel submits that the deceased was self employed person and there was uncertainty in

his income but all these facts were overlooked by the Tribunal while passing the impugned award and determined his income on higher side by simply placing reliance upon the Income Tax Return submitted by the deceased prior to his death/accident, hence, the matter requires consideration.

2. Per contra, counsel appearing on behalf of the claimants opposes the arguments raised by counsel for the appellant and submits that sufficient documentary evidence with regard to earning of the deceased was produced on record. The contract/registration of the deceased's firm with Small Scale industries, the GST certificate and its cancellation certificate and other documents were produced on record. Counsel submits that after taking into account each and every document, last return submitted by the deceased was considered while assessing his income and on the basis of the same, award has been passed, which does not require any consideration.

3. Since cross arguments have been raised by both sides with regard to the income of the deceased, hence the matter requires consideration.

4. Parties are in agreement that service of notice upon driver and owner of the offending vehicle is not required as the issue involved in both appeals is on the quantum of income to determine compensation. Both of them have requested this Court to dispense with the service of notice upon the driver and owner.

5. On the oral request made by counsel for the parties, service upon respondent Nos. 4 and 5 stand dispensed with at the risk of the appellant.

6. In the meantime, the effect and operation of the impugned award dated 07.11.2025 shall remain stayed, provided the appellant-Insurance Company deposits the entire amount of the compensation in terms of the award, along with interest with the Tribunal, within a period of four weeks from today.
7. The Tribunal is directed to disburse 50% of the compensation amount to the claimants, after taking their undertaking on record to the effect that they will return the amount, so received by them, in case, the present appeal, submitted by the Insurance Company, is allowed and the impugned award is set aside.
8. The Tribunal is further directed not to disburse the remaining 50% of the compensation amount to the claimants and the same shall be kept in FDR in any nationalized bank.
9. The Tribunal is directed to send the record immediately after disbursing the amount to the claimants as directed above in the present order.

In S.B. Civil Misc. Appeal No.815/2026

10. Defect(s) pointed out by the office stands waived.
11. On the oral request made by counsel for the parties, service of notice upon respondent Nos. 1 and 2 stand dispensed with at the risk of the appellant.
12. List this matter for admission along with connected case.

(ANOOP KUMAR DHAND),J