IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 4683 of 2010 (I)

PETITIONER(S):

DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE COMPANY LTD,
DIVISIONAL OFFICE NO.11, THIRUVANANTHAPURAM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
REGIONAL OFFICE, KANDAMKULATHY TOWERS, M.G.ROAD,
ERNAKULAM.

BY ADV. SRI.LAL GEORGE

RESPONDENT(S):
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1. **SAROJINI, W/O.LATE MICHEAL**
   OPPOSITE ANAPPARA GOVERNMENT HOSPITAL, VELLARADA PO
   THIRUVANANTHAPURAM.

2. **COMMSSIONER OF INCOME TAX**
   THIRUVANANTHAPURAM.

R2 BY ADVS. SRI.P.K.R.MENON,SR.COUNSEL,
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 4683 of 2010 (I)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF EXECUTION PETITION NO.114/06 FILED IN OPMV NO.548/20

P2: COPY OF THE LETTER DATED NIL ADDRESSED TO THE MOTOR ACCIDENTS CLAIMS TRIBUNAL

P3: COPY OF THE ORDER DATED 19/9/2009

P4: COPY OF THE REVIEW PETITION

P4(A): COPY OF THE STATEMENT OF CALCULATION ANNEXED TO THE REVIEW PETITION

P5: COPY OF STATEMENT FILED BY THE DECREE HOLDER CLAIMING A SUM OF RS.3,89,117/- AS THE BALANCE AMOUNT.

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J.

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W.P.(C) No.4683 of 2010 - I

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Dated this the 2nd day of March, 2015

J U D G M E N T

The petitioner, representing an Insurance Company, was before this Court challenging Ext.P3 order of the Motor Accidents Claims Tribunal, Neyyattinkara, which directed payment of an amount of Rs.97,467/-, major portion of which was deducted as tax deducted at source, under the Income Tax Act, 1961 (for brevity, 'the Act'). The petitioner claims that Rs.66,345/- was deducted from the interest paid on compensation, for award amounts exceeding Rs.50,000/-. The petitioner was aggrieved insofar as the direction to remit the amount already deducted at source as tax.

2. The petitioner's contention before the Tribunal was that, as per Section 194A (9) of the Act, what is exempted from income is only interest payable up to an

amount of Rs.50,000/-; as compensation awarded by a Tribunal. For the interest paid on the award amounts exceeding Rs.50,000/-, tax ought to have been deducted at source, is the contention, failing which penal provisions under the Act would be attracted.

3. The issue is no longer res integra and is covered by the decision of a a Division Bench of this Court in **National Insurance Company Ltd.** v. **Subhash N. Chandrabose [2014 (1) KLT 6]**. The aforesaid case was with respect to the interest on the award amounts under the Employees' Compensation Act, 1923. The Division Bench specifically noticed clause (9) of Section 194A (3) of the Act, which is extracted hereunder:-

> "(ix) to such income credited or paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees;"

4. Hence, the Tribunal ought not to have directed the payment of amounts, which was deducted by the

Insurance Company as tax, deducted at source, from the interest component on the awarded amounts exceeding Rs.50,000/-. If any balance payments are to be made after the tax deducted at source, necessarily, the petitioner would have to satisfy the same before the Tribunal.

The writ petition would stand allowed. Parties are left to suffer their respective costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

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P.A to Judge