HON'BLE SRI JUSTICE R.KANTHA RAO

C.R.P.No.81 of 2009

ORDER

This Civil Revision Petition is directed against order dated 4.9.2006 passed in E.P.No.2 of 2005 in O.P.No.384 of 1999 by the Motor Accidents Claims Tribunal-cum-V Additional District Judge, FTC, Anantapur.

The United India Insurance Company Limited is the revision petitioner. An Award was passed on 24.03.2005 in favour of the respondents-claimants by the Motor Accidents Claims Tribunal in OP No.384 of 1999 awarding compensation of Rs.1,45,000/- with costs and interest. When the said amount was not deposited by the Insurance Company, the respondents-claimants filed E.P.No.2 of 2005 for realization of the amount. Pursuant to the same, the Insurance Company deposited the amount excluding an amount of Rs.8,082/-, which is the TDS amount on the interest by calculating income tax at 10.2%.

According to the revision petitioner-Insurance Company, the interst on aggregate compensation amount comes to Rs.78,765/-.

The contention of the respondents-claimants before the Tribunal is that as the interest amount of Rs.78,765/- comes out from 1999 to till 25.07.2005 i.e., from the date of filing of the original petition till the date of payment, the Insurance Company is not supposed to deduct the TDS amount from the compensation amount and the respondents-claimants are entitled to recover the said amount, which was deducted towards TDS by the Insurance Company.

The Tribunal accepted the contention of the respondents, directed the insurance company to deposit balance amount of Rs.8,200/- with interest to record full satisfaction of the Execution Petition. The said decision of the Tribunal is challenged in the present revision.

In several orders including CRP Nos.3488 of 2011 and 4626 of 2013, this Court has taken a consistent view that JDR-Insurance Company has the obligation to deduct TDS from out of the interest component of the compensation and pay the same to the Income Tax Department and it is not within the purview of the Executing Court to direct the insurance company not to deduct TDS and pay the entire amount. In the light of Section 129 (a) of the Income Tax Act, the insurance company has to deduct TDS which has been accrued towards interest component and pay the same to the Income Tax Department.

In the instant case, the aggregate interest amount exceeds Rs.50,000/-. Therefore, the revision petitioner did not commit any error in deducting the said amount. More over, even if the TDS amount is wrongly remitted by the insurance company, the remedy of the claimants-decree holders lies before the Income Tax Assessing Authority and not before the Executing Court. The Executing Court is not competent to direct the petitioner-insurance company to deposit the balance amount which was already deducted towards TDS.

In view of the above, the order dated 4.9.2006 passed in E.P.No.2 of 2005 in O.P.No.384 of 1999 is aside.

Accordingly, the Civil Revision Petition is allowed. No costs.

Miscellaneous petitions if any, pending, shall stand closed.

JUSTICE R.KANTHA RAO

10th December, 2015

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