IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15748 of 2013

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The Oriental Insurance Company Limited, Branch Saharsa, through the Deputy Manager & Constituted Attorney, Regional Office, the Oriental Insurance Company Limited, Pirmuhani, Patna.

.... Petitioner/s

Versus

1. Reeta Devi W/o Lt. Jai Kishor Prasad Yadav
2. Rubish Kumar S/o Lt. Jai Kishor Prasad Yadav,
3. Santosh Kumar S/o Lt. Jai Kishor Prasad Yadav,
4. Dhiraj Kumar S/o Lt. Jai Kishor Prasad Yadav,
   Respondent nos. 1 to 4 are resident of village - Dhuria, P.S.- Chousa, Distt. – Madhepura.
5. M/S Radha Mohan Bhagat & Jitendra Prasad Rani, Saray Bakhtiyarpur, Patna (Owner of Jeep)
6. Pramod Ram S/o Lt. Lakhi Ram, resident of village /P.O.- Bakhtiyarpur, Distt.- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Durgesh Kumar Singh, Adv.
For the Respondent/s	:	M/s Shekhar Kr. Singh, Raja Surendra Mohan and Pankaj Kr. Jha, Advs.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-11-2017

This application has been filed for setting aside the order dated 22.04.2013 passed by the 3rd Adhoc Additional District Judge-cum-Motor Vehicle Accident Claim Tribunal, Madhepura in Miscellaneous Execution Case No. 2 of 2011 whereby and whereunder the petitioner has been directed to pay the awarded amount including the interest amount without deducting any tax.

2. Heard learned counsels for the petitioner and the respondents.

3. The Motor Vehicle Claim Case No. 5 of 2001 filed on behalf of the claimants (Respondent nos. 1 to 4) was allowed and as per Award dated 3rd February 2011, the Oriental Insurance Company Limited was directed to pay an amount of Rs.9,65,772/- along with interest at the rate of 9% interest per annum from the date of filing of compensation case till the date of realisation. The Claim Tribunal further directed to pay 50% of compensation amount to the widow of deceased exclusively. The Insurance Company paid an amount of Rs.17,35,235/- in total after deducting Rs.1,92,364/- towards T.D.S. under the provision of Income Tax Act. The Court below as per impugned order has directed the Insurance Company to pay the entire amount without deducting any T.D.S.. From the impugned order it is apparent that the Tribunal has not passed the order considering the provision of section 194 A (3) (ix) of the Income Tax Act. It is obligatory under which the Insurance Company is obliged to deduct the tax at source from the amount of interest paid by the insurer to the claimant. The learned counsel for the petitioner has submitted that after deducting an amount of Rs.1,92,364/- which is 20% of the total interest payable to the respondents, the Insurance Company has deposited the amount in the account of Income Tax Department. The respondent is entitled to TDS Certificate to get the amount refunded as per his entitlement. The Insurance Company under statutory liability has rightly deducted the amount from the total payable interest. In similar nature of this case in C.W.J.C. No. 5352 of 2013 (National Insurance Co. Ltd. vs. Commissioner of Income Tax & others) Division Bench has quashed the order of Motor Vehicle Accident Claim Tribunal who had directed the Insurance Company to pay the entire amount to the claimant.

4. In view of discussion made above, this application is allowed and the impugned order dated 22.04.2013 passed by the 3rd Adhoc Additional District Judge-cum-Motor Vehicle Accident Claim Tribunal, Madhepura in Miscellaneous Execution Case No. 2 of 2011 is hereby set aside.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.12.2017
Transmission Date	