IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CRP.(NPD)No.1603 of 2014
and M.P.No.1 of 2014

The Divisional Manager
M/S.United India Insurance Company Ltd.
No.46, Jawaharlal Nehru street
II floor, Pondicherry-1. .. Petitioner

Vs.

1.Ramachandiran
2.Sambasiva Reddiar .. Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., against the order dated 10.01.2014 made in E.P.No.125 of 2011 in M.C.O.P.No.567 of 2005 on the file of the Motor Accidents Claims Tribunal (Additional Subordinate Judge), Puducherry.

For Petitioner : Mr.S.Arunkumar
For R1 : Mr.Sathiyamoorthy for M/S.G.M.Mani Associates
For R2 : No appearance

ORDER

The Civil Revision Petition is filed against the order dated 10.01.2014 made in E.P.No.125 of 2011 in M.C.O.P.No.567 of 2005 on the file of the Motor Accidents Claims Tribunal (Additional Subordinate Judge), Puducherry.

2. The petitioner is second respondent, first respondent is the petitioner and second respondent is the first respondent in E.P.No.125 of 2011 in M.C.O.P.No.567 of 2005. The first respondent filed the said claim petition claiming a sum of Rs.23,00,000/- as compensation for the injuries sustained by him in the accident that occurred on 22.11.2003. The Tribunal awarded a sum of Rs.5,12,120/- as compensation with interest at 7.5% per annum and costs. The petitioner/Insurance Company did not pay the amount. First respondent filed E.P.No.125 of 2011 claiming a sum of Rs.7,74,846/- comprising the compensation amount, costs and interest.

3. According to the petitioner, they have deducted the income tax on the interest amount at the rate of 20% and deposited Rs.7,23,708/-. In view of the said deposit, no amount is due and payable by the petitioner.

4. The learned Judge considering Section 194A of Income Tax Act held that the petitioner is entitled to deduct tax as per the rate in force at that time. The learned Judge considering the tax payable for the financial year 2011-2012 and income tax during that financial year, held as follows:

"upto Rs.1,80,000/-	Nil
from 1,80,001 to 5,00,000/-	10%
from Rs.5,00,001 to Rs.8,00,000/-	20%"

The interest payable is Rs.2,58,340/-, by deducting Rs.1,80,000/-, taxable interest is Rs.78,340/-, 10% tax payable on that amount is Rs.7,834/- (rounded off) Rs.7,835/-. The learned Judge held that after taking the said amount as tax, the petitioner has to pay additional sum of Rs.51,138/- (rounded off) Rs.51,140/- and directed the petitioner to pay the amount to the first respondent on or before 27.01.2014.

5. Against the said order dated 10.01.2014 made in E.P.No.125 of 2011, the present Civil Revision Petition is filed by the petitioner/Insurance Company.

6. The learned counsel for the petitioner contended that the learned Judge erred in directing the petitioner to pay Rs.51,138/- to the first respondent. The learned Judge's calculation is not correct and the tax deducted by petitioner at 20% on the interest payable is correct and as per law. The learned counsel for the petitioner relied on the following judgments in support of his contentions:

(i) 2016 (1) TN MAC 433 (DB) (Divisional Manager, Oriental Insurance Co. Ltd., Kannur v. Rajesh and others);

(ii) 2016(1) TN MAC 480 (DB) (Royal Sundaram Alliance Insurance Co. Ltd. v. E.Priya and others);

7. The learned counsel for the first respondent contended that the petitioner is not entitled to deduct 20% tax on the interest payable. The petitioner failed to deduct Rs.1,80,000/-, which is not taxable. The learned Judge has properly appreciated the facts and law and on proper calculation, has directed the petitioner to pay Rs.51,138/- to the first respondent by giving valid reasons. The learned counsel for the first respondent relied on the following judgments in support of his contentions:

(i) 2016-3-LW 289 (The Managing Director, TNSTC v. Chinnadurai);

(ii) 2007 ACJ 1897 (Hansaguri Prafulchandra Ladhani and others v. The Oriental Insurance Company Limited and others);

(iii) Civil Appeal No.4216 of 2011, dated 30.03.2017 in Commissioner of Income Tax, Rajkot v. Hansaguri Prafulchandra Ladhani and others);

(iv) 2009 SCC Bom 2047 (Gauri Deepak Patel and others v. New India Assurance Co. ltd. and another);

(v) 2014 SCC HP 4273 (Count on its own motion v. The H.P. State Cooperative Bank Ltd. and others);

(vi) 2016 SCC Bom 9538 (The New India Assurance Co. Ltd., Mumbai, through Mumbai Regional Office-I v. Hussain Babulal Shaikh);

8. Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record and the judgments relied on by them.

9. Considering the facts and circumstances of the case along with Section 194A of Income Tax, various judgments relied on by

the learned counsel for the respondent and impugned order of the learned Judge, I hold that there is no error or infirmity in the order passed by the learned Judge warranting interference by this Court. Accordingly, the Civil Revision Petition is dismissed. The petitioner is directed to deposit the amount awarded in E.P.No.125 of 2011 within a period of four weeks from the date of receipt of a copy of this order. It is open to the petitioner to seek refund of excess tax paid by them to the Income Tax Department. No costs. Consequently, connected Miscellaneous Petition is closed.

27.10.2017

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To

The Motor Accidents Claims Tribunal
(Additional Subordinate Judge), Puducherry.

V.M.VELUMANI,J.

Kj

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