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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 25th August, 2017

\+ CM(M) 917/2017 and CM APPL.30738-30739/2017

THE NEW INDIA ASSURANCE CO LTD..... Petitioner

Through: Mr. Pankaj Seth, Advocate

versus

MANJU & ORS ..... Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The insurance company is aggrieved with the directions in the order dated 09.08.2017 for deposit of certain amount which had been retained by it from out of the amount payable as interest over and above the compensation payable to the claimants as deduction of tax at source (TDS), this being justified in terms of directions in the order dated 28.02.2014 of a learned Single Judge of this Court in MAC APP.441/2012, titled *Himadri Dutta & Ors. vs. Joginder Singh & Ors.,* dated 28.02.2014.

2. It appears the tribunal was peeved over the failure on the part of the insurance company to place before it the break-up of the amount which had become due – on account of enhanced compensation and

the amount that would have accrued thereupon under the interest liability – and in that context it, on the assumption that the interest would not exceed Rs.50,000/-, proceeded to conclude that there was no justification for any TDS to be held back and, thus, directed deposit of such amount which, per the submissions of the insurance company, has already been deposited with the revenue.

3. After some hearing, the learned counsel for the petitioner submitted, on instructions, that he may be allowed to withdraw the present petition with liberty to move the tribunal by review application, placing before it the detailed accounts and also bringing to its notice the directions of this court in *Himadri Dutta* (supra).

4. The petition is dismissed as withdrawn with liberty granted as prayed.

5. It is noted that in terms of the impugned order, the insurance company is expected to make compliance on 28.08.2017. In order to give effective opportunity to the petitioner, it is directed that the tribunal shall await the filing of the review application for which three weeks' time from today is granted. The tribunal will not insist on deposit of the amount deducted at source as tax till decision is taken on the review application. However, in case no review application is filed within the period granted, the tribunal would be at liberty to proceed further in accordance with law.

6. The petition along with accompanying applications is disposed of in above terms.

7. *Dasti.*

R.K.GAUBA, J.

AUGUST 25, 2017
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