IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.320 of 2020

Divisional Manager, New India Assurance Co. Ltd. .... ***Appellant***

Mr. P. Sinha, Advocate

-versus-

Prafulla Kumar Mishra and Another .... ***Respondents***

Mr. Ashok Das, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
13.7.2022

Order No.

I.A. No.446 of 2022

10. 1. The matter is taken up through hybrid mode.

2. Heard Mr. P. Sinha, learned counsel for the Appellant – Insurer and Mr. A. Das, learned counsel appearing for the claimant – Respondent No.1.

3. In the present application the Appellant seeks modification of the earlier order of this court dated 30th March, 2022 to the extent of issuance of a direction setting aside the direction of the learned Tribunal as contained in the impugned judgment to the effect not to deduct income tax amount from the interest payable over the compensation amount. It is further submitted that such deduction of income tax amount from the amount of interest payable is statutorily envisaged under Section 194-A of the Income Tax Act.

4. This court in a decision rendered today in MACA No.1 of 2019, has dealt with similar issue and held that such direction of the learned

Tribunal not to deduct the income tax amount by the payer at the time of payment is unwholesome. The relevant observation in this regard as held by this court in that case is reproduced below:

> "11. It is important here to refer Section 194-A of the Income Tax Act. As per Section 194-A, tax is to be deducted at the time of payment or credit of interest. Clause (ix) of sub-section (3) of Section 194-A which came into force with effect from 1st June, 2003, reads as under:-
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> > "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 amount of such income credited or paid during the financial year does not exceed fifty thousand rupees."
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> 12. Thus, the provisions of Section 194-A of the Income Tax Act have been specifically made applicable to the interest payable on the amount of compensation awarded by the Motor Accident Claims Tribunal. In other words, the provision is clear to the effect regarding payment of income tax on the interest amount payable on the compensation amount. When tax is payable by operation of the statutory provision, there is no illegality in deducting the same by the payer at the time of payment. As such, the direction of the learned Tribunal not to deduct the income tax amount appears unwholesome and the same is set aside."

5. Accordingly, the direction of the learned tribunal as contained in the impugned judgment dated 12th April, 2019 to the effect not to deduct income tax amount by the insurer on the amount of interest payable is set aside.

6. It is further submitted by Mr. Sinha, learned counsel that pursuant to the direction of this Court dated 30th March, 2022 though

the entire amount including interest has been deposited before the learned tribunal, but the interest amount has been deposited by a separate cheque only which has not yet been disbursed in favour of the claimant in view of subsequent order passed by this court dated 27th April, 2022. As such he seeks permission to take back the said cheque relating to interest amount and again deposit the appropriate amount after deducting income tax amount there-from.

7. The prayer is allowed and the insurer is directed to complete the process within a period of three weeks from today.

8. The rest part of the order dated 30th March, 2022 shall remain unaltered.

9. The I.A. is disposed of.

(B.P. Routray)
Judge

M.K.Panda