123

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3784 of 2022 (O&M)
Date of decision: 12.09.2022

National Insurance Company Limited

..... Appellant

versus

Anju Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rahul Pathania, Advocate
for the appellant.

TRIBHUVAN DAHIYA J. (ORAL)

The only contention raised by learned counsel for the appellant-Insurance Company is that direction issued in the award passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri, dated 05.05.2022, to the effect that the amount of compensation awarded to the respondents-claimants shall not be liable to TDS is in violation of law declared by this Court recently in judgment dated 06.08.2022 passed in **CR No.527 of 2019** titled as **New India Assurance Company Limited vs. Ravinder Kumar @ Vickey and others**. The relevant paras of the judgment read as under:

> *After hearing learned counsel for the parties and going through the judgments of the different High Courts as above, it is apparent that the views taken by the Division Benches of Bombay High Court and of Gujarat High Court and Single Benches of Andhra Pradesh High Court, Himachal Pradesh High Court and*

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Madhya Pradesh High Court and of this Court are consistent on the points as noted above, whereas the view taken by a Division Bench of this Court in ***CWP-8951 of 2019*** *titled as '****Baldai Vs. The Chief Commissioner, Income Tax Department and others****' decided on 27.11.2019 is not consistent with the aforesaid judgments of different High Courts referred to above and, therefore, by following the consistent view it is directed as under:*

(A) As per interpretation of Section 194-A(1) read with erstwhile clause (IX) and substituted Clause (IX and IX-A) of sub-Section (3), it is clear that the interest on 'income' is chargeable to tax, if it otherwise is not as the provision for deduction of tax at source is not a charging provision. In view of the judgment of a Division Bench of the Gujarat High Court in Bhoyabhai Hirabhai Bharvag's case (supra); Anadhra Pradesh High Court judgment in Yaliminti Appanna's case (supra); Himachal Pradesh High Court judgment in Viyasan Devi's case (supra), Madhya Pradesh High Court judgment in Ram Khiloni's case (supra), it is clear:-

(i) The Insurance Company, while depositing the interest exceeding Rs.50,000/- per claimant per year will file a calculation before the MACT as to how much TDS is to be deducted.

(ii) At the first instance, the Insurance Company will apply to MACT for obtaining a declaration 'Form 15-G' of Rule 29-C of Income Tax Act/Rules from the claimants at the time of making payment with interest in order to get relief of responsibility or obligation towards the Income Tax Department and M.A.C.T. will release payment in favour of claimants after the requisite form is signed or thumb-marked by claimants or guardian where claimants are minor.

(iii) In view of the judgment in Janki's case (supra) passed by the Single Bench of this Court, prior to the

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> *amendment of Clause IX and after insertion of Clause IX-A under Section 194(A)(3) of the Income Tax Act, 1961 w.e.f. 1.6.2015 no interest will be deductable at source even if the interest is beyond Rs.50,000/- in a particular year. Therefore, the Insurance Company has to pay the interest of compensation accrued to the claimants prior to 1.6.2015 even if the TDS is deposited with the Income Tax Authorities at that time and the claimants cannot be burdened with filing of return for seeking refund for any fault of the Insurance Company.*
>
> *Accordingly, CR No.527, 4687 and 6862 of 2019 are dismissed and the others are disposed of by setting aside the impugned orders and the cases are remanded back to the concerned Motor Accident Claims Tribunal with a direction that if the interest on compensation is paid prior to 1.6.2015, then the Insurance Company will pay the amount of tax deducted at source to claimants and the Insurance Company may seek refund from the Income Tax Authorities by filing a revised income tax return. Where the interest on the compensation is actually paid after1.6.2015, which is exceeding Rs.50,000/- per claimant per financial year, the Insurance Company will pay on securing the 'Form 15-G' of Rule 29-C of the Income Tax Act/Rules.*
>
> *The parties will appear before the Motor Accident Claims Tribunal, concerned on 31.08.2022 and fresh orders will be passed within a period of one month, thereafter.*

2. Learned counsel for the appellant further contends that in terms of the directions issued in **Ravinder Kumar @ Vickey and others case (supra)**, the award be remanded to the Tribunal to pass appropriate orders in terms thereof.

3. The prayer is accepted. The direction issued by the Tribunal in para No.20 that, "*the amount of interest accrued on*

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compensation awarded to the claimants shall not be liable to TDS", is set aside. The Tribunal is directed to pass fresh order after hearing the counsel for the parties on 11.10.2022 only with regard to the aforesaid direction issued in the award.

4. The petition stands disposed of accordingly.

(TRIBHUVAN DAHIYA)
JUDGE

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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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