

**Neutral Citation No.2023:PHHC:105557-DB**

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CWP No.20290 of 2020**

**Date of Decision: 10.08.2023**

Nirmal Devi @ Nirmal Verma

... Petitioner

Versus

Union of India and another

... Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Jitender Dhanda, Advocate and  
Ms. Suman Sagar, Advocate,  
for the petitioner.

Ms. Gauri Neo Rampal Opal, Senior Standing Counsel,  
for the respondents.

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**MANISHA BATRA, J.**

1. The instant petition invoking writ jurisdiction of this Court had been filed by the petitioner by submitting that after the unfortunate death of her husband in a motor vehicle accident on 10.05.2003, she had filed a petition seeking compensation under the provisions of Motor Vehicles Act, 1988 (for short “MV Act”). The Motor Accident Claims Tribunal, Patiala (for short “MACT”) awarded her compensation to the tune of Rs.7,60,000/-. She approached this Court for enhancement of compensation amount by filing an FAO No.2013 of 2005. Vide order dated 01.08.2018, the same was allowed and compensation amount was enhanced to the tune of Rs.14,79,221/- payable with interest @7.5% per annum. In the execution petition filed by her before MACT, the

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Insurance Company deposited an amount of Rs.12,39,188/- while deducting TDS at the rate of 10% which came to be Rs.1,23,919/-. Then at the time of filing her ITR for the assessment year (A.Y.) 2019-20 subsequently, she was further made to pay tax to the tune of Rs.2,13,631/-. She has prayed for issuance of a writ of mandamus thereby directing the respondents to refund the amount of tax so deposited by submitting that the same was got deducted in an illegal and arbitrary manner on the interest amount received by her on account of delayed payment of the compensation amount under the provisions of MV Act, which was not taxable.

2. The respondents in the reply filed by them resisted the claim of the petitioner by submitting that the same was misconceived as the interest awarded to the petitioner was in the nature of revenue receipt which was taxable and was required to be deducted under Section 194-A of the Income Tax Act, 1961 (for short “Act, 1961”). It was submitted that the petitioner herself having filed return of income for the A.Y. 2019-20 and offering the amount of interest received by her to tax, was not entitled to challenge the same. More so, she herself had claimed refund of a sum of Rs.10/- on the tax deduced at source and the credit thereof had been given to her while processing her return under Section 143 (1) of the Act, 1961 and, therefore, no cause of action survived in her favour. Accordingly, the respondents prayed for dismissal of the petition.

3. Learned counsel for the petitioner argued that she was entitled to refund of the amount deducted as tax on the interest amount received by her along with compensation as awarded by this Court and the MACT as interest was awarded under a social welfare legislation which in case of

conflict with taxation legislation, was to prevail. He submitted that the

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interest paid on compensation which was in the nature of capital receipt was to be treated at par with the compensation for the purpose of taxability and could not be regarded as income liable to tax. In support of his contention, learned counsel relied upon authorities cited as **The New India Assurance Co. Ltd. v. Savitri Devi and another**, CR No.6784 of 2016, decided on 04.04.2018; **National Insurance Company Limited v. Janki**, CR No.6320 of 2016, decided on 08.08.2019 and **Drawing and Disbursing Officer v. Income Tax Officer**, ITA No.495 of 2009, decided on 30.03.2011 by Co-ordinate Benches of this Court; **The Oriental Insurance Company Limited v. Chief Commissioner of Income Tax (TDS)**, 2022 (445) ITR 300 & **Rupesh Rashmikan Shah vs Union Of India**, 2019 SCC OnLine Bombay 518.

4. Per contra, learned counsel for the respondents argued that the Insurance Company had deducted tax on the interest component under Section 194-A of the Act, 1961 which authorized such deduction on interest and hence there was nothing wrong in the said deduction. She further argued that the petitioner had herself deposited Rs.2,13,631/- at the time of filing her return and refund to the tune of Rs.10/- had also been availed and, therefore, her claim was misconceived. She also argued that the interest on compensation or otherwise compensation was revenue receipt exigible to tax and, therefore, the petitioner was not entitled to any relief.

5. Before advertng to the contentions raised by the counsel representing both the parties, it would be apposite to refer to certain relevant provisions of MV Act and Act, 1961. Section 171 of MV Act empowers the Tribunal to award interest on the claim made under this head from the date of making the claim. The compensation received under this Act is either on

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account of loss of earning capacity on account of death or injury or on account of pain and suffering. Receipt of such compensation is not by way of earning or profit. Award of compensation is on the principle of restitution to place the claimant in the same position in which he/she would have been, had the loss of life or injury not been suffered. With regard to the contention that the interest received on compensation or enhanced compensation is deemed to be income of the assessee, it may be mentioned that the term 'income' which is inclusively defined in Section 2 (24) of the Act, 1961 does not include 'interest' as income. Section 2 (28A) of the Act, 1961 defines the term 'interest' as the interest payable in any manner in respect of any money delayed or debt incurred and includes any service fee or other charge in respect of the moneys charged or debt incurred or in respect of any credit facility which has not been utilized. Section 56 (2) (viii) of the Act, 1961 says that income by way of interest received on compensation or enhanced compensation shall be chargeable to Act, 1961 under the head "income from other sources". Further, Section 145-B (1) of the Act, 1961 suggests that the interest received by an assessee on any compensation or enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.

6. It will also be relevant to refer here to the provisions of Section 194-A of the Act, 1961. As per Sub Section (1) of this Section, any person not being an individual or a Hindu Undivided Family, who is responsible to pay a resident, any income by way of interest other than income by way of interest on securities, shall deduct tax at the time of credit of such income to the account of the payee. Sub Section 3 (ix) of this Section is also important

which says that tax shall not be deducted to such income, credited by way of

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interest on the compensation amount awarded by MACT. Sub Section 3 (ix-a) says that tax to such income paid by way of interest on compensation amount awarded by MACT shall not be deducted where such income received during financial year does not exceed Rs.50,000/-. The rival contentions of the parties are to be taken into consideration keeping in view the above discussed provisions of law.

7. Let us now ponder over the question as to whether the interest received by the petitioner on the amount of compensation/enhanced compensation was liable for deduction of tax. Needless to say here that the compensation under motor accident claims is given to the legal heirs of the deceased for loss of life of their bread earner or to the victim in case of permanent disablement or injuries. The recipients of such award might not even come within the ambit of Act, 1961 and that is why, there have been several pronouncements that award of compensation under motor accident claims cannot be regarded as income of the interest on such awards also cannot be termed as income to legal heirs of the deceased or to the victim himself. In this regard, reference can be made to **Gobald Motor Service Limited and another v. R.M.K. Veluswami and others**, AIR 1962 SC 1, wherein the Hon'ble Supreme Court had held that the interest on compensation awarded by MACT is by way of capital receipt and not income; and to, **Commissioner of Income Tax v. Oriental Insurance Company Limited** reported in (2012) 27 taxmann.com 28 (All) wherein a Division Bench of High Court of Allahabad had observed that award of compensation under motor accident claims cannot be regarded as income and hence the interest on such award also cannot be termed as income to the legal heirs of the deceased; and to, **Rupesh Rashmikan Shah's** case

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(Supra) wherein a Division Bench of Bombay High Court had observed that compensation or enhanced compensation in motor accident claim cases is by way of reimbursement of the loss and cannot be treated as income and that the interest awarded in such cases from the date of claim petition till passing of the award or in case of Appeal, till the judgment of High Court in such appeal, would not be exigible to tax, not being an income; and to, **Managing Director, Tamil Nadu State Transport Corporation (Salem) Limited v. Chinnadurai** reported in (2016) 70 taxmann.com 53 (Madras) wherein High Court of Madras had observed that compensation awarded or the interest accruing therein from the compensation that has been awarded by MACT cannot be subjected to TDS and the Tax Authorities cannot insist to pay the same since the compensation and the interest awarded therein does not fall under the term 'income' as defined under the Act, 1961; and to, **Drawing and Disbursing Officer's** case (Supra) wherein a Bench of this Court had held that having regard to nature of receipt of compensation as per award under the MV Act, compensation is in the nature of capital receipt for death or injury and cannot be held to be in the nature of income. Reference can also be made to **The Oriental Insurance Company Limited's** case (Supra) which is a recent citation of the High Court of Gujarat and wherein similar observations were made after discussing pronouncements of different High Courts.

8. In view of ratio of law as laid down in the above cited authorities, there is no hesitation to hold that the compensation awarded under MV Act by MACT or the interest on the said compensation amount cannot be termed as income. However, at this juncture, the contention as

raised by the respondents that the interest received on compensation amount

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is liable to TDS under Section 194-A (3) (ix-a) of the Act, 1961 in view of provisions of Section 145-B (1) of the Act, 1961 is to be considered. A bare reading of Section 145-B (1) reveals that it says that the interest received by an assessee on any compensation or enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received. However, in our opinion, this provision does not make the interest chargeable to tax without considering that whether such interest is income of the recipient or not? This section deals with the method of accounting and is not a charging provision. The only impact that Section 145-B has on the taxability of an income, is its timing of taxability. What is not taxable is not made taxable under this Section and it is only what is taxable under the mercantile method of accounting which is made taxable on cash basis of accounting by this provision. Meaning thereby that only when the receipt is in the nature of an income and receipt of interest is in nature of income at the hands of assessee, that such interest can be taxed as has been made out from the provisions of Section 56 (2) (viii) also. This question was also considered in **The Oriental Insurance Company Limited's** case (Supra) by High Court of Gujarat at Ahmedabad wherein it was observed that the interest awarded in motor accident claim cases from the date of claim petition till the passing of the award or in the case of Appeal, till the judgment of the High Court in such appeal, was not exigible to tax, not being an income. It was held that this position was not changed on account of Clause (b) of Section 145-A of the Act, 1961 as it stood amended by Finance Act, 2009 or on account of Sub Section (1) of Section 145-B of the present Act. It was held that Section 194-A of the Act, 1961 was only a

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provision for deduction of tax at source and did not govern the taxability of the receipt and the question of deduction of tax at source would also arise only if the payment was in the nature of income of the payee. It had also been observed that the interest was not made chargeable to tax even by Section 56 (2) (viii) of the Act, 1961 only that part of the interest component which deals with income from other sources. In view of this discussion, it emerges that the interest granted on compensation or enhanced compensation awarded by MACT or this Court from the date of filing of the claim petition till the date of passing of the award or judgment by High Court will not fall in the bracket of income and would not be exigible to tax. However, in view of provisions of Section 194-A (3) (ix-a) of the Act, 1961, only that part of the interest component which is treated as income and which when received exceeded Rs.50,000/- and did not form part of compensation would be exigible to tax.

9. The respondents in this case have already charged tax on the amount of interest which was received by the petitioner along with the amount of compensation granted by MACT and by this Court in FAO filed by the petitioner, by treating the same as income of the petitioner. Since the upshot of the discussion as made above is that no tax was exigible and could be deducted from the amount of interest awarded to the petitioner by MACT from the date of filing of claim petition till the date of passing of the award and interest awarded on enhanced amount of compensation by High Court in the appeal filed by the petitioner, till the judgment of the High Court, the same not being income, therefore, the tax on these amounts so deducted by the respondents is liable to be refunded to the petitioner. It is ordered

accordingly. The writ petition stands allowed in these terms and the

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respondents are directed to refund the amount so deducted as tax to the petitioner within one month from the date of receipt of certified copy of this order. There is no order as to costs.

(RITU BAHRI)  
JUDGE

(MANISHA BATRA)  
JUDGE

10.08.2023  
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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |