06 **06.08.24**
Ct. No.24
Sws.M

FMA 454 of 2013
(Assigned)

Soma Ghosh @ Soma Barman & Ors.
Vs.
United India Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy
....for the appellants
Mr. Rajesh Singh
........for the Insurance Company

Having heard the learned advocate appearing on behalf of the appellants/claimants, the name of the claimant No. 1, appearing at page 11, paragraph 18 would be corrected as “Soma Barman”, instead of “Soma (Barman) Ghosh”.

Registrar General, High Court Calcutta is directed to issue the cheque of claimant No. 1 in the name of “Soma Barman”.

This is a specially assigned matter by the Hon’ble The Chief Justice.

Heard Mr. Rajesh Singh, learned advocate appearing on behalf of the Insurance Company as well as Mr. Amit Ranjan Roy, learned advocate for the claimants/appellants.

An appeal is preferred against an impugned order passed under Section 166 of the M.V. Act by learned Tribunal. In the appeal the award was modified and it was enhanced to Rs. 43,82,237/-. The learned Tribunal has already awarded a sum of Rs. 3,73,550/-. So the Insurance Company is directed to pay the balance amount of Rs.40,08,687/- together with interest @ 6% per annum from the date of filing of the claim application, that is on 15th July, 2011.

Learned counsel for the claimants/appellants submits that the Insurance Company in compliance to the order of this Court has deposited an amount of Rs.64,27,342/- with learned Registrar General, High Court Calcutta. Mr. Roy submits that after calculation it appears that about Rs.6,00,000/-amount was less paid by the Insurance Company to the learned Registrar General, High Court Calcutta in terms of the direction of this Court. Thus, Mr. Roy submits the Insurance Company may be directed to deposit the rest amount of money.

Mr.Singh, learned counsel appearing on behalf of the Insurance Company submits that the amount of Rs.6,04,664/- was deducted at source by the Insurance Company at the time of preparing the payment of the claimants through the learned Registrar General, High Court Calcutta. Mr. Singh further argued that the Insurance Company is duty bound under provision of Section 194A of the Income Tax Act to deduct the TDS @ 10% when the pan card is available and @20% when the pan card is not available at the time of making payment of compensation under the head of interest in every claim case of Motor Vehicles Act.

Mr. Roy submits that the deduction at source was named in the name of Registrar General, High Court Calcutta. Any deduction which was made by the Insurance Company must be named in the name of the claimant themselves otherwise the claimant would not get benefits of such deduction of Tax (TDS).

Mr. Singh argued that in all the cases at the time of making payment of interest by virtue of the direction of this Court, the office of the Insurance Company usually prepare the cheque in the name of Registrar General, High Court Calcutta. Thus the challan was prepared in the name of Registrar General, High Court Calcutta.

Heard the learned advocates.

Perused the challans as well as documents placed by the Insurance Company.

It appears that in the instant case deduction at TDS was made amounting of Rs.6,04,664/- under Section 194A of Income Tax Act being BSR No. 6360014 with challan No. 39344 dated 06.05.2024. The date of deduction is 30.04.2024. But it appears that the deduction was made in the name of Registrar General, High Court Calcutta. It appears to me that the act, action and conduct of the Insurance Company by deducting the TDS in the name of Registrar General, High Court Calcutta is erroneous. The deduction should be in the name of the claimant, so that they may get the benefit of such deduction at the time of filing Income Tax Return.

In considering the peculiar nature and circumstances of each and every case, it appears to me that the name of each and every claimant and the share of deduction in respect of each and every claimant cannot be possibly made by the office of the Insurance Company. However, it is true that the benefit of deduction of TDS must be in favour of the claimants not in favour of the Registrar General, High Court Calcutta. In that situation I think it necessary to pass a general direction to the Insurance Companies.

It is specifically ordered that at the time of making payment of any compensation by the Insurance Company to the claimants through learned Registrar General, High Court Calcutta, the Insurance Company must intimate the necessary particulars of deduction of TDS including the challan number and date of deduction to the learned Registrar General, High Court Calcutta as well as the claimants at the time of disbursement of the cheque to the Registrar General, High Court Calcutta. The Insurance Company is further directed to ascertain that the intimation and information must be reached to the claimants through the learned advocate for the claimants.

However, in this matter the Insurance Company is again directed to make a necessary correspondence with Mr. Amit Ranjan Roy, learned advocate, appearing on behalf of the claimants regarding the deduction made by the Insurance Company through TDS within four weeks from date.

(Subhendu Samanta, J.)