2024:BHC-AUG:24697

IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

1003 WRIT PETITION NO. 3076 OF 2019

New India Assurance Company Ltd Branch Office Parbhani Through Authorized Signatory

VERSUS

Kirti Alias Vijaya Vijaykumar Giram And Others

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Advocate for the Petitioner : Mr. Deshmukh Mohit R.
Advocate for Respondents No.1 and 3 : Mr. M. P. Kale

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CORAM : ARUN R. PEDNEKER, J.

Dated : October 09, 2024.

PER COURT :-

1. By the present petition, the petitioner challenges the order passed below Exhibits 15 and 21 in MACP R.D. No. 5/2006, wherein the application filed by the claimants seeking direction to pay the amount of Rs. 2,57,257/- as the balance amount of the claim, as well as the TDS amount of Rs. 1,31,255/-, and for the apportionment of the amount of Rs. 2,06,603/- between the legal heirs of petitioners No. 1 to 3 and 5 was allowed by order dated 04/08/2018 in Exhibit 15, while dismissing the application of the insurance company at Exhibit 21.

2. As for the order at Exhibit 21, it pertains to an application filed by the insurance company, wherein a prayer is made that they would deposit the balance amount; however, concerning TDS, the insurance company deposited Rs. 1,31,255/- with the tax authorities and is entitled to do so.

3. The present petition pertains to only the TDS amount of Rs. 1,31,255/-, which is directed to be paid to the claimants.

4. It is the contention of the insurance company that they are not liable to pay the TDS, as they have deposited the amount with the tax authorities in accordance with Section 194A(3)(ix) of the Income Tax Act. Therefore, the direction issued by the Motor Accident Claim Tribunal to deposit the amount towards TDS is erroneous.

5. The issue raised in the present petition is squarely covered by the judgment of this Court in the case of ***Balkrishna s/o Babanrao Mhaske vs. The State of Maharashtra and Others, Writ Petition No. 496/2021, decided on 08/02/2023,*** wherein this Court, relying upon the judgment of the Division Bench of this Court in the case of ***Rupesh Rashmikant Shah vs. Union of India and Others, Writ Petition No. 2902/2016, dated 08/08/2019***, held that the Insurance Company is liable to pay the TDS amount deducted on the interest component of the claim amount, up to the date of the High Court judgment, along with 9% interest. Accordingly, this Court passed the following order in Writ Petition No. 496/2021 :-

> *"I) The Insurance Company is directed to pay the TDS amount deducted on the interest component of the claim amount, uptill the date of the High Court Judgment along with 9% interest.*
>
> *II) Any interest on the claim amount after the date of the High Court Judgment, tax has to be collected as income from other*

> *sources and, as such, the Insurance Company would be entitled to claim TDS on that component of interest, which accrues after the High Court Judgment."*

6. In the instant case, the deduction of the TDS amount on the interest component up to the date of the High Court judgment in the Motor Accident Claim Petition is unlawful.

7. I see no reason to interfere with the orders passed at Exhibits 15 and 21. The petition is accordingly dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.