(2014) 10 KL CK 0237

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 2625 of 2010

National Insurance Co. Ltd. APPELLANT

Vs

Ramathal RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Income Tax Act, 1961 — Section 194A, 194A(3)

Citation : (2014) 10 KL CK 0237

Hon'ble Judges : A.M. Shaffique, J

Bench : Single Bench

Advocate : E.M. Joseph, Advocate for the Appellant; Bobby John, Govt. Pleader and Jose Joseph, S.C, Advocate for the Respondent

Judgement

A.M. Shaffique, J.—Petitioner challenges the direction issued by the Motor Accidents Claims Tribunal, Ottapalam directing the petitioner to pay a amount of Rs. 14,739/- recovered as tax deducted at source (TDS). No specific reason has been stated by the Tribunal while passing the said order, which is reflected in Ext. P3 proceedings sheet. The petitioner who has indemnified the loss suffered by the owner of the vehicle, has deposited the compensation before the Tribunal, after deducting income tax on the interest. The amount had been paid to the Income-tax Department and necessary TDS certificate was produced before the Tribunal.

2. Without considering the validity or otherwise of the direction so made, the Tribunal had passed the impugned order on 10.11.2009.

3. A statement has been filed by the 4th respondent supporting the sand taken by the petitioner.

4. Section 194A of the Income-tax Ac, 1961 is the relevant provision. Subsection (1) reads as under:

"194A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income tax thereon at the rates in force:

Sub-section (3) carves out an exemption to sub-section (1), which states that the provisions of sub-section (1) shall not be applied to various categories of income. Sub-clause (ix) of Section 194A(3), which excludes the application of sub-section (1) reads as under:

"(ix) 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 amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees."

5. Apparently, the amount of interest paid during the financial year exceeded Rs. 50,000/-. Exemption was applicable only in respect of income paid during the financial year, which does not exceed Rs. 50,000/-. Since clause (ix) does not apply to the deposit made by the petitioner, necessarily, TDS was required to be collected in terms of Section 194A. In the aforesaid circumstances, it is clear that the Tribunal committed serious error of law in directing the petitioner to deposit the aforesaid amount as per order dated 10.11.2009.

In the above circumstances, this writ petition is allowed, setting aside the order dated 10.11.2009 and declaring that the petitioner is not liable to deposit the aforesaid amount and the TDS certificate can be given to the claimants for taking appropriate action in accordance with law.

