(2017) 06 SHI CK 0067

In the High Court Of Himachal Pradesh

Case No : 376 of 2016

Oriental Insurance Company Ltd. APPELLANT

Vs

Satya Devi and others RESPONDENT

Date of Decision : 30-06-2017

Acts Referred:

Income Tax Act, 1961, Section 194A, Section 194A, Section 194A, Section 194A - Interest other than "Interest on securities"

Citation : (2017) 06 SHI CK 0067

Hon'ble Judges : Vivek Singh Thakur

Bench : Single Bench

Advocate : Ashwani K. Sharma, Ishan Thakur, Vinay Kuthiala, Vandana Kuthiala

Final Decision : Disposed

Judgement

1. Present petition has been filed against direction passed by the Motor Accident Claims Tribunal in execution petition No. 405/6 of 2015 filed by claimants/ respondents No. 1 to 4 for payment of balance amount of Rs.60,902/- which were not paid by the petitioner/Insurance Company to the claimants/respondents but were deducted as TDS for income tax on interest payable to the claimants/ respondents on compensation awarded in their favour as Motor Accident Claim and deposited with respondent No. 5 through Income Tax Officer, Ward No. 2, Mandi.

2. In execution petition preferred by the claimants/respondents for payment of balance amount of compensation, the Motor Accident Claims Tribunal, vide impugned order, has directed petitioner/Insurance Company to deposit the balance amount of Rs. 60,902/- within 30 days from the date of order, failing which petitioner company has also directed to pay the interest at the rate of 9% on the said amount w.e.f. date of order till payment/deposit.

3. Section 194A of Income Tax Act, 1961, clearly provides that any person, not being an individual or a Hindu undivided family, responsible for paying to a

''resident'' any income by way of interest, other than income by way of interest on securities, shall deduct income tax on such income at the time of payment thereof in cash or by issue of cheque or by any other mode. Compensation awarded under Motor Vehicle Act cannot be said to be taxable income. Compensation is awarded in lieu of death of a person or bodily injury suffered in a vehicular accident, which is damage and not income.

4. It is well settled that interest awarded by the Motor Accident Claims Tribunal on a compensation is also a part of compensation upon which income tax is not chargeable as also held by the Division Bench of this Court in Court on its own motion v. The H.P. State Cooperative Bank Ltd. and others reported in 2014 (Suppl.) Him. L.R. (DB) 2575. and reiterated in CWP No. 460 of 2014 titled Shiv Ram Sharma v. Union of India and others and other connected matters vide decision dated 3.6.2015.

5. Therefore, in view of above said decision, deduction of income tax by petitioner/Insurance Company on the interest accrued/awarded on the compensation deposited by the petitioner/Insurance Company is illegal and is contrary to the law of land.

6. In view of above discussion, this petition is disposed of directing respondent No. 5 Income Tax Officer, Ward No. II, Mandi to refund the TDS to the petitioner/ Insurance Company within ten weeks from date of receiving information thereof, which shall be supplied by petitioner/Insurance Company within two weeks from today, as per Rules applicable and petitioner company is also directed to make payment of balance amount of compensation along with interest, if any received by it from the Income Tax Department to the claimants/respondents, within four weeks from the date of receipt of refund, failing which petitioner company shall also be liable to pay interest @ 9% per annum on the said amount with effect from 5.1.2016 till payment/deposit. Petition is disposed of in aforesaid terms. Interim order dated 3.10.2016 passed in CMP No. 8043 of 2016 also stands vacated in above terms. The Motor Accident Claims Tribunal, Bilaspur is directed to proceed further accordingly. No order as to costs.

Dasti copy on usual terms.

