

(2010) 12 CHH CK 0002
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 205 of 2010

The New India Assurance Company Limited

APPELLANT

Vs

Ramesh Kumar Tamrakar and Others

RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

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

Citation : (2011) 2 MPHT 61

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Division Bench

Advocate : Shivendu Pandya, for the Appellant; C.P. Lahrey, Advocate for the Respondent No. 1, for the Respondent

Final Decision : Allowed

Judgement

Prashant Kumar Mishra, J.—The petitioner has challenged the legality and validity of the order passed by the IX Additional Motor Accident Claims Tribunal (FTC), Durg on 12-10-2009 directing the Insurance Company to pay Rs. 25,016/- to the respondent No. 1/claimant. The said amount was deducted by the Insurance Company as TDS at the time of deposit of the award amount before the Claims Tribunal. The short question arising in this petition is whether the Insurance Company was justified in deducting T.D.S. (Tax Deducted at Source) while making payment of the award amount inclusive of interest on the ground that the interest component exceeds Rs. 50,000/-, therefore, by virtue of Section 194-A(3)(ix) of the Income Tax Act, 1961 such deduction is compulsorily to be made by the Insurance Company when making the payment to the claimant/payee.

2. Undisputedly the Motor Accident Claims Tribunal passed an award on 12-1-1988 directing payment of Rs. 1,55,000/- together with interest. In the impugned order the interest component has been calculated at Rs. 1,66,593/- it is also not undisputed that while depositing the amount under the award the Insurance Company deducted Rs. 25,016/- towards T.D.S. and when the claimant raised an objection that this amount of T.D.S. could not have been

deducted from the award amount, the learned Tribunal has directed the petitioner/Insurance Company to deposit the said amount within a period of one month.

3. Learned Counsel for the petitioner has argued that the petitioner is under obligation to comply with the provisions contained in Section 194-A(3)(ix) of the Income Tax Act, 1961 and it is necessary for it to deduct T.D.S. in accordance with the said provision failing which the petitioner would be held liable for the consequences under the Income Tax Act, 1961. Learned Counsel has relied on judgments of Gujarat High Court in the matter of United India Insurance Co. Ltd. Vs. Mitaben Dharmeshbhai and others, reported in 2004 ACJ 1996 and the judgment of M.P. High Court in the matter of United India Insurance Co. Ltd. Vs. Janki Devi and Others, in support of his contention.

4. Per contra, learned Counsel for respondent No. 1/claimant has argued that T.D.S. cannot be deducted from the award amount and there is no provision for such deduction from the interest component of the award amount.

5. To appreciate the rival submission the provision contained in Section 194-A of the Income Tax Act needs reference. Section 194-A has been inserted in the Income Tax Act, 1961 by Finance (No. 2) Act, 1967 with effect from 1-4-1967. Sub-section (1) thereof enjoins upon a 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 to deduct income tax thereon at the rates in force. Clause (ix) of sub-section (3) of the said Section 194-A reads as under:--

to such income credited or paid by way of interest on the compensation amount awarded by the Motor Accident Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amount of such income credited or paid during the financial year does not exceed fifty thousand rupees.

Thus, the provisions of Section 194-A of the Act have been specifically made applicable to the interest payable on the amount of compensation awarded by the Motor Accidents Claims Tribunal.

6. The said clause (ix) has been inserted with effect from 1-6-2003 by the Finance Act, 2003. As would be clear from the impugned order, the Insurance Company deposited the amount of interim maintenance of Rs. 25,000/- on 3-2-1999 and Rs. 56,132/- on 20-4-1999. The award was passed on 12-1-1998. The Insurance Company thereafter deposited Rs. 68,703/- on 4-7-2008 and Rs. 1,29,672/- on 13-3-2009. Thus, the interest component of the award has been deposited after 1-6-2003 when the relevant clause (ix) has been inserted. In view of the aforesaid specific provision contained in the Income Tax Act, 1961, the Insurance Company was duty bound to deduct the amount of Income Tax from the amount of interest paid by it. The Tribunal is, therefore, not justified in directing the Insurance Company to deposit the amount of T.D.S. which it had deducted from the amount of interest admissible to the payee, i.e., the claimant.

7. The High Court of Gujarat in the matter of United India Insurance Co. Ltd. Vs. Mitaben Dharmeshbhai and others (supra) and the High Court of M.P. in the matter of United India Insurance Co. Ltd. Vs. Janki Devi and others (supra), has taken a similar view and this Court fully agrees with the view taken by the Gujarat and M.P. High Courts on this issue. Consequently, the instant petition deserves to be and is hereby allowed. The impugned order dated 12-10-2009 passed by the IX Additional Motor Accident Claims Tribunal (FTC), Durg in Motor Accident Execution Case No. 175/97 is quashed and set-aside. Parties to bear their own costs.