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**(2010) 11 MP CK 0019**  
**In the Madhya Pradesh High Court**  
**Case No : C.R. No. 274 of 2008**

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|-------------------------------------|------------|
| United India Insurance Company Ltd. | APPELLANT  |
| Vs                                  |            |
| Ramlal and Others                   | RESPONDENT |

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**Date of Decision :** 23-11-2010

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 27  
Income Tax Act, 1961 — Section 194(3), 194(9), 194A, 197(1), 197(9)  
Income Tax Rules, 1962 — Rule 29C  
Land Acquisition Act, 1894 — Section 18

**Citation :** (2012) ACJ 1157 : (2011) ILR (MP) 1371

**Hon'ble Judges :** N.K. Mody, J

**Bench :** Single Bench

**Final Decision :** Disposed Off

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## Judgement

N.K. Mody, J.—Being aggrieved by order dated 12.8.2008 passed by MACT Shajapur in Misc. Claim Case No. 17/2006 whereby the Petitioner/Company was directed to pay a sum of Rs. 6571/- which was deducted by the Petitioner/Company out of the amount of compensation payable to Respondent No. 2 was set aside with a direction to the Petitioner/Company to pay the said amount to the Respondent No. 1, present petition has been filed.

2. Short facts of the case are that claim petition filed by Respondent No. 1 which was numbered as 02/2001, was allowed and compensation of Rs. 82000/- was awarded vide award dated 5.11.2001 against which appeal was filed by the Respondent No. 1 for enhancement which was numbered as MA No. 205/2002. Vide order dated 3.01.2006 this Court remanded the case back as certain documents were filed by the Respondent No. 1 alongwith an application under Order 41 Rule 27 Code of Civil Procedure. After remand, vide award dated 31.3.2006 learned tribunal enhanced the amount awarded to Rs. 1,43,000/- in addition to the amount already awarded as Rs. 82,000/-. Being aggrieved by the remanded award, Appellant and Respondent No. 1 filed appeals which were numbered as MA Nos. 206/ 2006 and 2220/2006. Appeals were disposed of by

this Court by reducing the amount from Rs. 1,43,000/- to Rs. 60,000/-. While disbursing the amount a sum of Rs. 6571/- was deducted by the Petitioner/ Company towards TDS as per Section 194A of the Income Tax Act. An objection was raised by the Respondent No. 1 before the learned tribunal alleging that said amount could not have been deducted as interest amount is not exceeding Rs. 50000/- in one year. The objection was decided by the impugned order whereby action of the Petitioner/company deducting a sum of Rs. 6571/- towards TDS was quashed with a direction to the Petitioner/ Company to disburse the amount which is payable and a right was given to get back deducted amount of Rs. 6571/- from the Income Tax Department against which present petition has been filed.

3. Mr. SV Dandvate, Learned Counsel for the Petitioner argued at length and submits that since the amount of interest was more than Rs. 50000/- which was payable to the Respondent No. 1, therefore, it is the statutory duty of the Petitioner to deduct the amount u/s 194A of the Income Tax. Reliance is placed on a decision in the matter of United India Insurance Co. Ltd. Vs. Mitaben Dharmeshbhai Shah and Others, Gujarat High Court had an occasion to take into consideration Section 194A(3)(ix) of the Income Tax Act wherein Insurance Company deducted income tax at source on amount payable as interest on the awarded amount. The tribunal found that amount of interest awarded to claimants has become judgment debt and lost character as interest and Insurance Company was duty bound to deposit the entire amount of judgment debt. It was further held that Clause (ix) of Sub-section (3) has been inserted with effect from 1.06.2003 by the Finance Act, 2003. The amount of interest has been deposited by the Insurance Company on 2.7.2003. It was held that in view of specific provisions contained in 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. It is submitted that in view of the aforesaid provisions of law, learned tribunal committed error in passing the impugned order. It is submitted that the petition be allowed and the impugned order be set aside.

4. Since the matter relates to the revenue, therefore, this Court thought it proper to request Mr. R.L. Jain, Standing counsel for the Income Tax Department to assist the Court. Learned Counsel of the Income Tax Department has drawn the attention of this Court to Section 2(28A) of the Income Tax Act which defines "interest" which reads as under:

"interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

5. Leaned counsel further has drawn my attention to Section 194A of the Income Tax Act which deals with interest other than "interest on securities", which reads as under:

S.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.

2) xxx

3) The provisions of Sub-section (1) shall not apply-

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, aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees.

6. Learned Counsel submits that since the amount of interest was more than 50000/- in the financial year in which it was disbursed therefore, it is statutory duty of the Petitioner/Company to deduct TDS and deposits the same with Income Tax Department. It is submitted that in case Petitioner/Company fails to discharge its duty then the Petitioner/Company is also liable for panel provisions. Reliance is placed on a decision in the matter of The New India Assurance Co. Ltd. Vs. Mani, S. Nachimuthu, N. Madheswari and H.M. Haja Kamaludin, wherein compensation amount which earned interest because of delayed payment, Madras High Court held it liable to be taxed and because of the amended provisions, when the interest amount exceeding Rs. 50000/- has been paid by the Insurance Company, during financial year, they are bound to deduct the Income Tax at source u/s 194A of the Income Tax Act, 1961. It is submitted that in the facts and circumstances of the case, impugned order passed by the tribunal cannot be allowed to sustain. Thus the Learned Counsel supported the contention of Petitioner Insurance Company.

7. Shri P.M. Choudhari, advocate for the Assessee appeared as amicus curie submits that the amount payable towards interest is to be spread over in number of years for which such, interest has been awarded. For his contention Learned Counsel placed reliance on a decision of the Supreme Court in the matter of Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and Others, and Reliance is also placed on a Full Bench decision of Kerala High Court in the matter of Peter John Vs. Commissioner of Income Tax, wherein Full Bench of Kerala High Court determined and decided the question regarding accrual of interest with reference to the right to receive compensation and have linked the right to receive interest with the right of compensation and have finally held that the interest on compensation awarded with respect to land acquired under the Land Acquisition Act would run from day to day, accruing from the date on which Government took possession of the land, that being the date on which the land owners right to receive entire compensation arose, though determined and paid later and only interest accruing in each year was

assessable in that year.

8. It is submitted that in the facts and circumstances of the case, impugned order passed by the tribunal whereby Petitioner/Company was directed to pay the amount to the Respondent No. 1/claimant which has been deducted on account of TDS is in accordance with law.

9. In the matter of National Insurance Company Ltd. v. Smt. Pratibha @ Rashmi Pandit and Ors.(CR No. 251/2006 decided on 8.2.2007) after placing reliance on a decision in the matter of Mitaben (Supra) this Court has held that since the amount of interest was more than Rs. 50000/- therefore, the Insurance Company was bound to deduct TDS. In the matter of Shankar and Others Vs. Union of India (UOI) and Others, wherein interest was payable on delayed payment of compensation relating to Acquisition of land. The Delhi High Court held that a person entitled to compensation would be entitled to spread over of the income for the period for which payment can be made so as to compute the income for assessing tax for the relevant accounting year.

10. In the matter of Hansaguri Prafulchandra Ladhani v. Oriental Insurance Company Ltd.2001 ACJ 1897 wherein the Insurance Company deposited Rs. 11,78,000 as the awarded amount payable to 6 claimants and interest of Rs. 15,47,902/- for 179 months deducting Rs. 1,70,269/- as TDS which has been deposited with the Income Tax Department in discharge of statutory obligations, Gujarat High Court has held that interest on compensation cannot be taken to have accrued on the date of award of the tribunal or the date of judgment of appellate Court granting enhanced compensation but has to be taken as having accrued year after year from the date of filing of claim application till date of deposit. It was further held that the Insurance Company was not justified in making deduction to take on lump-sum amount as interest accrued has to be calculated on yearly basis and apportioned amongst the 6 claimants; the Income Tax liability of each claimants to pay tax on interest accrued on his/her share of compensation. It was further held that if such interest income in each financial year together with his/her other income in that year exceeds the taxable limit for that year; claimants may seek necessary refund from the Income Tax Department.

11. Thus the question for consideration in the present case before this Court is regarding the position of law in regard to the deduction of tax at source u/s 194A from the amount of interest awarded on the amount of compensation under the provisions of Motor Vehicles Act by the Motor Accident Claims Tribunal and particularly whether such interest awarded by the Tribunal is to be spread over from the date from which it is payable to the date of actual payment.

12. Section 194A obliges a person responsible for paying "to a resident" any income by way of interest to deduct Income Tax from such payment of interest at the time of credit of such amount to the account of the payee or at the time of payment thereof in cash or by cheque or draft or by any other mode which ever

is earlier. Sub-section (3) of said section is in the nature of an exemption provision and it provides that the provisions of Sub-section (1) regarding the deduction of tax at source will not apply in the cases falling under the said provision. Sub Clause (ix) of the said Sub-section (3) provides that the provisions of TDS do not apply to the income credited or paid by interest on the compensation amount awarded by Motor Accidents Claims Tribunal where such amount of income or, as the case may be, the aggregate amount of such income credited or paid during the Financial Year does not exceeds Rs. 50,000/-. Thus, if the amount of interest payable to the claimant in particular financial year does not exceed Fifty Thousand rupees then the person responsible for payment is not required to deduct tax at source. Since the deduction is to be made at the time of payment to "a resident", the said limit of Rs. 50000/- will apply separately in case of each individual resident i.e. if the payment of interest is being made to more than one claimant then unless the interest payable to each claimant separately exceeds Rs. 50000/- in each case, the person responsible for payment is not required to deduct tax.

13. As to the question whether the interest awarded is to be spread over for the number of years for which such interest has been awarded, the position of law appears to be fairly well settled by the decision of Supreme Court rendered in connection with award of interest on the amount of compensation under the provisions of Land Acquisition Act. In the case of Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and Others, where their Lordships", following the earlier decisions have been held and clarified that the interest cannot be taken to have accrued on the date of order of court granting enhanced compensation but has to be taken as having accrued year after year from the delivery of the possession of the land till the date of such order. The same position has been reiterated by the Apex Court again in the case of K.S. Krishna Rao Vs. Commissioner of Income Tax, Andhra Pradesh, and it has been held that where a compensation awarded under the Land Acquisition Act is enhanced by the order of the Court on a reference u/s 18 of that Act or on further appeals, interest on enhanced compensation cannot be taxed all in a lump sum as having accrued on the date on which the Court passes order for enhanced compensation; the interest has to be spread over on annual basis right from the date of delivery of possession till the date of order on a time basis.

14. Keeping in view the principles laid down in various cases mentioned hereinabove which would apply with equal force to the claim cases this Court is of the view that the interest awarded has to be spread over in number of years from the date of filing of claim petition till the date of payment because the right to receive compensation arises immediately on occurrence of accident and the interest is awarded by the Tribunal or the Courts for the delay that occurs due to the delay in determination of the compensation and if the interest for the financial year payable to each of individual claimant exceeds Rs. 50000/- then only question of TDS will arise. So far as obligation of Petitioner/Insurance Company responsible for the payment is concerned, it is made clear that before

releasing the amount of interest claimant shall be required to submit an affidavit to the effect that claimant has furnished a declaration on form No. 15-G of Rule 29-C of the Income Tax Rules in terms of Section 197-9(1-A) of the Income Tax Act for each financial year in the office of Insurance Company so that concerned Insurance Company is relieved of its obligation of payment of TDS.

15. With the aforesaid, appeal stands disposed of.