

Latest HLJ 2025 (HP)(1) 87 In the High Court of Himachal Pradesh, Shimla.

Civil Revision No.83 of 2021

Income Tax Act, 1961 Section-194 (A)(IX) read with Section-22 of Employees Compensation Act, 2017–Deduction of TDS on Interest Component of Compensation Illegal–Claim petition–Payment of balance amount which was not paid by the Insurance company but were deducted as TDS for income tax on interest payable to the claimants on compensation–Held–That, interest on compensation not subject to Income Tax–Directions for refund of wrongfully deducted TDS and payment of compensation amount. (Paras 5 & 6)
Parties represented by:

For the Petitioner: Mr. Bhupinder Pathania, Advocate. For the Respondents: Mr. P.M. Negi and Mr. D.S. Nainta, Advocates for R-No.1 to 5. Mr. Neeraj Sharma and Mr. Ishaan Kashyap, Advocates, for R-No.6.

Vivek Singh Thakur, Judge (Oral):- Present petition has been filed against direction passed by the Commissioner under Employees' Compensation Act, Court No.1, Hamirpur H.P. (hereinafter referred to as 'the Commissioner') in Civil Miscellaneous Application No. 24 of 2016, titled Pushpa Devi and others vs. Branch Manager, United India Insurance Company filed by claimants/respondents No. 1 to 5 for payment of balance amount of ? 1,37,681/- alongwith interest, which was 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 under Employees' Compensation Act and deposited with respondent No. 6 through Income Tax Officer, TDS, Shimla.

2. Facts of the case, in brief, are that the respondents/claimants filed a claim petition being Claim Petition No. 9 of 2011 under Section 22 of the Workmen Compensation Act 1923 (now after 15.5.2017 Employees' Compensation Act, 2017) for compensation on account of death of Shri Pawan Kumar, who, while working as a taxi driver, died in an incident, on 4th July, 2005. The Commissioner allowed the petition on 20th May, 2014, by awarding a sum of ? 6,17,850/- alongwith 12% interest with effect from 4th July, 2005 till its realization along with Rs.5000/- as funeral charges. The petitioner-insurance company, being the insurer, was directed to indemnify the insured.

3. In pursuance to the award, the petitioner-insurance company deposited a sum of ? 11,73,572/- vide cheque No. 002900 of HDFC Bank dated 22nd October, 2014 in the Court of the Commissioner after deducting an amount of ? 1,37,681/- towards TDS (20%) on the interest component payable on the compensation amount, which was deducted by the petitioner insurance company in compliance of Section 194 (A)(IX) of the Income Tax Act, 1961. The tax was deposited with respondent No. 6- Income Tax Officer (TDS), Shimla.

4. In execution petition preferred by the claimants/respondents for payment of balance amount of compensation, the Commissioner, vide impugned order, has directed the petitioner/Insurance Company to pay the deducted amount to the respondents No.1 to 5.

5. Section 194-A 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 Vehicles Act or Employees' Compensation Act in lieu of death of a person or bodily injury suffered in a vehicular accident, is a damage and not an income and cannot be treated as taxable income.

6. 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 vs. 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 vs. Union of India and others, and other connected matters vide decision dated 3rd June, 2015. The same principle will be applicable in the present case also.

7. Therefore, in view of abovesaid 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.

8. In view of above discussion, this petition is disposed of directing respondent No. 6-Income Tax Officer, TDS Shimla to ensure refund of 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 with interest, within four weeks from the date of receipt of refund from Income Tax Officer, failing which petitioner company shall also be liable to pay interest @ 9% per annum on the said amount with effect from 22nd October, 2014, till payment/deposit.

9. Petition is disposed of in aforesaid terms. Interim order, dated 13th December, 2021, passed in this Revision Petition No.83 of 2021 and CMP No. 14832 of 2021 also stands vacated in above terms. The Commissioner is directed to proceed further accordingly. No order as to costs.