

ORDER BELOW EXHIBIT- 9**IN****EXECUTION NO. 88 OF 2024.**

Perused the application and say. Heard.

2. The J.D., the New India Assurance Co. Ltd. has filed this application informing the Tribunal that tax of Rs. 36,860/- has been deducted at source (TDS) and prayed to dispose of the execution proceeding, accordingly. The TDS Certificate is enclosed with the application.

3. The D.H., original claimants have seriously objected the application contending that they had preferred F. A. No. 664/2014 before the Hon'ble Bombay High Court challenging the Judgment and Award passed by the Tribunal. The said appeal came to be allowed in part directing the opposite party and the Insurer to pay additional compensation of Rs. 1,70,000/- with interest @ 7.5% p.a. from the date of filing till its realization. The claimants have filed the execution proceeding for recovery of the enhanced compensation. The Insurer deposited the said compensation amount, however, deducted tax at source (TDS). According to them, the Insurer shall deposit the entire amount.

4. In the case of the New India Assurance Co. Ltd. Mumbai vs. Hussain Babulal Shaikh And Ors., [Writ Petition No. 1770 of 2015, decided on 15.11.2026], the Hon'ble Bombay High Court has held in paragraph No. 16 that, "Resultantly the action of the Petitioner deducting tax at source on the interest awarded by the Tribunal, without following the mandate of the

Division Bench of this Court in Gauri Deepak Patel & Ors. Vs. New India Assurance Co. Ltd. & Anr. (supra) was wholly unjustified and illegal. The Petitioner should have properly advised itself before deducting the tax at source on the interest amount following the law laid down in the case of Gauri Deepak Patel & Ors. Vs. New India Assurance Co. Ltd. & Anr. (supra).”

5. Needless to mention, the Motor Vehicles Act is a benevolent legislation enacted for compensating the victims of the motor vehicle accidents. It is a welfare legislation. It has been observed that when there is conflict between the welfare legislation and a taxation legislation then the social legislation should prevail since it subserves larger public interest. It has also been observed that the compensation awarded or the interest accruing therein from the compensation that has been awarded by the Motor Accident Claims Tribunal cannot be subjected to TDS and the same cannot be insisted to be paid to the Tax Authorities since the compensation and the interest awarded therein does not fall under the terms ‘income’ as defined under the Income Tax Act, 1961. In view of this, TDS cannot be deducted and the same shall also be deposited in addition to the amount that has already been deposited.

6. In view of above, the execution proceeding cannot be disposed of and the application to that extent is rejected. The D.H., claimants to take necessary steps.

Date: 22.01.2026.

Sd/-
Smt. R. R. Patwari,
Member, C.R.No.5,
MACT, Mumbai.