



**ORDER BELOW EXH. 8 IN MACP DARKHAST**  
**NO. 15/2024**  
**Nitin Gaikwad Vs. Balasaheb Gaikwad and others**  
**(CNR No.MHPU140041692024)**

By this application, Decree Holder has prayed to issue attachment warrant to seize movables in the office of J.D.No.2-Insurance Company for recovery of Award amount balance of Rs. 65,300/-.

2] Say filed by the Insurer/J.D.No.2 is that they have deposited the Award amount of Rs. 5,43,486/- including interest by deducting TDS on interest as per the provisions of The Income Tax Act. The D.H. has not submitted PAN Card requiring to apply higher rate for TDS. It is contended that D.H. may be directed to submit PAN Card, so that TDS amount will be shown against the name of applicant.

3] D.H. contended that J.D.No.4 being Insurer-Tata AIG Insurance had deposited the share of compensation to be paid by them of Rs.5,42,074/- without deducting TDS, and therefore, attachment warrant may be issued against J.D.No.2 for Rs.65,300/-.

4] Ld. Advocate for D.H. relied on *Writ Petition No.496/2021 between Balkrishna Mhaske Vs. State, decided on 08.02.2023*, in which, referring the case of *Rupesh Shah Vs. U.O.I., W.P.No.2902 of 2016, decided on 08.08.2019* by Hon'ble Supreme Court, it is ordered that the Insurance Company to pay the TDS amount deducted on interest component of the claim

amount, uptill the date of the High Court Judgment alongwith 9% interest. Hon'ble Supreme Court held in *Rupesh Shah's* case (supra) at Para no.57, as under:

*57. We, therefore, hold that the interest awarded in the motor accident claim cases from the date of the Claim Petition till the passing of the award or in case of Appeal, till the judgment of the High Court in such Appeal, would not be exigible to tax, not being an income. This position would not change on account of clause (b) of section 145A of the Act as it stood at the relevant time amended by Finance Act, 2009 which provision now finds place in sub-section (1) of section 145B of the Act. Neither clause (b) of section 145A, as it stood at the relevant time, nor clause (viii) of sub-section (2) of section 56 of the Act make the interest chargeable to tax whether such interest is income of the recipient or not. Section 194A of the Act is only a provision for deduction of tax at source. Any provision for deduction of tax at source in the said section would not govern the taxability of the receipt. The question of deduction of tax at source would arise only if the payment is in the nature of income of the payee.*

Ld. Advocate for D.H. on the same matter further relied on *Gauri Deepak Patel Vs. New India Assurance, 2010(5) Bom.C.R. 249.*

5] As per Award in claim petition, total amount of Rs.6,18,194/- was directed to be paid in equal share with interest by Insurance Companies being Respondent Nos. 2 and 4. Accordingly, as per D.H., J.D./Respondent No.4-Insurer has deposited the amount of their share as per Award to the tune of Rs.5,42,074/-, however, present Respondent No.2/J.D.-Insurer has deposited Rs.4,96,608/-, when they were liable to pay Rs.

65,300/-. As per said J.D., for non-submission of PAN Card, the TDS amount is deducted from the payment to J.D. In view of observations by Hon'ble Apex Court in *Rupesh Shah's case (supra)* referred to by Hon'ble High Court in *Balkrishna Mhaske's case (supra)*, the interest till the Judgment of Appellate Court would not be exigible to tax not being income. Therefore, in view of the observations (*supra*), the following order is passed:

### **ORDER**

Judgment Debtor No.2 shall pay amount of the difference claimed by Decree Holder, so deducted by them, within one month, from the date of order.

Date : 27.11.2025

Member,  
M.A.C.T., Baramati.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of Stenographer	:	V.B.Lalsangi Stenographer (G-1)
Court Name	:	Member, M.A.C.T. Baramati, Dist. Pune.
Date of Order	:	27.11.2025
Order signed by Presiding Officer	:	27.11.2025
Order uploaded on	:	27.11.2025