

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 324/2020

1. Smt. Suraj Kaur W/o Late Sh. Sultan Singh, aged about 56 Years, R/o Chirunim, Teh. Mundawar, Dist. Alwar (Raj)
2. Sh. Kanwar Pal Singh S/o Late Sh. Sultan Singh, aged about 31 Years, R/o Chirunim, Teh. Mundawar, Dist. Alwar (Raj)
3. Sh. Sandeep S/o Late Sh. Sultan Singh, aged about 27 Years, R/o Chirunim, Teh. Mundawar, Dist. Alwar (Raj)

----Appellants

Versus

1. Suresh Kumar S/o Kamal Singh, R/o Chelawas, P.S. Kanina, Dist. Mahendragarh (Haryana) (Driver Of Vehicle No. HR 55 F 7572)
2. Smt. Laduri W/o Leela Ram, R/o Rathiwas, Distt. Gurgaon, At Present R/o Near Govt. Plot Rajpura, Dharuheda, Dist. Rewari (Haryana) (Owner of Vehicle No. HR 55 F 7572)
3. IFFCO Tokyo General Insurance Company Ltd., Office At IFFCO Tokyo Tower, Plot No. 3, Sector 29, Gurgaon (Haryana) Through Its Regional Manager (Insurer of Vehicle No. HR 55 F 7572)

----Respondents

For Appellant(s)	:	Mr. Atul Sharma with Ms. Neelam Choudhary
For Respondent(s)	:	Mr. Virendra Agarwal with Ms. Anjali Assat Mr. Amit Agarwal

JUSTICE ANOOP KUMAR DHAND

Order

12/02/2026

1. By way of filing the instant appeal, a challenge has been led to the impugned judgment and award dated 11.04.2019 passed by the Motor Accident Claims Tribunal, Kishangarhbas Alwar (for

short, 'the Tribunal') in MAC Case No. 196/2008 by which the additional enhanced compensation of Rs. 3,01,178/- has been awarded to the claimants – appellants (for short, 'the claimants') and a direction has been issued for deduction of TDS amounting to Rs.1,90,150/- from the additional enhanced compensation and a further direction has been issued to the respondent-Insurance Company to deposit the aforesaid TDS amount with the Income Tax Department.

2. Feeling aggrieved and dissatisfied by the aforesaid directions issued by the Tribunal, the claimants have approached this Court seeking appropriate directions.

3. Counsel for the claimants submits that on 19.10.2007 the deceased Sultan Singh was travelling to his duty point in a tempo bearing No. HR-55-F-7572 but the driver of the said tempo drove the vehicle in a rash and negligent manner due to which the deceased sustained several heinous injuries and died during treatment on the same day. Counsel submits that a claim petition under Section 166 of the Motor Vehicle Act, 1988 (for short, 'the Act of 1988') was submitted before the Tribunal seeking compensation and the said claim petition was partly allowed vide judgment and award dated 17.02.2012 and a direction was issued to the respondent-Insurance Company to pay compensation of Rs.16,70,432/- to the claimants.

4. Aggrieved by the aforesaid judgment and award, the claimants approached this Court by way of filing Civil Misc. Appeal No. 2074/2012 and in the said appeal the matter was remitted to

the Tribunal and thereafter, the Tribunal has decided the claim petition afresh vide impugned judgment dated 11.04.2019 and an additional amount of Rs. 3,01,178/- has been awarded to the claimants and a further direction has been issued to the respondent-Insurance Company to deduct a sum of Rs. 1,90,150/- as TDS and deposit the same with the Income Tax Department while the rest of the amount has been ordered to be paid to the claimants along with interest @ 6% p.a. Counsel submits that the aforesaid direction should not have been issued and if at all, the Tribunal was of the view that certain TDS is required to be deposited at the instance of the claimants with the Income Tax Department, then this amount should have been given to the claimants. Counsel submits that the claimants could have deposited this amount with the Income Tax Department through PAN Card, hence under these circumstances, interference of this Court is warranted.

5. He further argued that the claimants are entitled to get interest on the full additional amount i.e. 3,01,178/- and not only on the remaining amount after deduction of TDS. Lastly, he argued that when the earlier award was passed, the Tribunal has granted interest @ 9% p.a. but this time, the Tribunal has granted interest @6% p.a only. Hence under these circumstances, the rate of interest is liable to be enhanced by this Court.

6. Per contra, counsel for the respondent-Insurance Company oppose the arguments raised by counsel for the claimants and submits that it is settled proposition of law that whenever any amount of compensation is awarded and the same is taxable then

under such circumstances, the Insurance Company is required to deposit the TDS of such taxable amount with the Income Tax Department in terms of Section 194A(3)(ix) of the Income Tax Act, 1961. This view has been settled by the Co-ordinate Bench of this Court in the case of **Oriental Insurance Company Limited Vs. Smt. Zarina and Ors.** while deciding S.B. Civil Misc. Appeal No. 9773/2006 on 06.03.2014. Counsel submits that under these circumstances, the Tribunal has not committed any error in passing the impugned judgment and award dated 11.04.2019, hence, interference of this Court is not warranted.

7. Lastly, he argued that once compliance of the earlier judgment and award of the Tribunal was done by the Insurance Company within the stipulated time, then under such circumstances, the rate of interest @ 6% p.a. decided by the Tribunal was justified while passing the subsequent award dated 11.04.2019.

8. Heard and considered the submissions made at bar and perused the material available on record.

9. The issue involved in this appeal is set at rest by the Co-ordinate Bench of this Court in the case of Smt. **Zarina** (Supra) after following the judgment passed by the Gujrat High Court in the case of **United India Insurance Company Limited Vs. Mitaben Dharmeshbhai Shah and Ors.** reported in **2004 ACJ 1996**, and it has taken the view that the Insurance Company is liable to deduct the amount of TDS on the amount of interest. The Insurance Company is under an obligation to comply with the statutory provisions of law while making payment of such amount

which is taxable in the hands of the claimants as per Section 193A(3)(ix) of the Income Tax Act, 1961 and the liability of depositing this amount with the Income Tax Department has been fastened upon the Insurance Company. The claimants after obtaining certificate under Form 16A of the Income Tax Act can pray for refund, in case he does not have any income or his income is not adequate to be taxable and in case, the claimant has any taxable income, then the same needs to be accounted for in accordance with the provisions of the Income Tax Act.

10. In the considered opinion of this Court, the Tribunal has not committed any error in passing such directions to the Insurance Company to deposit a sum of Rs. 1,90,150/- with the Income Tax Department as TDS and in case, the claimants feel that they do not have any taxable income then they can approach the Income Tax Department for claiming the refund of the same as per the provisions of the Income Tax Act.

11. Now, this Court proceeds to deal with the arguments raised by counsel for the claimants. This Court finds substance in the arguments raised by counsel for the claimants that the claimants are entitled to get interest upon the entire additional amount of compensation as awarded by the Tribunal i.e. Rs. 3,01,178/- from the date of passing of the award i.e. 11.04.2019. This Court finds no substance in the arguments raised by counsel for the claimants that they are entitled to get interest @ 9 % p.a. It is at the discretion of the Tribunal to grant interest to the claimants or not. The claimants cannot claim any particular rate of interest as a matter of right.

12. With the aforesaid observations and directions, the present appeal stands disposed of. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

Ashu/19