REPORTABLE

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

Judgment Reserved on: 01.10.2026

Judgment delivered on: 18.11.2026

Judgment (Full) uploaded on: 18.11.2026

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D.B. Civil Reference No. 1/2022

CNR: RJHC020173552022 | URN: CREF / 2U / 2022

1. Satya Narayan S/o Shri Kharbuja, aged 53 years, R/o Village Theekariya Kalan, District Bundi, Rajasthan.
2. Dhapu Bai W/o Shri Satya Narayan, Aged About 54 Years, R/o Village Theekariya Kalan District Bundi, Rajasthan.
3. Kumari Ritika D/o Late Shri Hemraj, Aged About 11 Years, minor through her guardian and grand father Shri Satya Narayan Aged 53 Years R/o Village Theekariya Kalan District Bundi, Rajasthan.

----Petitioners

Versus

1. The H.D.F.C Irgo General Insurance Company Limited, Raman House, H.T. Parekh Marg, 159, Bac Way Reclamation, Mumbai, Having Its Branch Office At Kota (Raj.) (Ins Co.)
2. Akhtar Khan Son Of Shri Kanni Khan Muslman, R/o Theekari, Dist. Alwar (Driver.)
3. Jitendra Singh Akherjot, Son Of Shri Prahlad Singh Rajput, R/o 2 B, Naya Kheda, Vivekanand Colony, Jaipur. (Owner)
4. Principal Chief Commissioner, Income Tax Department Statue Circle , Jaipur.

----Respondents

For Petitioner(s) : Mr. Rahul Joshi
Mr. Ashish Saxena with
Mr. Harshit Mittal
Mr. Sandeep Mathur with
Mr. Vinay Mathur
Mr. Daksh Pareek
Ms. Manasvita Sharma
Mr. Naman Maheshwari
Mr. Vishwas Fatehpuria

For Respondent(s) : Mr. Virendra Agrawal with
Mr. Prakhar Agrawal
Mr. Shantanu Sharma with

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Mr. Parth Vashistha
Mr. Sandeep Pathak
Mr. Nitin Jain

FULL BENCH

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE SAMEER JAIN
HON'BLE MR. JUSTICE BHUWAN GOYAL

C.A.V. JUDGMENT

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Sanjay K. Agrawal, CJ

For the sake of convenience, this judgment is divided in following parts:

S. No	Part	Particulars	Page Nos.
1.	Part-I	Facts leading to the Larger Bench on question of law	3
2.	Part-II	Proceedings before the Supreme Court	4
3.	Part-III	The Statutory Framework (Motor Vehicles Act and Income Tax Act, 1961)	5
4.	Part-IV	The nature of Motor Accident Compensation: Restitution, Not Income	7
5.	Part-V	Interest under Section 171 forms an integral, inseparable and inalienable part of the compensation:	11
6.	Part-VI	Such interest is merely compensatory and is not 'interest' in common parlance or within section 2(28A) of the Income Tax Act, 1961.	22
7.	Part-VII	Sections 56(2)(viii), 145B(1) and 194A do not create a charge on a receipt which is not income	31
8.	Part-VIII	The decisions of this Court and other decisions on the TDS machinery	35
9.	Part-IX	The Income Tax Act, 2025 and the exemption inserted by the Finance Act, 2026	37
10.	Part-X	Summary of propositions and answer to the referred question	40

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PART-I: Facts leading to the Larger Bench on question of law

1. The Petitioners are claimants in a motor accident claim. Their claim petition was allowed by the learned Motor Accident Claims Tribunal, which awarded compensation together with simple interest under Section 171 of the Motor Vehicles Act, 1988 (hereinafter called as "the MV Act"). At the time of payment of the awarded amount, the Respondent–Insurance Company deducted tax at source on the interest component. The Petitioners contend that the interest so awarded is not income exigible to tax and that the Insurance Company was not required to deduct tax at source therefrom.

2. A Division Bench comprising of Hon'ble the Chief Justice and Uma Shanker Vyas, J of this Court, by order dated 18.02.2022, noticing that a coordinate Division Bench of this Court in **Smt. Sharda Pareek Vs. Assistant Commissioner of Income Tax & Anr.**[1] held such interest to be taxable, whereas the Bombay High Court in ***Rupesh Rashmikant Shah v. Union of India & Ors***[2] had held that interest up to the date of the award is not exigible to tax and that the Madras High Court in the case of ***Cholamandalam General Insurance Co. Ltd v. M. Ashok Kumar and Ors.***[3] had also referred the question to a Larger Bench. The said Bench in view of the conflicting view on the issue referred the following question of law:

> *"Whether the interest payable on motor accident claim compensation is exigible to tax and resultantly is the insurance company required to deduct tax at source while making such payment to the claimants?"*

1 (2019) 416 ITR 441 (Raj)
2 (2019) 417 ITR 169 (Bom)
3 (2020) SCC OnLine Madras 1011

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3. Pursuant to the order dated 18.02.2022, Hon'ble the Chief Justice has constituted this Full Bench. This is how this reference is before us for consideration.

Part-II: Proceedings before the Supreme Court

4. When the matter was posted before this Court, the Bar at large, represented by various stakeholders, illustratively Insurance Companies, Standing Counsels for Income Tax Departments, Assessees and the claimants, submitted that the matter needs early adjudication for following reasons:

(i) the matter pertains to motor accident claim compensation;

(ii) the applicants/litigants are suffering at large on account of matter being pending for a long period of time ever since 2018

(iii) there being no prohibition by the Supreme Court in Special Leave to Appeal (C) Nos.20629-20631/2017- **Sharda Pareek Vs. Assistant Commissioner of Income Tax & Anr.**, leave has been granted by the Supreme Court vide order dated 11.03.2019.

(iv) the Bench should answer the reference in the spirit of Rule 59 of the Rules of the High Court of Rajasthan, 1952, which is reference jurisdiction of this Court.

(v) the Legislature in its wisdom, w.e.f. 01.04.2026, to put an end to controversy on the above subject matter, vide Income Tax Act, 2025 has exempted interest awarded under the Motor Vehicles Act, 1988 to an individual or his legal heir by a new entry in Schedule III at Serial no.38 B read with Section 11 of the Income Tax Act, 2025. It also provides that no tax shall be deducted at source on such interest credited or paid to an individual under Section

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393(4) of the Income Tax Act, 2025 (Stable, Sl. No.7, as amended).

5. In the light of the earnest request of the Bar members, the prayer made by the suffering parties and to put certainty in the taxation matters, all the members of this Bench have drawn consensus that the issue needs expeditious adjudication, which will be subject to appellate jurisdiction of the Supreme Court.

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PART-III: The Statutory Framework (Motor Vehicles Act, 1988 and Income Tax Act, 1961)

6. Motor Vehicles Act, 1988. Section 166 of the MV Act enables the injured person or the legal representatives of a deceased victim to apply for compensation. Section 168(1) of the MV Act requires the Claims Tribunal, after holding an inquiry, to make an award "determining the amount of compensation which appears to it to be just". Section 171 of the MV Act empowers the Tribunal, where it allows a claim, to direct that "in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify". Section 173 of the MV Act provides for an appeal against the award, and Section 174 of the MV Act provides for recovery of "any amount ... due ... under an award" as an arrear of land revenue. The interest is thus quantified within, and recovered as part of, the very award by which just compensation is determined.

7. Income Tax Act, 1961 (hereinafter referred to as "the 1961 Act"). Section 4 of the 1961 Act specifies that the charge is on "total income". Section 2(24) of the 1961 Act contains an inclusive definition of "income" which does not specifically include either

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motor accident compensation or interest forming part thereof. Section 2(28A) of the 1961 Act defines "interest" as interest payable in any manner "in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation)". Section 56(1) of the 1961 Act charges "income of every kind" not chargeable under any other head as "Income from other sources". The Finance (No.2) Act, 2009 (w.e.f. 01.04.2010) inserted Section 145A(b) (now Section 145B(1)) of the 1961 Act, deeming interest received on compensation or enhanced compensation to be income of the year of receipt; Section 56(2)(viii) of the 1961 Act, classifying "income by way of interest received on compensation or on enhanced compensation" under the residuary head; and Section 57(iv) of the 1961 Act, allowing a deduction of fifty per cent of such income. As per the legislative intendment, these amendments were made "with a view to mitigating the hardships" caused by ***Rama Bai v. Commissioner of Income Tax, A.P., Hyderabad & Ors.***[4], which required arrears of interest on delayed or enhanced compensation in land acquisition cases to be taxed on 'accrual' basis.

8. Section 194A(1) requires deduction of tax at source on "income by way of interest" other than interest on securities. Clause (ix) of Section 194A(3), inserted by the Finance Act, 2003 w.e.f. 01.06.2003, excluded interest on compensation awarded by the Motor Accidents Claims Tribunal not exceeding Rs.50,000/- in a financial year; by the Finance Act, 2015 (w.e.f. 01.06.2015) it was substituted by clauses (ix) (no TDS on credit of such interest) and (ixa) (no TDS on payment where the aggregate paid during the financial year does not exceed Rs.50,000/-).

4 (1990) 181 ITR 400 (SC)

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9. Income Tax Act, 2025 (hereinafter referred to as "the 2025 Act"), coming into force from 01/04/2026, contains corresponding provisions as follows: Section 92(1) and 92(2)(i) (to Sections 56(1) and 56(2)(viii)); Section 278(1) (to Section 145B(1)); and Section 393 (to Section 194A). Further, the Finance Act, 2026 has amended Schedule III [TABLE : Sl. No. 38B] (read with Section 11) to unconditionally exempt, in the case of an individual or his legal heir, any income in the nature of interest under the MV Act, and has amended item (iv) in Section 393(4) so that no tax is to be deducted at source on interest on compensation awarded by a Motor Accidents Claims Tribunal to an individual. These are examined in Part VIII.

PART-IV: The nature of Motor Accident Compensation: Restitution, Not Income

10. The starting point is the nature of the principal sum. Compensation under the MV Act is awarded on the principle of restitutio in integrum, to place the victim or his dependants, so far as money can, in the position in which they would have been but for the accident. The Supreme Court in the matter of ***General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Susamma Thomas (Mrs.) & Ors.***[5], explained the measure of damages thus:

> "8. The measure of damage is the pecuniary loss suffered and is likely to be suffered by each dependent. Thus "except where there is express statutory direction to the contrary, the damages to be awarded to a dependent of a deceased person under the Fatal Accidents Acts must take into account any pecuniary benefit accruing to that dependent in consequence of the death of the deceased. It is the net loss on balance which constitutes the measure of damages. …"

5 (1994) 2 SCC 176

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> 9. The assessment of damages to compensate the dependants is beset with difficulties because from the nature of things, it has to take into account many imponderables, e.g., the life expectancy of the deceased and the dependants, the amount that the deceased would have earned during the remainder of his life, the amount that he would have contributed to the dependants during that period, the chances that the deceased may not have lived or the dependants may not live up to the estimated remaining period of their life expectancy, the chances that the deceased might have got better employment or income or might have lost his employment or income altogether."

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11. Most recently in ***Shishu Pal & Ors. Vs. Surjeet & Ors.***[6], the Supreme Court reiterated as under:

> "7. … Although it is never possible to fully compensate for the loss of a person who has been an integral part of a person's family, the idea of 'just and fair' compensation requires that an amount of money be paid to the claimants that would, as far as possible, place them in a position as if the unfortunate incident of the death of their loved one had not taken place. For whatever reason, when this takes twenty years, the suffering is only compounded further."

12. The Division Bench of the Himachal Pradesh High Court in **Court on its own Motion v. H.P. State Co-operative Bank Ltd.**[7], held as under:

> "13. While going through the said provisions of law, one comes to the inescapable conclusion that the mandate of the said provisions does not apply to the accident claim cases and the compensation awarded under the Motor Vehicles Act cannot be said to be taxable income. The compensation is awarded in lieu of death of a person or bodily injury suffered in a vehicular accident, which is damage and not income.
>
> 14. Chapters X and XI of the Motor Vehicles Act, 1988 provides for grant of compensation to the victims of a vehicular accident. The Motor Vehicles Act has undergone a sea change and the purpose of granting compensation under the Motor Vehicles Act is to ameliorate the sufferings of the victims so that they may be saved from social evils and starvation, and that the victims get some sort of help as early as possible. It is just to save them from sufferings, agony and to rehabilitate them. We wonder how and under what

6 2026 SCC OnLine SC 1114
7 (2014) 52 taxmann.com 151 (HP)

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provisions of law the Income Tax Authorities have treated the amount awarded or interest accrued on term deposits made in Motor Accident Claims cases as income. Therefore, the said Circular is against the concept and provisions referred to hereinabove and runs contrary to the mandate of granting compensation."

13. The Madras High Court in ***The Managing Director, Tamil Nadu State Transport Corporation (Salem) Ltd. v. Chinnadurai***[8], observed as under:

"13. The question is whether the provisions of the Income-tax Act 1961, and more specifically, whether the compensation awarded by the Motor Accident Claims Tribunal to the victim can be classified as a taxable income under the Income Tax law?. The answer to this question in the opinion of this Court is in the negative. Compensation cannot be categorized or even described as income as it has already been stated that the intention of the legislature in awarding compensation to the victims of Motor Accident cases is to restitute them and rehabilitate them."

14. The Karnataka High Court, which had earlier in ***Oriental Insurance Co. Ltd. v. Chennabasavaiah***[9] left the claimant to seek a refund of the TDS, has since, by its order dated 09/08/2018 in MFA No. 103954 of 2017, held that compensation for injuries and the interest thereon cannot be termed income. That order was followed in W.P. No. 100887 of 2022 and most recently in ***Smt. B.L. Chudamani v. The Deputy Director of Income Tax, Centralized Processing Center & Ors.***[10], where the compensation awarded to the claimant for the death of her son in a road accident had been enhanced in appeal from Rs.12,22,400/-to Rs.46,16,100/- and a sum of Rs.2,52,379/- had been deducted as tax. The writ petition was allowed with liberty to the claimant to apply to the jurisdictional Assessing Officer for refund, to be decided

8 (2016) 385 ITR 656 (Madras)
9 W.P. No.49878/2012, dt. 18.02.2015
10 Neutral Citation No.2026:KHC:39278

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in the light of the order dated 09/08/2018. The Court recorded, and extracted the reasoning of the said order, thus:

> "3. This Court, referring to Section 194A of the Income Tax Act, 1961 [for short, 'the Act'], has opined that the compensation for the injuries payable by the wrongdoer with interest on such compensation cannot be termed as 'income' and the concerned would be at liberty to seek refund from the competent authority. …"
>
> "7. The very language of Section 194A of the Act shows that the tax is deductible if payment is made as income by way of interest. Whether the compensation awarded for the injuries to a person payable by the wrong doer and the interest accrued thereon on such compensation can be termed as income is the question.
>
> 8. In this regard, the Hon'ble Supreme Court in Haryana Urban Development Autority Vs. Dev Dutt Gandhi, (2005) 9 SCC 497, has held that where the amounts are being directed to be paid as compensation for mental harassment and agony and failure of public duty, are not income and there is no question of deduction of TDS from that."

15. That the Division Bench of the Gujarat High Court in ***The Oriental Insurance Co. Ltd. v. Chief Commissioner of Income Tax (TDS)[11],*** held as under:

> "56. We are of the view that compensation under the award of the MACT is not income. The expression "income" used in the Entry 82 of List I of Seventh Schedule to the Constitution can be given widest meaning. Under section 2(24), the definition is inclusive and not exhaustive. In the absence of any express provision to the contrary, income can be held to refer to something earned. What is received as compensation for loss in one or the other form may not be income."
>
> 66. In the context of compensation received under the Motor Vehicles Act, the compensation is either on account of loss of earning capacity on account of death or injury or on account of pain and suffering. Such receipt is not by way of earning or profit. Award of compensation is on the principle of restitution to place the claimant in the same position in which he would have been had the loss of life or injury not been suffered…."

11 (2022) 445 ITR 300 (Guj)

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16. The principle that a sum paid to make good the destruction of a source of income is not itself income, even if measured by the income lost, was approved by the Supreme Court in **Senairam Doongarmall v. *Commissioner of Income Tax, Assam***[12], quoting **Sutherland v. Commissioners of Inland Revenue**[13]**,** as under:

> "Now it is quite clear that if a source of income is destroyed by the exercise of the paramount right ... and compensation is paid for it, that that is not income, although the amount of compensation is the same sum as the total of the income that has been lost."

17. The compensation for loss of dependency or loss of earning capacity in a motor accident claim is precisely a compensation for destruction of the source of income viz. the life or the earning capacity of the victim. A capital receipt of this nature is outside the ambit of income unless specifically brought within it **Shrimant Padmaraje R. Kadambande v. Commissioner of Income Tax**[14]. Where the Legislature has intended to tax compensation, it has done so expressly, for instance, Section 28(ii) and Section 56(2)(xi) of the 1961 Act (now Section 92(2)(j) of the 2025 Act). There is no provision bringing motor accident compensation, or the interest which forms part of it, within the charge of income tax.

PART-V: Interest under Section 171 forms an integral, inseparable and inalienable part of the compensation:

A. The text and structure of the MV Act

18. The text of Section 171 of the MV Act itself evinces the dependent and accessory character of the interest. The power to award interest arises only "where any Claims Tribunal allows a claim

12 (1961) 42 ITR 392 (SC)
13 (1918) 12 TC 63
14 (1992) 195 ITR 877 (SC)

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for compensation"; the interest is "in addition to the amount of compensation", that is, it is calculated upon, and added/supplemented to, the compensation determined under Section 168; its rate and starting date are fixed by the Tribunal in the award itself; and it cannot run from a date earlier than the making of the claim. The interest has no existence independent of or dehors the compensation: if no compensation is awarded, no interest can be awarded; if the compensation is reduced, set aside or enhanced in appeal, the interest abates or is enhanced consequential to it. The maxim accessorium non ducit sed sequitur suum principale i.e. the accessory does not lead but follows its principal applies with full force.

19. The MV Act treats the award, comprising compensation and interest, as a single composite unit. The Tribunal makes one award under Section 168; an appeal under Section 173 lies against that award; and Section 174 enables recovery of "any amount ... due ... under an award" as a composite sum. The claimant has no separate cause of action for interest, cannot sue for it independently of the claim for compensation, and cannot deal with it apart from the award. In this sense the interest is **inalienable** from the compensation, it cannot be severed, separately asserted or separately enforced, and **inseparable** from it, being computed upon it and existing only by reason of it.

20. The Supreme Court has held that the Tribunal must consider interest as part of its adjudication even without a specific plea, because interest is "consequential in the eyes of law". In **Abati**

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Bezbaruah v. Deputy Director General, Geological Survey of India & Anr.[15], it was elucidated as under:

> "18. … The rate of interest must be just and reasonable depending upon the facts and circumstances of each case and taking all relevant factors including inflation, change of economy, policy being adopted by the Reserve Bank of India from time to time, how long the case is pending, permanent injuries suffered by the victim, enormity of suffering, loss of future income, loss of enjoyment of life, etc., into consideration. No rate of interest is fixed under section 171 of the Motor Vehicles Act, 1988. Varying rates of interest are being awarded by Tribunals, High Courts and the Apex court. Interest can be granted even if claimant does not specifically plead for the same as it is consequential in the eyes of law. Interest is compensation for forbearance or detention of money and that interest being awarded to a party only for being kept out of money which ought to have been paid to him. …"

21. The factors which the Supreme Court directs the Tribunal to weigh in fixing the rate of interest — permanent injuries suffered by the victim, enormity of suffering, loss of future income, loss of enjoyment of life, are the very heads under which compensation is assessed. The interest is thus calibrated by reference to the injury itself. It is not a market return on a sum of money; it is a further element in the measure of the loss.

B. The Supreme Court on the nature of interest under Section 171 of the MV Act

22. In **Dharampal & Ors. v. U.P. State Road Transport Corporation[16]**, the Supreme Court, relying upon **National Insurance Co. Ltd. v. Keshav Bahadur & Ors.[17]**, held as under:–

> "9. In National Insurance Co. Ltd. v. Keshav Bahadur [(2004) 2 SCC 370] this court has held that the provisions require payment of interest in addition to compensation already determined. Even though the expression "may" is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and

15 (2003) 3 SCC 148
16 (2008) 12 SCC 208
17 (2004) 2 SCC 370

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circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules."

"10. Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest…."

23. In **Kaushnuma Begum (Smt.) v. New India Assurance Co. Ltd. & Ors.**[18] (para 24), followed in **United India Insurance Co. Ltd. v. Patricia Jean Mahajan & Ors.**[19], the Supreme Court fixed the rate of interest under Section 171 with reference to the changing economy and bank rates, recognising that the interest serves to preserve the value of the compensation which ought to have been paid to the claimant from the date of the claim. The Supreme Court thus consistently describes the interest as compensation, compensation for the claimant being kept out of the very compensation to which he was entitled, and as part of the duty of the Tribunal in determining a just award.

24. The reason why interest for the period of adjudication is an integral part of just compensation lies in the method of computation itself. The Supreme Court in **Sarla Verma (Smt.) v. Delhi Transport Corporation & Ors.**[20], froze the computation as on the date of the accident as under:

"46. In this case, the accident and death occurred in the year 1988. The award was made by the Tribunal in the year 1993. The High Court decided the appeal in 2007. The pendency of the claim proceedings and appeal for nearly two decades is a fortuitous circumstance and that will not entitle the appellants to rely upon the two pay revisions which took place in the course of the said two decades. If the claim petition filed in 1988 had been disposed of in the year 1988-89 itself and if the appeal had been decided by

18 (2001) 2 SCC 9
19 (2002) 6 SCC 281
20 (2009) 6 SCC 121

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> the High Court in the year 1989-90, then obviously the compensation would have been decided only with reference to the scale of pay applicable at the time of death and not with reference to any future revision in pay scales."

25. Since the claimant is denied the benefit of every subsequent rise in income, prices or the value of money while the claim is pending, the only instrument by which the Tribunal can render the compensation "just" on the date of the award is the award of interest for the period of adjudication. Further, in **Susamma Thomas** (supra) (Paras 16 & 17) the Supreme Court explained that the multiplier itself represents the number of years' purchase on which the loss of dependency is capitalised, on the footing that the claimant will draw interest and capital from the lump sum. The lump sum is thus computed on the assumption that it will be available to the claimant from the outset; the interest for the period of adjudication is what restores that assumption when the award comes years later. The interest is, therefore, part of the arithmetic of just compensation itself.

C. Rupesh Rashmikant Shah (supra)**: interest is part of, and an accretion to, the compensation**

26. The Division Bench of the Bombay High Court, after an exhaustive review of the Supreme Court judgments, expounded as under:

> "48. … The multiplier theory proceeds on the basis that with interest that may be earned on the compensation and a portion drawn from the capital, should be equivalent to what the deceased would have contributed to his family. At the end of the period, the capital should be completely utilised. It is, therefore, that while awarding compensation, though the Claims Tribunal awards future loss in praesenti, interest is awarded for the period between filing of the Claim Petition till passing of the award and, therefore, as held by the Supreme Court in the case of Abati Bezbaruah (supra) and Dharampal (supra), such interest is considered

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to be part of compensation, and accretion to the compensation since the same is awarded for the compensation which is ascertained with reference to an earlier date i.e., the date of accident. At the same time, courts have not approved granting interest on future expenditure."

"55. … Culmination of discussion in these judgments would be that such interest is compensatory in nature and will thus, form part of the compensation itself. Compensation is computed with reference to the date of accident. All calculations of multiplicand and multiplier are based on such reference point. But computation by the Tribunal takes time. If compensation is revised by the High Court it takes further time. Interest is awarded keeping in mind the rate of inflation. Effort thus is to award just compensation. Awarding interest for delayed computation of compensation is therefore integral part of this exercise."

"56. … The interest for the period between the filing of the claim petition and passing of the award thus, is for the period when the claimant for the first time approached the Claims Tribunal asking the Tribunal to assess and award compensation and the time consumed in disposing of the Claim Petition. … At the same time, as noted, the Courts do not award interest on future expenditure since the amount is being paid to the claimant for an expenditure which may be incurred at a later point of time. This dichotomy, thus, between awarding interest on future income while not awarding interest for future expenditure brings out the true character of the interest being awarded."

27. The "dichotomy" noticed by the Bombay High Court is decisive of the inseparability of the interest. If the interest were a return on money, it would be payable on every rupee of the award irrespective of the head. It is withheld on future expenditure, and allowed on future loss of income, only because it is an element in the measure of each particular head of loss. It cannot, therefore, be detached from the compensation and treated as a free-standing yield.

D. The Analogy of the land acquisition law: Interest which is an accretion to compensation is 'compensation

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28. The Supreme Court in **Commissioner of Income Tax, Faridabad v. Ghanshyam (HUF)**[21], drew a fundamental distinction between interest which is an accretion to the value of the property (Section 28 of the Land Acquisition Act, 1894) and interest for delay in payment of an amount already determined (Section 34), and held the former to be part of the compensation as under:

> "50. It is true that "interest" is not compensation. It is equally true that Section 45(5) of the 1961 Act refers to compensation. But as discussed hereinabove, we have to go by the provisions of the 1894 Act which awards "interest" both as an accretion in the value of the lands acquired and interest for undue delay. Interest under Section 28 unlike interest under Section 34 is an accretion to the value, hence it is a part of enhanced compensation or consideration which is not the case with interest under Section 34 of the 1894 Act. …"

> "55. It is important to note that compensation, including enhanced compensation/consideration under the 1894 Act, is based on the full value of property as on date of notification under Section 4 of that Act. When the Court/Tribunal directs payment of enhanced compensation under Section 23(1A), or Section 23(2) or under Section 28 of the 1894 Act it is on the basis that award of Collector or the Court, under reference, has not compensated the owner for the full value of the property as on date of notification."

29. The interest under Section 171 of the MV Act for the period of adjudication is precisely of species of Section 28 of Land Acquisition Act in so much as the compensation is fixed with reference to the date of the accident (as land compensation is fixed with reference to the date of the Section 4 notification), and the interest is awarded by the adjudicating forum itself because, without it, the claimant would not have been compensated for the full value of the loss. Applying the ratio decidendi in **Ghanshyam (HUF)** (supra), the Gujarat High Court in **Movaliya Bhikhubhai Balabhai v.**

21 (2009) 8 SCC 412

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Income-Tax-Officer (TDS) & Anr.[22]**,** held (as extracted in **Rupesh Rashmikant Shah** (supra), para 25) as under:

> "The upshot of the above discussion is that since interest under section 28 of the Act of 1894, partakes the character of compensation, it does not fall within the ambit of the expression "interest" as contemplated in section 145A of the Income-tax Act."

30. The Constitution Bench of the Supreme Court in **Sunder v. Union of India**[23]**,** similarly treated the "amount awarded" as the aggregate of every component computed under the statute (including solatium), rejecting a fragmented reading of the award. By parity, the award under Sections 168 and 171 of the MV Act is a single aggregate of compensation and the interest which accretes to it.

E. The High Courts on the inseparable character of MACT interest

31. The Gujarat High Court in **The Oriental Insurance Co. Ltd.** (supra) explained why the land acquisition amendments cannot be transposed to the MV Act as under:

> "48. The compensation received under the compulsory acquisition of land is in any case taxable under Section 45 as the Capital Gains and therefore, the issue under the Land Acquisition with regard to interest under Sections 28 and 34 i.e limited to the extent that the same would be taxable under Section 56(2)(viii) (Section 34 interest) or Section 45 the Capital Gains (Section 28 interest that is part of the compensation) and therefore, only the year of its taxability is decided by Section 145A(b) and not the taxability of interest on the compulsory acquisition of land. Whereas under the Motor Vehicles Act, the compensation itself is exempt. The nature of interest, therefore, would assume significance and cannot be given the same treatment as interest on compensation under the Land Acquisition Act and be taxed by operation of Section 145A(b)."

22 (2016) 388 ITR 343 (Guj)
23 (2001) 7 SCC 211

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> 74. Our final conclusion may be summarized as under: [a] The interest awarded by the Motor Accident Claim Tribunal u/s 171 of the Motor Vehicles Act 1988 is not taxable under the Income Tax Act, 1961. The interest awarded in the motor accident claim cases from the date of the Claim Petition till the passing of the award, or in the case of Appeal, till the judgment of the High Court in such appeal, would not be exigible to tax, not being an income. … [c] The Insurance Companies or the owners of the motor vehicles depositing the requisite amount in due compliance with the awards of the Motor Accident Claims Tribunals shall deposit the full amount with the Tribunal and shall not deduct tax u/s 194A of the Income Tax Act on the interest awarded by the Motor Accident Claims Tribunal."

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32. the Division Bench of the Allahabad High Court in **Commissioner of Income Tax Vs. Oriental Insurance Co. Ltd.**[24], held as under:

> "41. To our opinion, the award of compensation under motor accidents claims cannot be regarded as income. The award is in the form of compensation to the legal heirs for the loss of life of their bread earner. Hence the interest on such award also cannot be termed as income to the legal heirs of the deceased or the victim himself."

33. The Madhya Pradesh High Court in **Atar Singh Bhadouria v. The New India Insurance Company Limited**[25], after considering the aforesaid Supreme Court authorities and the judgments of the Bombay and Gujarat High Courts, held that interest awarded from the date of the claim petition till the award or appellate judgment is compensatory, forms part of the compensation and is not exigible to tax, and directed the amount deducted as TDS to be made over to the claimant.

34. The Division Bench of the Punjab & Haryana High Court in **Nirmal Devi @ Nirmal Verma v. Union of India & Anr.**[26], after considering **Rupesh Rashmikant Shah** (supra), the judgments of the Gujarat, Allahabad and Madras High Courts, and the earlier

24 (2012) 2011 Taxmann 369 (All)
25 Neutral Citation No.2025:MPHC-GWL:4322
26 Neutral Citation No.2023:PHHC:105557-DB

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decisions of that Court in **New India Assurance Co. Ltd. v. Savitri Devi** (CR No. 6784 of 2016, 04/04/2018), **National Insurance Co. Ltd. v. Janki (CR No. 6320 of 2016, 08/08/2019)** and **Drawing & Disbursing Officer Vs. Income tax Officer**[27], held as under:

> "7. … Needless to say here that the compensation under motor accident claims is given to the legal heirs of the deceased for loss of life of their bread earner or to the victim in case of permanent disablement or injuries. The recipients of such award might not even come within the ambit of Act, 1961 and that is why, there have been several pronouncements that award of compensation under motor accident claims cannot be regarded as income of the interest on such awards also cannot be termed as income to legal heirs of the deceased or to the victim himself. …"

> "8. In view of ratio of law as laid down in the above cited authorities, there is no hesitation to hold that the compensation awarded under MV Act by MACT or the interest on the said compensation amount cannot be termed as income. …"

35. In **Nirmal Devi** (supra) the claimant had suffered TDS of Rs.1,23,919/-and had, in addition, paid tax of Rs.2,13,631/- while filing her return for A.Y. 2019-20 by offering the interest to tax. The Revenue's objection that, having offered the interest to tax and availed of the TDS credit, she could not claim a refund (paras 2 and 4) did not find favour, and the Court directed refund (para 9) as under:

> "9. … Since the upshot of the discussion as made above is that no tax was exigible and could be deducted from the amount of interest awarded to the petitioner by MACT from the date of filing of claim petition till the date of passing of the award and interest awarded on enhanced amount of compensation by High Court in the appeal filed by the petitioner, till the judgment of the High Court, the same not being income, therefore, the tax on these amounts so deducted by the respondents is liable to be refunded to the petitioner. It is ordered accordingly. The writ petition stands allowed in these terms and the respondents are directed to refund the amount so deducted as tax to the petitioner within one month from the date of receipt of certified copy of this order. …"

27 IT Appeal No.495/2009 dt.30.03.2011

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36. The Division Bench of the Orissa High Court in **Smt. Kuni Sahoo & Ors. VS. Union of India & Ors.,**[28] after considering **Susamma Thomas** (supra), **Sarla Verma** (supra), **Reshma Kumari v. Madan Mohan & Anr.**[29], **Abati Bezbaruah**, **Oharampal** (supra) and **Rupesh Rashmikant Shah** (supra), held as under:

> "8.7 … The multiplier theory proceeds on the basis that with interest that may be earned on the compensation and a portion drawn from the capital should be equivalent to what the deceased would have contributed to his family. At the end of the period, the capital should be completely utilised. While awarding compensation, though the Claims Tribunal awards future loss in praesenti, interest is awarded for the period between filing of the application for claim till passing of the award for compensation."

> "10.2 Therefore, the interest awarded in the motor accident claim cases from the date of the application for claim 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, and such interest not being an income as such interest payable on account of delay in deposit of amount awarded shall not attract TDS under section 194A. The nature of such interest paid/credited to the petitioners does not fall within the ambit of definition of "interest" contained in Section 2(28A)."

F. An accretion takes the character of the principal

37. It is a settled principle that the character of a receipt received on account of delay is determined by the character of the principal transaction with which it is integrally connected. In **Commissioner of Income Tax, Gujarat v. Saurashtra Cement Ltd.**[30], liquidated damages received on account of delay in supply of plant and machinery were held to be a capital receipt, being directly and intrinsically connected with the procurement of a capital asset. By

28 (2023) 457 ITR 777 (Orissa)
29 (2013) 9 SCC 65
30 (2010) 11 SCC 84

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the same reasoning, interest awarded on account of the time taken to determine compensation for death or bodily injury partakes/assumes the character of that compensation only and is equally a non-income capital receipt.

38. The interest awarded under Section 171 of the MV Act for the period of adjudication is thus – (i) **integral** to the compensation, being part of the exercise of determining just compensation under Section 168; (ii) **inseparable** from it, being computed upon it, calibrated by the heads of loss, and existing only by reason of the award of compensation; and (iii) **inalienable** from it, in so much as it cannot be severed, neither can be independently claimed or enforced, and is recovered only as part of the amount due under the award. Thus, the interest awarded by MACT being an accretion to a sum (compensation) which is not exigible to income tax, being a capital receipt, as a corollary thereof, it is also not 'income'.

PART-VI: Such interest is merely compensatory and is not 'interest' in common parlance or within section 2(28A) of the Income Tax Act, 1961.

A. The meaning of 'interest' in common parlance

39. In its ordinary and commercial sense, "interest" is the return for the use of money lent or deposited, or the charge for forbearance in demanding money already due. The definition contained in Black's Law Dictionary, as noticed by the Supreme Court in **Kerala State Coastal Zone Management Authority Member Secretary Vs. Maradu Municipality & Ors.**[31], defines interest as under:

> "12. "Interest" as defined in Black's Law Dictionary is the compensation fixed by agreement or allowed by law for the use or detention of money, or for the loss of money

31 (2022) 8 SCC 240

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by one who is entitled to its use; especially, the amount owed to a lender in return for the use of the borrowed money. A person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name [Irrigation Deptt., State of Orissa v. G.C. Roy, (1992) 1 SCC 508]."

40. The Constitution Bench of the Supreme Court in **Central Bank of India v. Ravindra & Ors.**[32], (Para 37) explained thus:

"37.Black's Law Dictionary (7th Edn.) defines "interest" inter alia as the compensation fixed by agreement or allowed by law for the use or detention of money, or for the loss of money by one who is entitled to its use; especially, the amount owed to a lender in return for the use of the borrowed money. According to Stroud's Judicial Dictionary of Words And Phrases (5th Edn.) interest means, inter alia, compensation paid by the borrower to the lender for deprivation of the use of his money. In Secy., Irrigation Deptt., Govt. of Orissa v. G.C. Roy [(1992) 1 SCC 508] the Constitution Bench opined that a person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages … this is the principle of Section 34 of the Civil Procedure Code. In Sham Lal Narula (Dr) v. CIT [AIR 1964 SC 1878 : (1964) 7 SCR 668] this Court held that interest is paid for the deprivation of the use of the money. The essence of interest in the opinion of Lord Wright, in Riches v. Westminster Bank Ltd. [(1947) 1 All ER 469 : 1947 AC 390 (HL)] All ER at p. 472 is that it is a payment which becomes due because the creditor has not had his money at the due date. It may be regarded either as representing the profit he might have made if he had had the use of the money, or, conversely, the loss he suffered because he had not that use. The general idea is that he is entitled to compensation for the deprivation; the money due to the creditor was not paid, or, in other words, was withheld from him by the debtor after the time when payment should have been made, in breach of his legal rights, and interest was a compensation whether the compensation was liquidated under an agreement or statute. A Division Bench of the High Court of Punjab speaking through Tek Chand, J. in CIT v. Dr Sham Lal Narula [AIR 1963 Punj 411 : (1963) 50 ITR 513] thus articulated the concept of interest: (AIR p. 414, para 8)

"8. The words 'interest' and 'compensation' are sometimes used interchangeably and on other occasions they have distinct connotation. 'Interest' in general terms is the return or compensation for the use or retention by one person of a sum of money belonging to or owed to another. In its narrow sense, 'interest' is understood to

32 (2002) 1 SCC 367

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> mean the amount which one has contracted to pay for use of borrowed money. … In whatever category 'interest' in a particular case may be put, it is a consideration paid either for the use of money or for forbearance in demanding it, after it has fallen due, and thus, it is a charge for the use or forbearance of money. In this sense, it is a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money, belonging to another, or for the delay in paying money after it has become payable.""

41. The "interest" in its ordinary sense or as understood in common parlance thus presupposes two things: (i) money belonging to one person which is used or retained by another, and (ii) a sum which has fallen due or become payable. Neither is present in the case of interest awarded under Section 171 for the period of adjudication. The insurer has never had the use of any money belonging to the claimant, rather it never owed any money to the claimant; the claimant has neither lent nor deposited anything. And until the award, there is no sum due or payable at all: the claim is one for unliquidated damages. The Supreme Court in **Union of India v. Raman Iron Foundry**[33], held as under:

> "Now the law is well settled that a claim for unliquidated damages does not give rise to a debt until the liability is adjudicated and damages assessed by a decree or order of a Court or other adjudicatory authority. When there is a breach of contract, the party who commits the breach does not eo instanti incur any pecuniary obligation, nor does the party complaining of the breach becomes entitled to a debt due from the other party. … A claim for damages for breach of contract is, therefore, not a claim for a sum presently due and payable …"

42. The principle applies a fortiori to a claim in tort for damages for death or bodily injury. Until the Tribunal adjudicates the claim and assesses the compensation, no debt exists in respect of which interest in its ordinary sense could run. The amount described as "interest" for that period is not interest on a debt; it is a

33 (1974) 2 SCC 231

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component of the damages itself, intrinsically & inherently attached to or impregnated with damages themselves, quantified by applying a rate to the principal over the period of adjudication.

43. The nomenclature is not decisive. The Constitution Bench of the Supreme Court in the matter of **Secretary, Irrigation Department, Government of Orissa & Ors. Vs. G.C. Roy**[34](Para 43) expounded as under:–

> "(i) A person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages. …"

44. The Judgment of the Supreme Court in the matter of **Shamlal Narula Dr. v. Commissioner of Income Tax, Punjab, Jammu & Kashmir, Himachal Pradesh and Patiala** [35], itself confirms the distinction. The Supreme Court propounded that statutory interest under Section 34 of the Land Acquisition Act, 1894 is taxable only because, title having passed to the State on possession, the interest was paid for the State's use of money which already belonged to the owner; the Court expressly distinguished such interest from damages or compensation as under:–

> "9….This amount is not, therefore, compensation for the land acquired or for depriving the claimant of his right to possession, but is that paid to the claimant for the use of his money by the State. … But in case where title passes to the State, the statutory interest provided thereafter can only be regarded either as representing the profit which the owner of the land might have made if he had the use of the money or the loss suffered because he had not that use. In no sense of the term can it be described as damages or compensation for the owner's right to retain possession …"

34 (1992) 1 SCC 508
35 (1964) 53 ITR 151 (SC)

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45. The interest under Section 171 of the MV Act for the period of adjudication is the converse case: it is not paid for the use by the insurer of any money of the claimant, but is, in every sense of the term, part of the damages or compensation for death or bodily injury. On the reasoning of **Shamlal Narula** (supra) itself, it is not interest in its ordinary connotation or as understood in common parlance.

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B. The statutory definition in Section 2(28A) of the Income Tax Act, 1961

46. The 1961 Act does not leave the meaning of "interest" to common parlance alone. Section 2(28A) provides as under:

> "(28A) "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 utilised;"

47. The definition is anchored in two expressions, "moneys borrowed" and "debt incurred". The words in the parenthesis are illustrative of those expressions and do not enlarge them beyond relationships of a debtor-creditor character; the service fee or other charge is likewise "in respect of the moneys borrowed or debt incurred" or a credit facility. The Division Bench of the Kerala High Court in **Beacon Projects (P) Ltd. v. Commissioner of Income Tax**[36], after surveying the authorities, held as under:

> "8. … If this is the principle to be borne in mind, the term 'interest' as defined in section 2(28A) of the Act has to be construed strictly. On such literal construction, it can be seen that before any amount paid is construed as interest, what is required to be established is that the sum paid is in respect of any money borrowed or debt incurred and that there is debtor-creditor relationship between the parties. These are the necessary ingredients of section 2(28A)."

36 (2015) 377 ITR 237

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> "11. From the principles laid down in the decisions referred to above, it is obvious that section 2(28A) is not attracted to every payment made and that the provision can be attracted only in cases where there is debtor-creditor relationship and that payments are made in discharge of a pre-existing obligation."

48. The same view has been taken by different High Courts, while interpreting the extant provisions of Section 2(28A) of the Act, 1961, in the cases of **Commissioner of Income Tax v. Sahib Chits (Delhi) (P) Ltd.**[37] (payments to chit subscribers not interest, there being no money borrowed or debt incurred); **Commissioner of Income Tax v. Cargill Global Trading (P) Ltd.**[38] (discounting charges not interest unless payable in respect of money borrowed or debt incurred); **Commissioner of Income Tax v. H.P. Housing Board**[39] (amount paid to allottees on account of delayed allotment not interest under Section 2(28A)); and **Commissioner of Income Tax v. M.K.J. Enterprises Ltd.**[40] (interest relates to a pre-existing debt implying a debtor-creditor relationship).

49. Applying the said definition of 'interest' contained in Section 2(28A) of the Act, 1961 specifically to motor accident, the Allahabad High Court in **Oriental Insurance Co. Ltd.** (supra) held as under:

> "36. The word "interest" as defined under Section 2(28A) has to be construed strictly. We may refer to Polestar Electronic (P.) Ltd. v . Addl. CST [1978] 41 STC 409 in which hon'ble the Apex Court has held as under:-
>
> "if there is one principle of interpretation more well settled than any other, it is that statutory enactment must ordinarily be construed according to the plain natural meaning of its language and that no words should be added, altered or modified unless it is plainly necessary to do so in order to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute.""

37 (2010) 328 ITR 342 (Del)
38 (2011) 335 ITR 94 (Del)
39 (2012) 340 ITR 388 (HP)
40 (2014) 50 Taxmann.com 441 (Cal)

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"37. The necessary ingredients of such interest are that it should be in respect of any money borrowed or debt incurred. The award under the Motor Vehicle Act is neither the money borrowed by the insurance company nor the debt incurred upon the insurance company. As far as the word "claim" is concerned, it should also be regarding a deposit or other similar right or obligation. The definition of Section 2(28A) of the Income Tax Act again repeats the words "monies borrowed or debt incurred" which clearly shows the intention of the legislature …"

"38. The word "claim" used in the definition may relates to claims under contractual liability but certainly do not cover the claims under the statutory liability. The claim under the Motor Vehicle Act regarding compensation for death or injury is a statutory liability."

"44. In Commissioner of Income Tax Vs. Chiranji Lal Multani Mal Rai Bahadur (P.) Ltd. (supra), Commissioner of Income-tax Vs. H.P. Housing Board (supra), Commissioner of Income-tax Vs. Sahib Chits (Delhi) (Pvt.) Ltd. (supra), it has been clearly held that if interest is awarded by the court for loss suffered on account of deprivation of property or paid for breach of contract by means of damages or were not paid in respect of any debt incurred or money borrowed, shall not attract the provisions of Section 2(28A) read with Section 194A(1) of the Income Tax Act."

50. The Orissa High Court in **Kuni Sahoo** (supra), applying the definition in Section 2(28A) specifically to interest awarded on MACT compensation, held as under:

"10.3 In the instant case, it is not denied that interest was paid for delay in depositing the awarded amount. Reading of clause (28A) of section 2 of the IT Act would show that in order to fall within the connotation of the term "interest", the money must be: i. Borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes ii. Any service fee or other charge in respect of money borrowed or debt incurred or in respect of any credit facility which has not been utilized.

10.4 The marginal heading of section 194A suggests that said provision deals with TDS in respect of "interest" definition of which term is given in Section 2(28A), but not "interest on securities" which expression is defined in section 2(28B). The amount of "interest" deposited by the opposite party No. 4 with the MACT is on account of delay in deposit of compensation, which can neither be understood as borrowed or debt incurred nor does it fall within meaning of the term "service fee" or the expression

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> "other charge in respect of money borrowed or debt incurred or in respect of any credit facility which has not been utilized". The interest so deposited by the National Insurance Co. Ltd.-opposite party No. 4 would not, therefore, be treated as income of the petitioners. Hence, the TDS deducted by the opposite party No. 4 is liable to be refunded to the petitioners."

51. These principles apply with greater force to interest awarded under Section 171 of the MV Act, for the reason that :

(a) there is no money borrowed by the insurer from the claimant;

(b) there is no debt incurred prior to the award, the claim being for unliquidated damages **Raman Iron Foundry's case** (supra);

(c) there is no 'debtor–creditor' relationship and no pre–existing obligation of the insurer towards the claimant, the liability arising from tort and statute and being quantified only by the award;

(d) the word "claim", applying the well–established canon of statutory interpretation of noscitur a sociis, with "deposit" and "other similar right or obligation" and in the context of "moneys borrowed or debt incurred", purposively refers to debt–like contractual claims and not to a statutory claim for damages for death or bodily injury; and

(e) the rate of interest is merely the measure by which the Tribunal quantifies the compensation for the period of adjudication.

52. A definition in a taxing statute is to be construed strictly, and any ambiguity in a charging provision must be resolved in favour of the assessee (**Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company & Ors.**[41]. Even if the word "claim" were thought to admit of two readings or a possible case of two plausible

41 (2018) 9 SCC 1

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views, then also the interpretation which keeps compensation for death and injury outside the ambit and purport of charge must be preferred and resolved in favour of the assessee taxpayer.

C. Such interest is merely compensatory

53. The interest awarded under Section 171 is, accordingly, merely compensatory. It does not represent any profit, gain or yield earned by the claimant; it represents the restoration of the value of the compensation which the claimant would have received had the claim been decided on the day it was filed. As the Gujarat High Court observed in **Oriental Insurance case** (supra) (Para 56), income refers to "something earned", whereas "what is received as compensation for loss in one or the other form may not be income". The Supreme Court too has recognised, in the context of awards by consumer fora, that the interest so awarded is in substance compensation and that the principles governing the grant of interest on debts do not govern the grant of compensation (**Ghaziabad Development Authority v. Balbir Singh**[42].

54. By way of comparative illustration, the Parliament of the United Kingdom has by statute provided that no liability to income tax arises in respect of interest on damages for personal injuries or death included in a sum for which judgment is given (Section 751, Income Tax (Trading and Other Income) Act, 2005, carrying forward Section 329 of the Income and Corporation Taxes Act, 1988) — a recognition, in a comparable common law system, that interest forming part of personal injury damages shares the character of those damages.

42 (2004) 5 SCC 65

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PART-VII: Sections 56(2)(viii), 145B(1) and 194A do not create a charge on a receipt which is not income

55. Section 56(1) charges "income of every kind"; Section 56(2)(viii) talks about "income by way of interest received on compensation or on enhanced compensation"; Section 57(iv) operates in respect of "income of the nature referred to in clause (viii)"; and Section 145B(1) of the Act, 1961 merely fastens the year in which interest on compensation is deemed to be income. Each provision presupposes that the receipt is of the nature of 'income' thereof. The Bombay High Court in **Rupesh Rashmikant Shah** (supra) has elucidated as under:

> "50. … section 56 of the Act per se does not make a particular receipt chargeable to tax if it otherwise does not happen to be income. This section merely provides for taxing an income not falling under the other heads as income from other sources. … Therefore, clause (viii) of sub-section (2) of section 56 by itself would not make the receipt of interest on compensation chargeable to tax as income from other sources, if such receipt is not income."
>
> "52. … Once again, as observed in the context of section 56(2)(viii), clause (b) of section 145A of the Act does not make interest on compensation or enhanced compensation taxable if it is otherwise not exigible to tax. It merely provides for the point of time when it would be subjected to tax if otherwise taxable."
>
> "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 ... which provision now finds place in sub-section (1) of section 145B of the Act. … 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."

56. The Gujarat High Court in **Oriental Insurance's** case (supra) also examined in extenso the scheme of the Act, 1961, particularly with reference to Sections 2(24), 56(2)(viii), 145A(b), 145B,

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194A(3) etc. and after extensively delving into the propositions laid down in various authorities of the Supreme Court & High Courts, propounded as under:

> "45. Section 171 of the Motor Vehicles Act, 1988 empowers the Tribunal to award interest on the claim made under the Motor Vehicles Act from the date of making the claim. Sections 28 and 34 resply of the Land Acquisition Act, 1894 relate to the interest on compensation for the land compulsorily acquired and the compensation received for.
>
> *46. It is very essential to bear the fine distinction between the interest awarded under the two enactments viz. the Motor Vehicles Act,1988 and the Land Acquisition Act, 1894 resply. There are few amendments brought under the Income-tax Act keeping a specific law (Land Acquisition Act, 1894) in mind. Various High Courts have taken the view that the treatment of all the three sections 28, & 34 resply of the Land Acquisition Act and section 171 of the Motor Vehicles Act interest is not the same so far as taxability under the Income-tax Act is concerned.*
>
> *47. The amendment in section 145A(b) only creates a deeming fiction as to the year of taxability of the interest on compensation. It does not create a deeming fiction as to the taxability of the interest on compensation. Even after the insertion of section 145A(b), the interest on compensation under the Motor Vehicles Act which is exempt does not become taxable by operation of section 145A(b).*
>
> *48. The compensation received under the compulsory acquisition of land is in any case taxable under section 45 as the Capital Gains and therefore, the issue under the Land Acquisition with regard to interest under sections 28 and 34 i.e limited to the extent that the same would be taxable under section 56(2)(viii) (Section 34 interest) or section 45 the Capital Gains (Section 28 interest that is part of the compensation) and therefore, only the year of its taxability is decided by section 145A(b) and not the taxability of interest on the compulsory acquisition of land. Whereas under the Motor Vehicles Act, the compensation itself is exempt. The nature of interest, therefore, would assume significance and cannot be given the same treatment as interest on*

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compensation under the Land Acquisition Act and be taxed by operation of section 145A(b).

49. It is crucial to note that in Rama Bai (supra), the Supreme Court drew no distinction between the interest under section 28 and interest under section 34 of the Land Acquisition Act, 1894. Later in CIT v. Ghanshyam (HUF) [2009] 182 Taxman 368/315 ITR 1 (SC), the Supreme Court drew this distinction and held that the interest under section 28 of the Land Acquisition Act, 1894 would form part of the compensation itself and is taxable under the capital gain only. The amendment of section 145A(b), sections 56(2) (viii) and 194A resply would therefore not apply to the interest under section 28 of the Land Acquisition Act, 1894, but would apply only to Section 34 interest as is held in the case of Movaliya Bhikhubhai Balabhai v. ITO-TDS [2016] 70 taxmann.com 45/388 ITR 343. Therefore, the implication of Sections 145A(b) is not absolute even with respect to the interest awarded under section 28 of the Land Acquisition Act and cannot apply to the interest awarded by the MACT as well.

50. The term "income" is inclusively defined in section 2(24). Such definition does not include the "interest" referred to in the section 56(2) (viii) or interest received in the MACT award.

51. The words of section 194A(3) are crucial i.e "income by way of interest" and not simply "interest". Therefore, even when interest is paid, if the same is received not in the name of "income", then Section 194A(3) would not operate.

52. Therefore, the interest on compensation not being taxable at all there is no question of deducting tax on the same under section 194(A).”

57. The Punjab & Haryana High Court in **Nirmal Devi** (supra), with specific reference to Section 145B(1), held as under:

> “8. … A bare reading of Section 145-B (1) reveals that it says that the interest received by an assessee on any compensation or enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received. However, in our opinion, this provision does not make the interest chargeable to tax without considering that whether such interest is income of

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> the recipient or not? This section deals with the method of accounting and is not a charging provision. The only impact that Section 145-B has on the taxability of an income, is its timing of taxability. What is not taxable is not made taxable under this Section and it is only what is taxable under the mercantile method of accounting which is made taxable on cash basis of accounting by this provision. Meaning thereby that only when the receipt is in the nature of an income and receipt of interest is in nature of income at the hands of assessee, that such interest can be taxed as has been made out from the provisions of Section 56 (2) (viii) also. … In view of this discussion, it emerges that the interest granted on compensation or enhanced compensation awarded by MACT or this Court from the date of filing of the claim petition till the date of passing of the award or judgment by High Court will not fall in the bracket of income and would not be exigible to tax. …"

58. The legislative history confirms that the 2009 amendments were mitigating provisions addressed to timing. The Memorandum explaining the Finance (No.2) Bill, 2009 (extracted by the Gujarat High Court, para 54) states that the decision in **Rama Bai** (supra) "has *caused undue hardship to the taxpayers. With a view to mitigating the hardships, it is proposed to amend Section 145A to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it is received, irrespective of the method of accounting followed by the assessee."* Similarly, the Memorandum to the Finance Bill, 2015 (para 55) records that deduction of tax on interest on MACT compensation on accrual basis *"results into undue hardship and mismatch* and that deduction would therefore be made only at the time of payment. An amendment brought about to mitigate the hardships cannot be elevated to the status of a charging provision.

59. Section 194A of the 1961 Act is not in the nature of a charging provision and is merely a machinery provision outlining procedural

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requirements relating to deduction & deposit of tax at source as per Chapter XVII-B of the Income Tax Act, 1961. Further, the obligation to deduct tax at source arises only in the event where the payment is income chargeable to tax in the hands of the payee (**GE India Technology Centre Private Limited v. Commissioner of Income Tax & Anr.**[43], the Bombay High Court held as under (para 59):–

> "59. … However, the fundamental question is does section 194A make the interest income chargeable to tax if it otherwise is not. The answer has to be in the negative. The provision for deduction of tax at source is not a charging provision. It only makes deduction of tax at source on payment of same, which, in the hands of payee, is income. If the payee has no liability to pay such income, the liability to deduct tax at source in the hands of payer cannot be fastened. In other words, the provision of deducting tax at source cannot govern the taxability of the amount which is being paid."

60. The Orissa High Court in **Kuni Sahoo** (supra) likewise held as under

> "10. Turning to IT Act, Section 194A, being not a charging provision, deals with deduction of tax at source in respect of "interest other than interest on securities". Said provision is attracted only when the payment of interest is in the nature of income in the hands of the recipient. …"

61. Further, an award of the Tribunal is in the nature of a decree, and in the absence of any direction in the award for deduction of tax, the insurer cannot deduct tax from the amount payable to the claimants (**Oriental Insurance Co. Ltd. (Allahabad)** (supra), para 43).

PART-VIII: The decisions of this Court and other decisions on the TDS machinery

Decisions of this Court

43 (2010) 10 SCC 29

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62. In **Kailash Narain Gupta v. Commissioner of Income Tax** [44], interest on compensation under the Motor Vehicles Act, 1939 was held to be income, drawing upon decisions in the land acquisition and arbitration contexts; the decision predates **Ghanshyam (HUF) (2009)** (supra) and the statutory amendments of 2009 and 2015. In **Smt. Sharda Pareek** (supra), it was held, as extracted by the Gujarat High Court in **Oriental Insurance's case** (supra) (para 23), that "originally compensation was received by the claimant was not income but once amount received, it has become capital and interest on capital is liable to be taxable". That this reasoning treats the interest as a yield on capital in the hands of the claimant, whereas for the period of adjudication, the claimant never received or held the capital and there was no debt due to him until the award; and that it does not address the governing words "moneys borrowed or debt incurred" in Section 2(28A), nor the distinction drawn in **Ghanshyam (HUF)** (supra) has been taken note of. Further, the Interest earned by a claimant on investment of compensation after its receipt (for instance, on a fixed deposit) is a distinct receipt which is not the subject of this reference.

Decisions on the TDS machinery

63. Certain decisions, for instance, of the Karnataka High Court in **Oriental Insurance Co. Ltd. v. Chennabasavaiah, W.P. No. 49878 of 2012 (18/02/2015)** and of the **Madhya Pradesh High Court** in **Oriental Insurance Co. Ltd. v. Swaroopi Bai, M.P. No. 5090 of 2018 (24/06/2019)** and **Oriental Insurance Co. Ltd. v. Kala Bai, MANU/MP/0755/2020**, referred to & distinguished in the judgment of the Gujarat High Court in **Oriental Insurance** (supra), required

44 (1997) 225 ITR 921 (Raj)

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RAJASTHAN HIGH COURT सत्यमेव जयते

insurers to deduct TDS where the interest exceeded Rs.50,000/-, leaving the claimant to seek a refund. These decisions proceeded on the language of Section 194A(3) and did not examine the anterior question whether the interest is income at all, which is the question now referred. Significantly, both these High Courts have since examined that anterior question and answered it in favour of the claimants — the Karnataka High Court by its order dated 09/08/2018 in **MFA No. 103954 of 2017**, followed in **B.L. Chudamani** (supra), and the Madhya Pradesh High Court in **Atar Singh Bhadouria** (supra).

Rajasthan High Court सत्यमेव जयते Web Copy - Not Official

64. The following observation of the Punjab & Haryana High Court in **New India Assurance Co. Ltd. v. Savitri Devi**[45] are worth noticing –

> "Considering the object of the Motor Vehicles Act, 1988, regarding grant of compensation to the victim, it will not only be unjust but cruel to ask the hapless victim to first pay the interest received along with compensation on account of delayed payment, for which he is not responsible, and then to file the income tax return and claim the refund. As a result of the foregoing discussion, it is held that the interest paid along with the compensation as a result of the order of the Tribunal or of the superior Court is not liable for TDS."

PART-IX: The Income Tax Act, 2025 and the exemption inserted by the Finance Act, 2026

65. The 2025 Act came into force on 01.04.2026, replacing the 1961 Act, which continues to govern income of earlier periods. The scheme on the subject has been carried forward: Section 92(2)(i) ("any income by way of interest received on compensation or on enhanced compensation referred to in section 278(1)"); Section 278(1) contemplates a deeming fiction to tax the interest received on any compensation or enhanced compensation on receipt basis; and Section 393 deals with provisions relating to TDS. Further, the

45 CR NO.6784/2016, dt. 04.04.2018

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provisions of Section 11 exempts the incomes of the nature enumerated in Schedules II, III, IV, V and VI.

66. That the Finance Act, 2026 has amended Schedule III [TABLE : Sl. No. 38B] to unconditionally exempt an individual or his legal heir on any income in the nature of interest under the MV Act. The Memorandum explaining the Finance Bill, 2026 (Clause 108) states as under:

> "2. The provisions of Motor Vehicles Act, 1988 inter alia provides for compensation and interest on such compensation to be awarded by the tribunal under said Act, to an individual or his legal heir, on account of death or on account of permanent disability or any bodily injury under the said Act."
>
> "3. In order to alleviate sufferings of victims of such accident and their family which may cause extreme hardship to the aggrieved person and family, it is proposed to amend the said Schedule to provide exemption to an individual or his legal heir, on any income in the nature of interest under the Motor Vehicles Act, 1988."
>
> "4. These amendments will take effect from the 1st day of April, 2026 and shall accordingly, apply in relation to the tax year 2026-27 and subsequent tax years."

67. Correspondingly, item (iv) in Section 393(4) [TABLE FOR NO DEDUCTION AT SOURCE : Sl. No. 7, Column C – Condition (c)(iv)] has been substituted so that no tax is to be deducted at source on interest on the compensation amount awarded by a Motor Accidents Claims Tribunal *"(A) to an individual; or (B) to a person other than an individual, where the aggregate interest on such compensation does not exceed ₹ 50000 during the tax year"*.

68. The amendments assume significance to the present reference in four respects:

(a) **Legislative recognition of the nature of the interest.** The Memorandum describes the interest as

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awarded together with compensation "on account of death or on account of permanent disability or any bodily injury" and grants the exemption to "alleviate sufferings of victims", a recognition, in terms, that the interest is part and parcel of the restitution for death or injury.

(b) **Breadth.** The exemption extends to "any income in the nature of interest under the Motor Vehicles Act, 1988", and not merely to interest for the period of adjudication.

(c) **Receipt-basis consequence.** Since Section 278(1) of the 2025 Act (like Section 145B(1) of the 1961 Act) deems interest on compensation to be income of the year of receipt, interest awarded under the MV Act which is received by an individual or legal heir on or after 01/04/2026 falls within Tax Year 2026-27 or a later year and is exempt, irrespective of the period to which it relates; and no tax is deductible on its payment to an individual. Amounts awarded to individual claimants which are paid or released on or after 01/04/2026, including amounts withheld pending this reference, must therefore reach them in full.

(d) **Not the source of the Petitioners' case for the earlier period.** For the period prior to 01/04/2026 the Petitioners' case rests on the proposition that the interest is not an 'income' at all. The amendment, made by way of abundant caution and to resolve the uncertainty created by conflicting decisions, confirms that proposition; A subsequent legislation may be looked at as a parliamentary exposition where the earlier provision is ambiguous, and the

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Constitution Bench of the Supreme Court in **Commissioner of Income Tax (Central)-I, New Delhi Vs. Vatika Township Private Limited,**[46] recognised that legislation conferring a benefit or removing a hardship, without a corresponding detriment, warrants a purposive construction. The Supreme Court expounded as under:

> "30. … If a legislation confers a benefit on some persons but without inflicting a corresponding detriment on some other person or on the public generally, and where to confer such benefit appears to have been the legislators' object, then the presumption would be that such a legislation, giving it a purposive construction, would warrant it to be given a retrospective effect."

PART-X:Summary of propositions and answer to the referred questions

69. The summary of propositions is as under:

(i) Compensation under the MV Act is restitution for death or bodily injury, is not income, and is so accepted by the Revenue; the Hon'ble Karnataka High Court has so held in respect of the interest as well (B.L. Chudamani) (Part III).

(ii) Interest under Section 171 arises only upon the allowance of a claim for compensation, is computed upon it, is calibrated by the heads of loss, is awarded even without a plea as being consequential in law, and is recovered only as part of the amount due under the award. It is an integral, inseparable and inalienable part of the compensation and an accretion to it (**Abati Bezbaruah** (supra); **Dharampal** (supra); **Keshav Bahadur** (supra); **Rupesh Rashmikant Shah** (supra); **Oriental Insurance Co. Ltd.** (supra);

46 (2015) 1 SCC 1

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Ghanshyam (HUF) (supra)**; Nirmal Devi** (supra)**; Kuni Sahoo** (supra) **(**Part IV**)**.

(iii) Being an accretion to a principal sum which is not income, it takes the character of that principal sum (**Ghanshyam (HUF)** (supra); **Saurashtra Cement**) (supra) (Part IV-F).

(iv) Such interest is merely compensatory. It is not interest in common parlance, which presupposes the use of another's money or a sum already due (**Central Bank of India v. Ravindra**) (supra); until the award there is no debt (**Raman Iron Foundry**) (supra); and nomenclature is not decisive (**G.C. Roy**) (supra) (Part V-A).

(v) It is not "interest" within Section 2(28A), which requires moneys borrowed or a debt incurred and a debtor-creditor relationship in discharge of a pre-existing obligation (**Beacon Projects** (supra)**; Sahib Chits** (supra)**; H.P. Housing Board** (supra)**; CIT v. Oriental Insurance Co. Ltd**. (supra)**; Kuni Sahoo)** (supra)(Part V-B).

(vi) Sections 56(2)(viii), 57(iv) and 145B(1) are classification, computation and timing provisions which presuppose 'income'; Section 194A is a machinery provision which follows chargeability (**Rupesh Rashmikant Shah** (supra)**; Nirmal Devi** (supra)**; Kuni Sahoo**)(supra) (Part VI).

(vii) The land acquisition decisions are distinguishable (Parts IV-D and IV-E), and **Kailash Narain Gupta** (supra) and **Sharda Pareek** (supra), to the extent contrary, do not lay down the correct law (Part VII).

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(viii) Parliament has, by the Finance Act, 2026, recognised the compensatory nature of such interest and exempted it, with no TDS, from 01.04.2026 (Part VIII).

70. Thus, the question referred is answered as under:

(a) Interest awarded under Section 171 of the MV Act on compensation for the period from the date of the claim petition till the date of the award, or, in the case of an appeal, till the judgment of the Appellate Court, forms an integral and inseparable part of the compensation, is merely compensatory, is not "interest" within Section 2(28A) of the 1961 Act, and is not income chargeable to tax under Section 56(1) or Section 56(2)(viii) read with Section 145B(1) [previously Section 145A(b)] of that Act. Consequently, the insurance company is not required to deduct tax at source thereon under Section 194A.

(b) The decisions of this Court in **Kailash Narain Gupta** (supra) and **Smt. Sharda Pareek** (supra), to the extent contrary, do not lay down the correct law.

(c) As regards interest for any period after the award received before 01.04.2026, tax is not deductible on its credit, and is deductible on payment only where the aggregate of such interest paid to a claimant in the financial year exceeds Rs.50,000/-, without prejudice to the claimant's right to establish non-taxability and claim a refund.

(d) With effect from 01.04.2026, any interest awarded under the MV Act and received by an individual or his legal heir is exempt under Section 11 read with Schedule III of the 2025 Act, irrespective of the period to which it relates, and no tax is deductible at source thereon under Section 393 of that Act.

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71. The reference is accordingly disposed off in the aforestated terms.

72. Let the matter be placed before the appropriate Bench having roster for disposal of writ petitions in light of the question of law, so answered.

73. We place on record our appreciation for the assistance rendered by Mr. Rahul Joshi, Mr. Ashish Saxena, Mr. Harshit Mittal, Mr. Sandeep Mathur, Mr. Vinay Mathur, Mr. Daksh Pareek, Ms. Manasvita Sharma, Mr. Naman Maheshwari, Mr. Vishwas Fatehpuria learned counsels for the petitioners and Mr. Virendra Agrawal, Mr. Prakhar Agrawal, Mr. Shantanu Sharma, Mr. Parth Vashistha, Mr. Sandeep Pathak & Mr. Nitin Jain, learned counsels for the respondents, who appeared and made submissions in arriving at the aforesaid conclusion.

(BHUWAN GOYAL),J (SAMEER JAIN),J (SANJAY K. AGRAWAL),CJ

Kamlesh Kumar (Reserved)

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