

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

Ins.APP.No. 45 of 2011

JUDGMENT DATED 18.1.2011 IN IC 9/2003 of E.I.COURT, KOLLAM.

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APPELLANT/1ST OPPOSITE PARTY:

**THE REGIONAL DIRECTOR,
EMPLOYEES STATE INSURANCE CORPORATION,
PANCHADEEP BHAVAN, NORTH SWARAJ ROUND,
THRISSUR.**

BY ADV. SRI.P.SANKARANKUTTY NAIR

RESPONDENT(S)/APPLICANT/2ND AND 3RD OPPOSITE PARTIES:

- 1. MANAGING DIRECTOR, SANKO JOINTINGS PVT. LTD.,
PLOT NO.5, VELI, THIRUVANANTHAPURAM, PIN-695021.**
- 2. P.N.UDAYAN, PLANT WORKER,
SANKO JOINTINGS PVT. LTD., VELI,
THIRUVANANTHAPURAM, PIN-695021.**
- 3. T. JOY, SUPERVISOR, SANKO JOINTINGS PVT. LTD.,
VELI, THIRUVANANTHAPURAM, PIN-695021.**

**BY ADVS. SMT.AK.PREETHA
SRI.ANIL NARAYANAN**

**THIS INSURANCE APPEAL HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

P.B.SURESH KUMAR, J.

Ins.Appeal.No.45 of 2011

Dated this the 20th day of July, 2015

JUDGMENT

This is an appeal against the decision of the Employees' Insurance Court, Kollam in I.C.No.9 of 2003. The Regional Director of the Employees' State Insurance Corporation ('the Corporation' for short) is the appellant in the appeal.

2. The Corporation required the first respondent to comply with the provisions of the Employees' State Insurance Act ('the Act' for short) in respect of the employees engaged by them in their factory by issuing a notice in Form C11. The first respondent challenged the said notice before the Employees' Insurance Court on the ground mainly that their factory would not fall within the definition of 'Factory' as contained in Section 2(12) of the

Act. The Employees' Insurance Court found that the application filed by the first respondent was premature, as steps have not been initiated by the Corporation for determination of the contribution payable by the first respondent under Section 45A of the Act. Though it was found that the application is premature, the Employees' Insurance Court proceeded to consider the case of the first respondent on merits and made a few observations in the judgment on the merits of the matter. The appellant is aggrieved by the observations made by the Employees' Insurance Court, especially those contained in paragraphs 10 and 11 of the judgment impugned in the appeal.

3. In the light of the decision of this Court in ***Muthoot Pappachan Consultancy & Management Services vs. E.S.I. Corporation*** [2012(3) KLT 452], the application filed by the first respondent before the Employees' Insurance Court is premature, as steps have not been taken by the Corporation to determine the contributions payable by the first respondent under Section

45A of the Act. In the circumstances, the Employees' Insurance Court should have dismissed the application as premature, without going into the merits of the contentions raised by the parties.

In the result, the appeal is allowed, the impugned judgment is set aside and I.C.No.9 of 2003 on the file of the Employees' Insurance Court, Kollam is dismissed as premature.

P.B.SURESH KUMAR, JUDGE.

smm