



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.12.2017
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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CMA (MD) No.1251 of 2016

The Employees State Insurance Corporation,
Rep.by its Deputy Director,
Sub Regional Office, Panchdeep Bhawan,
ESIC Complex, Salai Street, Vannarpettai,
Tirunelveli - 627 003.

... Appellant

Vs.

M/s.Annai Vailankanni College of Engineering,
Rep.by the Correspondent,
Pottalkulam, Azhagappapuram Post,
Kanyakumari District.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 82 of the ESI Act, 1948 to set aside the order dated 16.07.2015 passed by the ESI Court (ie., Labour Court), Tirunelveli in ESIOP.No.33 of 2014.

For Appellant : Mr.P.Ganapathisamy

For Respondent : Mr.P.Prabhakaran

JUDGMENT

Heard the learned counsel for the parties.

2.The respondent herein is an establishment covered by the provisions of the Employees' State Insurance Act, 1948. There was a delay on the part of the respondent establishment in remitting the contribution. The appellant corporation therefore levied damages by passing an order under Section 85 B of the Act. The same was challenged by the respondent by filing ESIOP.No.33 of 2014 before the Labour Court, Tirunelveli.

3.The Labour Court, Tirunelveli noted that unless mens rea exists to contravene a statutory provision damages cannot be levied. The Labour Court followed the decision of the Hon'ble Supreme Court of India reported in 2008 1 LLN 491 (ESI Corporation Vs. H.M.T Limited) and allowed the petition filed by the respondent. The Labour Court, Tirunelveli however restricted the claim for damages to 10% of the impugned amount which came to Rs.33,253/-. This is assailed in this appeal.



4.I am of the view that the decision of the Labour Court cannot be faulted. No substantial questions of law arises in this appeal. This appeal is therefore stands dismissed. No costs.

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/True Copy/

Sd/-

Assistant Registrar (W)

Sub Assistant Registrar

To

The Labour Court (ESI),
Tirunelveli.

+1CC to Mr.P.Ganpathisamy Advocate in SR.NO.90996,
+1CC to Mr.P.Prabakaran Advocate in SR.No.91004.

SKM

DS/JC/SAR-2 :29.05.2018: 2P/4C

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