



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1367 of 2016

Employees' State Insurance Corporation,
(SRO),Municipal Shopping Complex,
Salai Street, Sindupoondurai,
Tirunelveli-627 001,
Through its Deputy Director. ... Appellant

Vs.

M/s.Tamil Nadu Jaibharath Mills Limited,
Malayankulam Village,
Chidamparapuram Post-627 754,
Tirunelveli District,
Through its Managing Director ... Respondent

Prayer: Appeal filed under Section 82 of the Employees' State Insurance Act, 1948, to set aside the order dated 20.10.2014, passed by the Employees' State Insurance Court (I.e. Labour Court), Tirunelveli in E.S.I.O.P.No.12 of 2013, reinstate the damages order dated 08.03.2013.

For Appellant : Mr.P.Ganapathisamy
For Respondent : Mr.G.Arunachalam

JUDGMENT

Heard the learned counsel on either side.

The appellant Corporation levied damages on the respondent under Section 85(b) of the Employees' State Insurance Act. But in the order levying the damages, there is no mention about the element of *Mens rea*. It has been held by the Hon'ble Supreme Court in the decision reported in **2008 1 LLN 491 Employees State Insurance Corporation Vs. HMT Limited** that damages can be levied only if there is a deliberate intention to contravene the statute. Since in this case, such an element has not been shown to be present, the Tribunal rightly interfered with the award passed by the appellant Corporation. The order dated 20.10.2014 allowing E.S.I.O.P.No.12 of 2013 by the Employees' State Insurance Court, Tirunelveli is perfectly justified in law. No substantial question of law has arisen for determination in this appeal.



3. This Civil Miscellaneous Appeal is dismissed accordingly.
No costs.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar

To

1. The Employees' State Insurance Court,
(Labour Court), Tirunelveli

2. The Record Keeper, Vernacular Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.P.Ganapathisamy, Advocate Sr.No.92796

+1cc to Mr.G.Arunachalam, Advocate Sr.No.92486

TSG

VB/SV/MMS/SAR1/07/06/2018/2P/6C

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