

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1519 of 2014
and M.P.No.1 of 2015

The Management of Kali Material Handling Systems,
42/6B, Madras Road,
Melakaveri,
Kumbakonam - 612 002.
Rep. by Managing Partner,
Sri K.R.Giridharan.

... Appellant/Petitioner

Vs.

The Regional Director,
Employees' State Insurance Corporation,
143, Sterling Road,
Chennai - 600 034.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 82 of the Employees' State Insurance Act, 1948, against the order dated 29.10.2011 in E.S.I.O.P.No.2 of 2007 on the file of the Principal Judge, Labour Court (Employees' Insurance Court), Cuddalore.

For Appellant : Ms.D.Veda

For Respondent : Mr.G.Bharadwaj

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the order passed by the Principal Judge, Labour Court (Employees' Insurance Court), Cuddalore, in E.S.I.O.P.No.2 of 2007 dated 29.10.2011.

2. After making some arguments, the learned counsel appearing for the appellant would submit that they have already deposited 50% of the amount demanded by the Employees' State Insurance Corporation before the Employees' Insurance Court, and they are willing to remit the balance amount to the Employees'

State Insurance Corporation.

3. But, the learned counsel appearing for the respondent/ Employees' State Insurance Corporation submitted that as per the memo of calculation, the appellant is due of a sum of Rs.6,64,484/- and further interest with effect from 15.03.2018 at the rate of Rs.75/- per day. The memo of calculation is extracted hereunder:-

M/s. Kali MHS

ESI CODE : 4488

S. No		CONT	INT	F.I	CC	TOTAL
1.	C-19 dt.:29.10.04 (84-85 to 90-91) Rs.57,024/-	20141	36883	--	200	57224
(i)	F.I. w.e.f. 01.11.04 01.11.04 to 30.09.05 334 x 8.27 @15%	--	--	2763	--	2763
(i)	F.I. w.e.f. 01.11.04 01.10.05 to 08.08.17 4330 x 6.7 @12%	--	--	29011	--	29011
	TOTAL	20144	36883	31774	200	88998
2.	C-19 dt.:29.10.04 (01/91 to 03/2000)	35746	4422	--	100	40268
(i)	F.I. w.e.f. 01.11.04 01.11.04 to 30.09.05 334 x 14.69 @ 15%	--	--	4907	--	4907
(i)	F.I. w.e.f. 01.11.04 01.10.05 to 08.08.17 4330 x 11.75@ 12%	--	--	50878	--	50878
	TOTAL	35746	4422	55785	100	96053
3.	C-19 dt.:29.10.04 (04/91 to 09/2000) Rs.20514/-	16059	4455	--	100	20614

S. No		CONT	INT	F.I	CC	TOTAL
(i)	F.I. w.e.f. 01.11.04 to 30.09.05 334 x 6.59 @ 15%	--	--	2202	--	2202
(i)	F.I. w.e.f. 01.11.04 to 08.08.17 4330 x 5.27 @ 12%	--	--	22820	--	22820
	TOTAL	16059	4455	25022	100	45636
4.	C-19 dt.:29.10.04 (Rs.16349/-	12325	4024	--	100	16449
(i)	F.I. w.e.f. 01.11.04 to 30.09.05 334 x 5.14 @ 15%	--	--	1717	--	1717
(i)	F.I. w.e.f. 01.11.04 to 08.08.17 334 x 5.14 @ 15%	--	--	17537	--	17537
	TOTAL	12325	4024	19254	100	35703
5.	C-19 dt.:29.10.04 (04/95 to 12/96 & 01/97 to 03/98) Rs.32319/-	28772	3547	--	100	32419
(i)	F.I. w.e.f. 01.11.04 to 30.09.05 334 x 11.82 @ 15%	--	--	3948	--	3948
(i)	F.I. w.e.f. 01.11.04 to 08.08.17 4330 x 9.46 @ 12%	--	--	40962	--	40962
	TOTAL	28772	3547	44910	100	77329

M/s. Kali MHS

ESI CODE : 11582

S. No		CONT	INT	F.I	CC	TOTAL
1.	C-19 dt.:28.09.04 (04/94 TO 03/2000) Rs.106792/-	96269	10523	--	200	106992
(i)	F.I. w.e.f. 01.11.04 01.11.04 to 30.09.05 395 x 39.56 @15%	--	--	15627	--	15627
(i)	F.I. w.e.f. 01.11.04 01.10.05 to 08.08.17 4330 x 31.65 @ 12%	--	--	13704 5	--	137045
	TOTAL	96269	10523	15267 2	200	259664
2.	C-19 dt.:28.09.04 (04/95 TO 03/2000) Rs.17393/-	17206	187	--	100	17493
	F.I. w.e.f. 01.11.04 01.11.04 to 30.09.05 395 x 7.07 @15%	--	--	2793	--	2793
	F.I. w.e.f. 01.11.04 01.10.05 to 08.08.17 4330 x 5.65 @ 12%	--	--	24465	--	24465
	TOTAL	17206	187	27258	100	44751

TOTAL DUES

A. ESI Code No. 4488 - Rs.3,43,719/-

B. ESI Code No.11582 - Rs.3,04,415/-

C. Further Interest upto 14.03.2018 (Rs.75 x 218 days) = Rs.16,350/-

A + B + C = Rs.6,64,484/-

Total Int. w.e.f. 15.03.2018 for all the 7 claims is Rs.75/- per day.

4. Considering the submissions made, a direction is issued to the appellant to deposit the entire demand made by the Employees' State Insurance Corporation to the tune of Rs.6,64,484/- (Rupees Six lakh sixty four thousand four hundred and eighty four only) and further interest with effect from 15.03.2018 with regard to seven claims at the rate of Rs.75/- per day, within a period of four (4) months from the date of receipt of a copy of this order. On such deposit, claim for damages is waived.

5. It is submitted by the learned counsel appearing for the appellant that the appeals filed against the connected E.S.I.O.P.Nos.4, 5, 6, 7, 8 of 2004 and 3 of 2007 are going to be withdrawn. The said submission of the learned counsel for the appellant is recorded.

6. The appellant is entitled to withdraw whatever amount deposited before the Employees' Insurance Court along with accrued interest.

7. In the event of failure to remit the demand as indicated above within a period of four (4) months from the date of receipt of a copy of this order, the respondent is entitled to claim damages.

8. In the result, this Civil Miscellaneous Appeal is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

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To

1.The Principal Judge,
Labour Court (Employees' Insurance Court),
Cuddalore.

2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.Meenakshi sundaram, Advocate SR.No.23583

+1cc to Mr.G.Bharadwaj, Advocate SR.No.23326

C.M.A.No.1519 of 2014
and M.P.No.1 of 2015

CNR (CO)
GN(17/04/2018)