

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.12.2018
Coram
THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
C.M.A.No.1431 of 2018 and
C.M.P.No.11416 of 2018

M/s.Build Craft
A1-14, (Basement), Nelson Chambers,
115, Nelson Manickam Road,
Chennai-600 029.

... Appellant

versus

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

....Respondent

Prayer : The Civil Miscellaneous Appeal is filed under
Section 82 (2) of the Employees' State Insurance Act,
against the Judgment and Decree made in E.I.O.P.No.183 of
2005 on the file of the ESI Court, Chennai, dated
30.11.2017.

For Appellant : Mr.Anand Gopal for
Mr.T.S.Gopalan and Co
For Respondents : Mr.S.P.Srinivasan,
Standing counsel

JUDGMENT

The Civil Miscellaneous Appeal is filed against the
Judgment and Decree made in E.I.O.P.No.183 of 2005 on the
file of the ESI Court, Chennai, dated 30.11.2017.

2. It is the case of the appellant that though the
evidence of both parties were adduced. Ex.P1 to P7 were
marked on behalf of the appellant and Ex.R1 to R7 were
marked on behalf of the respondents but the learned Judge
merely extracted the same, without discussing anything in
the Judgment and had passed the orders on 30.11.2017. The
relevant paragraph of the order made in E.I.O.P.No.183 of
2005 is extracted hereunder:

"12. This Court concludes that the
respondents after having inspected the records of
the petitioner company only arrived contribution

to be paid by the petitioner. From this point of view it is evident that the respondents have made rightful claim and the contention of the petitioner is without basis both on law and fact and accordingly the petitioner is bound to pay the amount claimed by the respondents. On perusal of records the claim of the respondents is rightful and legally valid. In such circumstances, the claim of the respondents is just and correct. The claim towards contribution is valid, legal and enforceable. The contention of the petitioner is found to be ambiguous and lacks credibility and hence this petition is liable to be dismissed and the points are answered accordingly."

3. Challenging the Judgment supra, the present appeal has been filed by the appellants.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. On fair reading of the judgment of the learned Principal Labour Judge, Chennai, it is apparent that though the learned Judge has extracted the evidence adduced by both the parties but there is no discussion in the judgment in respect of the evidence and the documents adduced by the parties. The learned Judge has passed the order of dismissal, without considering evidences and documents adduced by both the parties. Therefore, it is total violation of the natural justice, once both parties were adduced their evidences by making documents, it is a bounden duty of the learned Judge to discuss and consider everything and to pass appropriate orders. Justice must be done to both parties equally. Then above the ends of Justice can be achieved.

6. In view of the above, in the interest of justice, this Court is inclined to pass the following order:

i) This Civil Miscellaneous appeal is allowed by setting aside the order in E.I.O.P.No.183 of 2005 on the file of the Employees Insurance Court/Principal Labour Court, Chennai dated 30.11.2017.

ii) The matter is remand back and the Court below is directed to give fair opportunity to both the parties and thereafter to pass appropriate orders in accordance with law by considering the evidence and documents filed by both parties within a period of four weeks from the date of

receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

vum
To
The Deputy Director
Employees' State Insurance Corporation,
143, Sterling Road,
Nungambakkam,
Chennai-600 034.

+1cc to Mr. T.S.Gopalan and Co, Advocate SR.No. 83315
+1cc to Mr. S.P.Srinivasan, Advocate SR.No. 83032

C.M.A.No.1431 of 2018 and
C.M.P.No.11416 of 2018

A.SK(19/02/2019)



WEB COPY