

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**FAO No.139 of 1994 (O&M)
Date of Decision : 28.02.2018**

Employees State Insurance Corporation, Sector 19-A
Chandigarh

..... Appellant

Versus

Suraj Bread Factory and ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. H.S.Bhatia, Advocate
for the appellant.

Mr. Akash Singla, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment and order of the Employees State Insurance Court whereby he has set aside the order passed by the Deputy Regional Director, ESIC, Chandigarh directing the respondents to pay Rs.1,910/- i.e. Rs.1478.35 as ESI contribution for the period 10/1984 to 3/1985 and Rs.431.65 as interest thereon upto 02.11.1989 along with future interest at the rate of 12% per annum.

The claim of the respondents was that the Deputy Regional Director had passed a quasi-judicial order without ensuring that they were ever served and this was the primary ground which weighed with the Court.

Learned counsel for the appellant has argued that the application could not have been entertained unless the respondents had made the mandatory pre deposit as per Section 75 sub clause 2 (B) of the Employees State Insurance Act, 1948 and consequently, the order should be set aside. He has however, accepted that in that event it would be open to the respondents to re-agitate the matter after depositing the amount.

Learned counsel for the respondents has argued that once it was proved that the basic order was passed illegally, without hearing the respondents the procedural issue of deposit should not be allowed to stand in the way of substantial justice.

After arguing for sometime learned counsel have agreed that the impugned order dated 05.10.1993 as well as the order dated 27.12.1989 be set aside and the matter be remanded back to the Deputy Regional Director, ESIC, Chandigarh for a fresh decision subject to the respondents depositing 50% of the upto date amount without prejudice to their claim that they are not liable to pay any amount.

Parties through counsel are directed to appear before the Deputy Regional Director, ESIC, Chandigarh on 17.04.2018.

Appeal stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

28.02.2018

Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No