

**CM-4142-CII-2018 in/and
FAO No. 260 of 1994 (O&m)**

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

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**CM-4142-CII-2018 in/and
FAO No. 260 of 1994 (O&m)**

Date of Decision : 15.3.2018

Hemkund Bus Service (P) Ltd.

....Appellant

VS

Employees State Insurance Corporation

....Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ramesh Kumar, Advocate
for the appellant.

Mr. H.S.Bhatia, Advocate
for the respondent.

AJAY TEWARI, J.(Oral)

CM-4142-CII-2018

This is an application for recalling the order dated 19.2.2018 whereby the appeal was dismissed in default. Counsel for the respondent has no objection if the order dated 19.2.2018 dismissed in default is recalled.

For the reasons recorded in the application the same is allowed and the appeal is restored to its original number and is taken up for decision.

Main Appeal

This appeal has been filed against the order dated 11.1.1994 passed by the Employees State Insurance Court rejecting the application

for setting aside the order dated 18.7.1989 passed by the Deputy Regional Director ESI Corporation. Vide order dated 18.7.1989 the respondent had directed the appellants to pay contribution with interest on account of employees State Insurance for the period of 4/84 to 9/86. The Court below found that the appellant had 27 employees running its buses. The Court below found that the documents brought forth by the appellant were private documents which could have been corrected any time and instead, relied upon the testimony of Jarnail Singh RW-1 who was an employee of the DTO and had brought the tax register and deposed that during the time the appellant had 19 buses including mini buses. The Court noticed that it is common knowledge that at least two persons are required to run a bus, one driver and one conductor and consequently disbelieved the stand of the appellant and accepted the stand of the respondent. Counsel is not in a position to explain how the appellant was running 19 buses with less than 20 employees.

In the circumstances, no fault can be found with the judgment of the Court below. The appeal stands dismissed.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

15.3.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No