

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

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**FAO-7056-2011 (O&M)
Date of Decision : 7.5.2018**

Ashok Kumar and others

..... Appellants

Versus

The Employees State Insurance Corporation and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. T.S.Sidhu, Advocate for
 Mr. Vikas Singh, Advocate
 for the appellant(s).

Mr. Adarsh Malik, Advocate
for the respondents No. 1 to 3.

AJAY TEWARI, J. (Oral)

 This appeal has been filed against the judgment and order dated 18.4.2011 passed by the ESI Court, Amritsar dismissing an application filed by the appellants.

 The predecessor-in-interest of the appellant had filed a claim for damages on the ground that despite having been covered by the ESI Act the doctor failed to provide medical treatment to him. The Court dismissed the claim primarily on the ground that the doctor with respect of whom the allegations were made ceased to be on the panel of ESI since 2.1.1992 and the appellants were not able to prove firstly that he ever went to that doctor prior to 2.1.1992 and secondly, even if he went to that doctor that he had ever filed any complaint to anybody regarding mal treatment at his hands. Even today learned counsel has argued that the verbal testimony of the appellant should have been considered. In

my opinion, something more than verbal testimony would have been required. It has also come on record that the Medical Superintendent, ESI hospital, Amritsar has conducted an enquiry and had given the finding that the appellant had never approached the said doctor prior to his removal from the panel.

In the circumstances, no fault can be found with the judgment and order of the Civil Judge, ESI Court, Amritsar. The appeal stands dismissed.

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

7.5.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No