

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

FAO-2776-2018 (O&M)
Date of Decision : 23.5.2018

Employees' State Insurance Corporation and another

....Appellants

vs.

Rajwinder Kaur and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Adarsh Malik, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the Civil Judge Junior Division, Gurdaspur allowing a suit for declaration for mandatory injunction which was filed by the respondent against the appellant.

The primary contention raised by the learned counsel for the appellants is that suit challenging an assessment under Section 45-A of the Employees' State Insurance Act, 1948 (s in the present case) could not have been challenged by civil suit and only could have been challenged by way of application to be filed under Section 75 of the ESI Act and once that suit itself was not maintainable, the present appeal should be allowed.

In my considered opinion, the fact of the matter is that against the decision of the Civil Judge the first appeal lies before the District Judge. The contention which is being sought to be raised in this Court could well

have been raised before the District Judge also. It is not the case of the appellant that the District Judge could not have ruled on this.

In the circumstances, the appeal has to be dismissed being not maintainable. Ordered accordingly.

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

23.5.2018
anuradha

(AJAY TEWARI)
JUDGE

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