

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1395 OF 2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Shailesh Pathak for the Appellant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the appellant.

2 By this First Appeal, the Appellants are challenging the Judgment and Award dated 18.12.2012 passed by the Employees' Insurance Court at Thane in Application (ESI) No. 2 of 2011 allowing the Respondent's Appeal under Section 75 of ESI Act against the ESI Corporation's order dated 13.08.2010 and the notice of recovery dated 18.02.2011.

3 Considering the submissions made by the learned Counsel for the Appellant and the Judgment and Award, I am satisfied that Appellant has made out a case for following order:

a) Admit.

The questions of law involved in the present First Appeal are as under:

A) Whether provisions of Section 85B of the ESI Act, 1948 authoring the Corporation to recover damages is mandatory or directory?

B) Whether the Hon'ble Court was justified in partly allowing the application filed by Respondent Company by not allowing them to damages when the statue provides that damages are to be paid if the contribution towards ESI Corporation is not paid in time?

C) Whether the ESI Court has jurisdiction to waive damages when admittedly there was delay in payment?

b) Printing is dispensed with.

c) Appellant to file private paper book within one year from today, failing which First Appeal shall stand dismissed without further reference to the Court.

d) Registry is directed to call R & P immediately.

(K.K.TATED, J.)