

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

First Appeal No. 1259/2015

|                                                                                                           |                                                                                                          |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders.                                                                               |
|                                                                                                           | Mr. Shailesh Pathak for the Appellant<br>Mr. Arjun Kadam I/b S. R. Nargolkar for Respondent Nos.1 and 2. |

**CORAM: K.K.TATED, J.**  
**DATED : AUGUST 28, 2019**

**P.C.**

1 Heard. By this First Appeal, the Appellant challenges the judgment and award dated 02.05.2013 passed by Employees Insurance Court, Pune in Application (ESI) No.19/2007 allowing the Respondent's Application u/s.75 of the Employees Insurance Court, 1948.

2 Considering the submissions made by the learned counsel for the Appellant and the impugned judgment and award, following order is passed:

**a. Admit**, on the following substantial questions of law:

*i) Whether the learned Judge erred in overlooking the provisions of section 2(12) of the ESI Act ?*

*ii) Whether the learned Judge erred to appreciate that once ESI Act applies even if the services are transferred, the Act continues to apply.*

*iii) Whether the learned Judge erred in coming to conclusion that since there is transfer of service from one department to another, ESI Act will not apply?*

b. The Appellant is directed to file paper book within a period of one year from today with copy to other side failing which the First Appeal shall stand dismissed without further reference to the court.

c. Printing dispensed with.

d. Office to call R & P immediately.

e. The learned counsel for the Respondent Nos.1 and 2 waives service.

**(K.K.TATED, J.)**