

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.12255 OF 2019

S.Vimala

... Petitioner

-vs-

1. The Manager,
Branch Office,
Employees State Insurance Corporation,
Villivakkam, Chennai.
2. The Managing Director,
Llyod Bituman Product (P) Ltd.,
No. 2, Punjson Premises,
Kalkaji Industrial Area,
New Delhi - 110 019.
3. Llyod Bitumen Products (PT) Ltd.,
Rep. by its Works Manager/Manali Company Incharge,
Mr. Varghese T.Mathew, Samson No. 1/2,
Govindhadas Street, Aminjikarai,
Chennai - 600 029.
(R2 and R3 impleaded vide order dated 13.08.2020 made in
W.M.P.No.13058 of 2020 in W.P.No.12255 of 2019)

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the Employees State Insurance Court/Labour Court, Chennai dated 03.11.2018 passed in I.A. No. 208/2017 in E.I.O.P. No. /2017 and quash the same and consequently direct the Employees State Insurance Court/Labour Court, Chennai, to take E.I.O.P.No. /2017 petition on file and adjudicate the same on merit.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent : Mr.K.Prabakar (for R1)
No appearance (for R2 & R3)

O R D E R
(through video conference)

Heard Mr.S.T.Varadarajulu, Learned Counsel appearing for the Petitioner and Mr. K. Prabakar, Learned Counsel for the First Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The husband of the Petitioner viz., P.Soyambu, was employed by the Third Respondent viz., M/s. Lloyd Bituman Products Private Limited, and he died in an fire accident that had taken place at its Manali campus on 18.07.1999. The Petitioner made a claim for compensation for the death of her husband in W.C. No. 5 of 2007 under the Workmen's Compensation Act, 1923, against the Third Respondent, which was granted for a sum of Rs. 1,75,520/- with interest by an exparte award dated 13.06.2011, but it was subsequently set aside and the matter was heard afresh. The Third Respondent raised a plea that it was an establishment falling within the purview of the Employees' State Insurance Act, 1948 (hereinafter referred to as the 'ESI Act' for short), allotted Employers' Code No. 51-9248-67 and the said P.Soyambu was given ESI No. 51-2488804 and in such circumstances, the claim for compensation under the ESI Act was barred in terms of Section 53 of the ESI Act, which reads as follows:-

"53. Bar against receiving or recovery of compensation or damages under any other law:- An insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen's Compensation Act, 1923 (8 of 1923), or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act."

The Commissioner for Workmen's Compensation by order dated 20.10.2015 in W.C. No. 5 of 2007 accepted the said contention of the Third Respondent and rejected the claim of the Petitioner for compensation under the Workmen's Compensation Act, 1923, implying that she would have to work out her remedy under the ESI Act. Subsequently, the Petitioner made an application on 27.07.2016 and furnished particulars on 01.08.2016 and 15.11.2016 before the First Respondent for the benefits under the ESI Act, but it was rejected by the First Respondent by Order No. 51-Misc-2016/VVM dated 15.11.2016, which reads as follows:-

"With reference to the above, I am state that time barred funeral benefit cannot be claimed after two years from the date of death of the Insured Person (vide Branch Office Manual at page No. 434 under the heading time barred claims). Hence the claim is rejected. Regarding other benefits, no other claims were submitted to this office within the time limit. (as per your letter the date of death of the IP was on 18.7.1999)"

3. The Petitioner then resorted to invoke Section 75 of the ESI Act and made an application under Section 77 of the ESI Act along with an application to condone delay of 5175 days in filing the same under Rule 17 of the Tamil Nadu Employees' Insurance Courts Rules, 1951 (hereinafter referred to as the 'TNEIC Rules' for short). The Employees' Insurance Court (hereinafter referred to as the 'Insurance Court' for short) by an order dated 03.11.2018 in I.A. No. 208/2017 in E.I.O.P. No. /2017 dismissed that application holding as follows:-

" The Petitioner is a wife of deceased labour who died while discharging his duty on 18.07.1999 at Government Hospital, Chennai. At the time of death, the deceased was aged about 44 years. The Petitioner filed this petition to condone the delay of 5175 days in filing EIOP. It is the case of the Petitioner that direct the Respondent to pay a compensation and family pension along with arrears for the death of her husband, funeral benefits and other benefits. The management has not given any reply to the notice issued by the Petitioner on 05.10.2005. Already she had approached the Deputy Commissioner of Chennai and filed W.C. No. 5/2007 on which an exparte award was passed on 13.06.2011 against the Respondent. Since it was an exparte order, set aside petition was filed by the Management and based on the counter filed by the Management, the petition was dismissed. She had made application to the Respondent, after receiving order of the authority to pay compensation on 27.07.2016, 01.08.2016 and 15.11.2016 and it was rejected by the opposite party. Since she prayed to condone the delay of 5175 days in filing the main petition since she is ignorant of the Acts she could not file the petition in time. On the other hand ESI Corporation strongly resisted the petition stating that ignorance of law cannot be considered for the delay and cannot be excused. The ESI Corporation cannot provide any compensation other than the benefits provided in the Act. There is no valuable reasons for condoning the delay as stated by the Petitioner except the ignorance

of law. I have seen no reason whatever to allow the petition and the point is answered accordingly.

In the result, this petition is dismissed. No costs."

Aggrieved thereby, the Petitioner has preferred this Writ Petition.

4. Before proceeding to examine the correctness of the impugned order passed by the Insurance Court, it would be necessary to refer to Section 77 of the ESI Act, which prescribes the period of limitation for such proceedings, and reads as follows:-

"77. Commencement of proceedings:-

(1) The proceeding before an Employees' Insurance Court shall be commenced by application.

(1-A) Every such application shall be made within a period of three years from the date on which the cause of action arose.

Explanation:- For the purpose of this sub-section,

- (a) the cause of action in respect of a claim for benefit shall not be deemed to arise unless the insured person or in the case of dependants' benefit, the dependants of the insured person claims or claim that benefit in accordance with the regulations made in that behalf within a period of twelve months after the claim became due or within such further period as the Employees' Insurance Court may allow on grounds which appear to it to be reasonable;
- (b) the cause of action in respect of a claim by the Corporation for recovering contributions (including interest and damages) from the principal employer shall be deemed to have arisen on the date on which such claim is made by the Corporation for the first time:
Provided that no claim shall be made by the Corporation after five years of the period to which the claim relates;
- (c) the cause of action in respect of a claim by the principal employer for recovering contributions from an immediate employer shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be

received by the Corporation under the regulations.

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee if any, as may be prescribed by rules made by the State Government in consultation with the Corporation."

Rule 17 of the TNEIC Rules, is extracted below:-

"17. Limitation:-

(1) Every application to the Court shall be brought within three years from the date on which the cause of action arose or, as the case may be, the claim became due:

Provided that the Court may entertain an application after the said period of three years if it is satisfied that the applicant had sufficient reasons for not making the application within the said period.

(2) Subject as aforesaid, the provisions of Parts II and III of the Indian Limitation Act, 1908 (Central Act IX of 1908), shall, so far as may be, apply to every such applications."

5. It is evident from the aforesaid provisions that though 'cause of action' has not been exhaustively defined in that statute, it is beyond cavil that the time at which the Employees' State Insurance Corporation (hereinafter referred to as the 'ESI Corporation' for short) refuses to grant the benefit under the ESI Act necessitates the aggrieved person to challenge the same and that would constitute the 'cause of action' for making the application. The First Respondent had rejected the claim of the Petitioner for dependant's benefit by an Order No. 51-Misc-2016/VVM dated 15.11.2016 and the application under Section 77(1-A) of the ESI Act had been made within three years from that date. It also requires to be noticed here that there is a requirement in terms of explanation (a) to Section 77 of the ESI Act that in order to constitute a 'cause of action', the claim for dependant's benefit would have to be made in accordance with the regulations within the period of 12 months after the claim became due or within such further period that the Insurance Court may allow, which appears to it to be reasonable. What has been contemplated is that if the claim for dependant's benefit has been made within the period of 12 months after it had become due, there would be no difficulty in accepting that the 'cause of action' has arisen, but if it has not been made within that period, the Insurance Court would have to be satisfied that the delay is properly explained and justified in order to constitute a 'cause of action'. The only way in which explanation (a) to Section 77(1-A) of the ESI Act

and the proviso to Rule 17(1) of the TNEIC Rules can be read harmoniously and full meaning and effect could be given to them is by construing them as dealing with two distinct situations of 'satisfying the condition precedent for exercise of the right' and 'the bar of limitation for prosecuting the remedy' respectively, which shall now be explicated. If the application made against an order passed by ESI Corporation refusing to grant the benefits under the ESI Act has been filed after a period of three years from the date of passing of that order, it would be necessary for the applicant to make an application under the proviso to Rule 17(1) of the TNEIC Rules to condone delay in filing the same, which would have to be first decided and it is only if the Insurance Court is satisfied with the explanation for that delay, the merits of the claim in the application for the benefits under the ESI Act could be thereafter taken up for consideration. On the other hand, if the application before the Insurance Court seeking the benefits under the ESI Act has been filed within three years from the date on which the ESI Corporation has refused to grant the same but the applicant had not claimed the benefit from the ESI Corporation within a period of 12 months after it had become due, it would not require any application to condone delay in filing the same under the proviso to Rule 17(1) of TNEIC Rules, but that question would fall for adjudication at the time of finally deciding the matter by the Insurance Court which would have to examine at that stage as to whether the delay in making the claim by the applicant before the ESI Corporation has been properly explained in order to grant relief, if he is otherwise entitled, in terms of explanation (a) to Section 77(1-A) of the ESI Act.

6. It would be useful here to also refer to the decision of the Division Bench of the Kerala High Court in Vasumathy -vs- Employees' State Insurance Corporation [(1997) 4 LLN 756], where the same position of law has been explained in the following words:-

"The original applicant before the Employees' Insurance Court, Quilon, is the appellant with a grievance that the Employees' State Insurance Corporation contended that her application is barred by limitation under S. 77 of the Employees' State Insurance Act, 1948, and the Insurance Court had jumped at it to accept the contention and to hold that the applicant knocked the doors of the Insurance Court beyond the time-limit prescribed under S. 77(1-A) of the said Act having presented the application beyond the period of three years from the date on which the cause of action arose.

2. The Employees' State Insurance Act, 1948, has come on the statute for providing benefits to the employees. A bare look at the mention of these benefits would show that the benefits contemplated are those to be seen in case of sickness, maternity benefits, employment insurance and other patterns in the process of the welfare of the employees by providing the insurance coverage for the benefit of the employees. In order to further the implementation of the above social welfare object by virtue of S. 3 thereof the Employees' State Insurance Corporation gets established with meticulously provided constitution thereof. The functions of the Corporation are also emphasised over and above and in addition to the particulars of the schemes of benefits of which the provisions of the Act are eloquent. Not only that the schemes of benefits are to be watched by the Corporation but in addition thereto S. 19 of the Act expects the Corporation to promote measures for the improvement of the health and welfare of the insured persons not content with measures for the improvement, the Corporation is expected also in addition to promote measures for the rehabilitation and re-employment of insured persons. This rehabilitation and re-employment of insured persons is also understood in the context of those who become disabled or have not disabled but are found to be insured. There is yet another feature and it is that even in following up such measures if any expenditure is incurred the Corporation gets liberty subject to the sanction by the Central Government to meet the financial demands from the funds of the Corporation. Various provisions of the Employees State Insurance Act, 1948, provide measures to look after the employees covered thereby. In the process of dealing with the situation it becomes imperative that the approach of the Corporation has to be in the spirit of the legislation and the requirements of various schemes taken up.

3. In the above background, if it is found that the Insurance Courts are required to deal with objections based on technicalities, such as the period of limitation, the situation in the nature of an estoppel or even in the nature of constructive res judicata, it will have to be viewed in the context of the object of legislation.

4. In a situation where the Government, public bodies and the statutory corporations have become major parties of the litigation even the Apex Court in

Trustees of Port of Bombay -vs- Premier Automobiles Ltd., (AIR 1974 SC 923) and Central Co-operative Consumers Stores, Ltd. -vs- Labour Court, Himachal Pradesh, Shimla [1993 (2) LLN 464], had an occasion to point out certain notions of fair play in the context of the litigation at hand with the Courts. In the process a voice of an expectation is also seen from the Courts that when there are occasions of dealing with legislations having the concept of social welfare as the edifice and the ringing tone in regard thereto, the usual style of contesting the litigation has been expected to be suitably modified to suit the ultimate purpose in the process. This is because the Courts are more concerned with advancing the object of the legislation than in allowing its time to be wasted on such technical considerations and that too at the hands of major parties litigating in the Courts of law.

5. The normal approach in regard to the law of limitation, bar of jurisdiction and other identical occasions is that the Court always find it difficult to surrender its power and therefore proceeds to consider these aspects with an attitude which is more than critical in the context. It is not that the provision need to be twisted in favour of the object of the legislation. However the approach cannot be expected to be merely technical in the context. S. 77(1-A) has been introduced by Act No. 44 of 1966 with effect from 28th January, 1968, enacting that every application commencing before the Insurance Court has to be made within a period of three years from the date on which the cause of action arose. It then becomes the concern of the Court to determine the cause of action with reference to the factual matrix placed by the applicant to bring the proceedings within the period of limitation prescribed.

6. It would, therefore, become important and crucial to know in such proceedings what would be the cause of action and commencement thereof.

....

16. It will have to be appreciated that the applicant has to establish the claim to the benefits on the basis of the medical certificate. The legal right emerges in favour of the applicant with regard to the claim for benefit. What is really required to be seen is the cause of action, and cause of action has to be located with reference to a point of time when the applicant could really be said to having no remedy other than to approach the Insurance Court. That would be the denial

of benefit. It is no doubt that the benefit is claimed on the basis of the medical certificate Exhibit A9 and on the basis thereof, a claim is made. The real cause is when there is a denial to the legal right, it would be elementary that it is the denial to the claim of legal right which has to be understood as the cause of action from the point of view of starting point of limitation. It is not possible to accept the impugned order of the Insurance Court throwing out the applicant at the threshold.

....

18. What we find as a matter of concern is that the Insurance Court has stopped short of proceeding further and has thrown out the proceedings at the threshold. It is here that something needs to be desired in the context. The remedies are for the benefit of workman, some of them are medical benefits. These are all brought up in the legislative enactment as social welfare measures. A travel of the proceedings right from the year 1987 down to this date, for the period of 10 years is our embarrassment. Had the Insurance Court seen the real spirit of the legislation and it is in this context we find that this is what is desired from the statutory Tribunals proceeding to throw out the applications without considering the situation on merits. It would have been an advantage to us if there has been a discussion on merits because we find that the evidence on record shows that the ailment making impossible to the applicant to do the work that she was doing is fortified by the medical certificate on record. In all such matters covered by social legislations time factor and quickness in regard thereto are healing aspects going a long way parallel to the intention of the legislation. It would therefore, to be desirable that the concerned courts should hesitate to adjudicate the jurisdictional aspect and leave the matter at that stage. It would be really in consonance of justice that the courts decide all issues to save the disadvantages arising out of inevitable life of the litigation in the Courts."

7. Viewed from this perspective, the question as to whether there has been a 'cause of action' for the application in the instant case would obviously fall for consideration before the Insurance Court only at the time of finally deciding the application under Section 77 of the ESI Act on all aspects of the matter and there was no necessity for the Petitioner to have filed any separate application to condone delay under the proviso to Rule 17(1) of the TNEIC Rules, implying that the

refusal of the Insurance Court to condone delay in the instant case cannot impede the right of the Petitioner to pursue further in the claim made by the Petitioner under Section 77 of the ESI Act.

8. At the same time, the manifest arbitrariness apparent on the face of the record portrayed by the cavalier manner in which the claim of the Petitioner has been rejected at the threshold in this case shocking the judicial conscience warrants this Court to perform its plenary function, as custodian of the fundamental rights of the citizens, conferred under Article 226 of the Constitution to reach palpable injustice where it has been found, by scrutinizing the legality of the Order No. 51-Misc-2016/VVM dated 15.11.2016 passed by the First Respondent, which is 'State' within the meaning of Article 12 of the Constitution, instead of relegating the matter for decision to the Insurance Court for that purpose so as to shorten the ordeal of long drawn litigation.

9. The First Respondent in the Counter-Affidavit dated 31.07.2020 seeks to buttress the rejection of the claim made by the Petitioner with the following explanation:-

"4. I humbly submit that the Petitioner had approached the Respondent office only on 27/7/2016 i.e. after 17 years of date of death (18.07.1999) of the Insured person (late) M.Suyambhu S/o Maileru Perumal, as the claim submitted by the Petitioner was time barred, the claim was rejected by the Respondent according to ESIC OFFICE MANUAL in L.6.21 read as the "The dependents of the deceased insured person should have filed the claim for dependents benefits with the corporation within 12 months of the date on which it became due". I submit that even though L.6.23 (iii) authorises the Regional Director to admit a claim later than 12 months but within 6 years from the said date mentioned in paragraph L.6.20 provided he is satisfied about the reasons for delay and claims received after the expiry of 6 years are to be referred to Headquarters Office, but in the present case no necessary relevant documents to substantiate the claim and sufficient reasons for the delay were given on behalf of the petitioner herein for her claim.

5. I humbly submit that neither the employer i.e., unit of M/s Lloyd Bitumen Products Pvt. Ltd (according to Sec 68(1) of The Employees State Insurance (GEN) Regulations 1950) nor the dependent of Insured person (according to Sec 77 of The Employees State Insurance (GEN) Regulations 1950) have reported about the

accident to the Respondent Corporation till 2016 about the alleged accident occurred on 17.07.1999. I humbly submit that in spite of the enormous delay in communicating the death due to alleged employment injury and claim of funeral benefits made on 27/07/2016, an investigation regarding the said accident case was ordered by then Additional Commissioner & Regional Director vide R.O.Letter No.51-N-19-13-courtcase/16/Bfts/51-02488804 dated 16/7/2018 appointing Shri A.Thiruavukkarasu (Now Retired Social Security Officer) as Investigating Officer, but the due investigation could not be conducted by the Investigating Officer for the reasons quoted vide his letter dated: 03.08.2018 which is as follows:-

- (i) M/s Llod Bitument Products Pvt Ltd was not found working in the said address at the time of his visit on 26.7.2018.
- (ii) Returns of contribution for CPE March 1999 could not be traced as reported by Branch manager, ESIC, Wimco Nagar.
- (iii) Shri N. Vengatraman, Advocate (Mobile No. 9790819104) engaged by the spouse of the deceased insured person has requested time to collect the documents from the daughter of the deceased IP, who is also reportedly an advocate and to produce before the investigating officer, however the documents required to process the investigation were not produced.

I further submit that till date, the employer M/s Lloyd Bitumen Products Pvt Ltd has not even reported the accident to ESI Corporation whereas the ESI Act states that such accident occurred inside the factory premises must be reported immediately.

6. I humbly submit that Sec 51-A of ESI Act states that an accident arising in the course of employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment but petitioner herein has failed to even annex the copy of FIR in Crime No.306/1999 on the file Manali Police Station along with WC petition or in EIOP petition or even before this Hon'ble court in order to ascertain whether the accident happened in course of employment."

The First Respondent has also produced a copy of the extract from ESIC Branch Office Manual, which reads as follows:-

"Date of accrual of dependants' benefit

L.6.20. As per Regulation 83, the dependants' benefit shall accrue from the date of death in respect of which the benefit is payable, or where disablement benefit was payable for that date, from the date following the date of death. It follows also that in case wages were paid for the date of death, dependants' benefit accrues from the date following the date of death.

When claim becomes due

L.6.21. Under Section 77, an application claiming a benefit shall be made before an Employees' Insurance Court within a period of three years from the date on which cause of action arose. The cause of action would be deemed to arise only if the dependants of the deceased insured person had claimed the dependants' benefit in accordance with the Regulations within a period of twelve months after the claim became due. In other words, the claimants should have filed the claim with the Corporation within 12 months of the date on which it became due. Employees' Insurance Court can, however, relax this 12 months' limit on grounds which appear reasonable to the court. Regulation 45(d) says that a claim for dependants' benefit for the purpose of Section 77 of the Act becomes due for the first payment on the date of death of the insured person or, if disablement benefit was paid for the date of death, on the date following the date of death and, in case of birth of a posthumous child, on the date of birth of the posthumous child. For subsequent payments, as per Regulation 45(e), the claim for payment of dependants' benefit becomes due on the last day of the month to which it relates.

L.6.22. Thus, the right of a dependant to dependants' benefit is legally enforceable only if he or she submitted a claim for the benefit to the Corporation within 12 months of the date on which it became due and, the same having not been paid by the Corporation, submits an application within 3 years of the said date to the Employees' Insurance Court. The limit of 12 months as aforesaid may be relaxed by the Court on grounds which appear reasonable to the court.

L.6.23. In view of the fact that a vast majority of the dependants may be illiterate and ignorant of the provisions of the law as described above, the Corporation continues to entertain claims for dependants' benefit received later than the legal time-

limits. The Regional Director, who is the authority to-

- (i) admit a case of death of an insured person as death due to employment injury,
- (ii) admit a dependant as well as a guardian in case of minor for payment of dependants' benefit and,
- (iii) review and re-fix the rates of dependants' benefit, has also the power to admit a claim received later than 12 months after the date mentioned in paragraph L.6.20 but within 6 years from the said date provided he is satisfied about the reasons for delay. Claims received after the expiry of 6 years are to be referred to Headquarters Office."

Though it is not possible to give any statutory flavour to the Office Manual of the First Respondent, which is only in the nature of guidelines, a perusal of the same reveals that the manner in which the First Respondent has handled the claim of the Petitioner is not in accordance with the procedure laid down therein. Even according to that Office Manual, except Section 77 of the ESI Act which arises at the stage when a person aggrieved by the refusal to grant benefit approaches the Insurance Court, no other legal provision has been shown fixing any time limit for entertaining the claim for the dependant's benefit before the ESI Corporation. As a matter of fact, it has been expressly stated that claims received after the expiry of six years has to be referred to its Headquarters Office. In that event, the First Respondent could not have refused to entertain the claim of the Petitioner by the order dated 15.11.2016 and instead the claim made by the Petitioner ought to have been referred to its Headquarters Office for necessary sanction after obtaining the explanation of the Petitioner for the delay. It must be remembered here that the Hon'ble Supreme Court of India in *Bharagath Engineering -vs- R.Ranganayaki* [(2003) 2 SCC 138] has been categorical from the relevant statutory provisions that the payment or non-payment of contributions and action or non-action prior to or subsequent to the date of accident is really inconsequential for entitlement to the benefit under the ESI Act. The scheme of the beneficent statute expects the employer to immediately communicate the death of the employee to the ESI Corporation, and the dependants' benefit arising therefrom would have to be automatically granted to the entitled persons, meaning thereby that there is no necessity even for the dependants to make specific claim for their legitimate entitlements under the statute. If the employer has failed to give such intimation to the ESI Corporation, it cannot be used as a ruse to deprive the legitimate entitlement of the

dependants of a deceased employee, as in this case. A beneficiary of a valuable right would not ordinarily stand to gain by belatedly pursuing his claim for the same. It is well known that the rules of limitation, which intend to actuate prompt resort to legal remedy and to avert dilatory tactics, are not meant to destroy the rights of parties. The fact that the Petitioner, who is a widow, hails from rural area situated at a distance of nearly more than 600 kilometers from the establishment of the employer, where the accident took place, coupled with her illiteracy and backwardness, and had been bonafide prosecuting the claim for compensation against the employer under another enactment, could not have been lost sight by the First Respondent. The overwhelming evidence produced by the Petitioner and the Second Respondent in the earlier proceedings between them under the Workmen's Compensation Act, 1923, substantiates that the claim of the Petitioner for the benefits under the ESI Act could not be brushed aside and deserves due consideration and it is certainly incumbent upon the First Respondent to take all those documents into account while deciding that claim. This would obviously mean that when the claim is found to be genuine and the delay has been properly explained, the ESI Corporation cannot deny the benefits to the entitled persons. The First Respondent has apparently missed focus on these germane aspects of the matter and has pedantically rejected the claim by a cryptic order merely citing hyper-technicalities of limitation, which cannot be countenanced. The matter ought to have been dealt with humanitarian approach taking into account realistic probabilities. It needs to be cautioned here that the officialdom now managing the ESI Corporation has to be sensitized to ensure that timely succor bestowed in the social security scheme from the frugal contributions derived out of the hard-earned wages of the under-privileged working class reaches the needy beneficiaries, lest a better mechanism would have to be devised and replaced to achieve the cherished objectives of the pioneer labour welfare legislation enacted at the time of attaining independence of this Democratic Nation.

10. The outcome of the foregoing discussion is that it is not possible to uphold the flawed order of rejection No. 51-Misc-2016/VVM dated 15.11.2016 passed by the First Respondent and the same is set aside requiring the First Respondent to examine the matter afresh by conducting proper enquiry with the Petitioner and the Second and Third Respondents in the light of the aforesaid conclusions arrived by this Court. If necessary, the First Respondent may refer the matter to its Headquarters Office for taking final decision, but the completion of the whole exercise has to be expedited and in any event, report of the action taken shall be filed by 31.01.2021 before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kv/vjt

To

The Manager,
Branch Office,
Employees State Insurance Corporation,
Villivakkam, Chennai.

Copy To

1. The Chairman & Managing Director,
Employees' State Insurance Corporation,
Panchdeep Bhawan,
Comrade Indrajeet Gupta (CIG) Marg,
New Delhi - 110 002.
2. The Presiding Officer,
Employees' Insurance Court,
Chennai.
3. The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No.32520

W.P.No.12255 of 2019

SJ(CO)
CS/02/12/2020