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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 147/2020**

ASHOK KUMAR ANEJA

.....Petitioner

Through: Mr Maneesh Gumber, Mr Ishwar
Kumar Sharma and Mr Neeraj
Kardam, Advocates.

versus

EMPLOYEE STATE INSURANCE CORPORATION... Respondent

Through: Mr V.K. Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **17.08.2020**

The hearing was conducted through video conferencing.

CM APPLN. 18116/2020 (exemption)

1. Allowed, subject to all just exceptions. The application stands disposed-off.

CM APPLN. 18117/2020 (for enlargement of time to pay court fees/welfare)

2. For the reasons mentioned therein, the application is allowed and disposed-off accordingly.

FAO 147/2020 & CM APPLN. 18115/2020 (stay)

3. Issue notice.
4. Notice is accepted on behalf of the respondent by learned counsel named above.
5. At the request of learned counsel for the parties, the appeal is taken up for disposal.
6. The appellant's claim petition was dismissed on the ground that the adjudicating Court did not have the jurisdiction under section 75 of

the Employees State Insurance Act, 1948 ('ESIC Act'). That being the position, the appellant's petition should not have been dismissed, but rather remanded to the appropriate forum. The learned counsel for the respondent submits that indeed, that would be the fair procedure.

7. In the circumstances, the operative part of the impugned order dated 13.03.2020 passed by learned Additional Senior Civil Judge-cum-Judge Small Cause Court-cum-Guardian Judge, Saket Court, South District, New Delhi in ESIC No.03 of 2013 (New ESIC No.08/2016) is hereby set aside and the matter is remanded to the appropriate Court so designated under section 75 of the ESIC Act, where the case shall be placed for adjudication on its merits. The evidence recorded thus far need not be recorded afresh. The parties agree that the adjudication be done on the basis of the evidence already recorded. The parties shall appear before the learned Senior Civil Judge, South East District, New Delhi, (specially designated under section 75 of the ESIC Act) on 22.10.2020, for further proceedings, on the basis of the records available.
8. The appeal, along with pending application, is disposed-off in the above terms.
9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

AUGUST 17, 2020/rd