

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1423 of 2018

C.M.P.No.11358 of 2018

M/s.Future Calls Technology Pvt.Ltd
No.16/2, Thiruveethi Amman Koil Street,
Koyambedu,
Chennai-600 017.

.. Appellant/Petitioner

vs.

1. The Employees State Insurance Corporation,
Rep.by the Deputy Director,
143, Sterling Road, Nungambakkam, Chennai-34.

2. The Recovery Officer,
E.S.I Corporation,
143, Sterling Road,
Nungambakkam, Chennai-34.

.. Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 82(2) of the Employees' State Insurance Act, 1948, against the order and decree dated 29.12.2017 in E.I.O.P.No.22 of 2013 passed by the learned Judge, Principal Labour Court, (Employees' Insurance Court), Chennai.

For Appellant : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co
For Respondent : Mr.S.P.Srinivasan

सत्यमेव जयते
O R D E R

The order dated 29.12.2017 passed in E.I.O.P.No.22 of 2013 is under challenge in the present Civil Miscellaneous Appeal.

2. The learned counsel appearing on behalf of the appellant mainly contended that the Employees Insurance Court has extracted the pleadings of the parties and dismissed the appeal without any adjudication or findings with reference to the issues as well as the evidence produced by the parties.

3. On perusal of the order, it reveals that in 13 page judgment, upto paragraph No.11, pleadings are extracted. In

paragraph No.12, the Employees Insurance Court arrived a conclusion that the appellant is bound to pay the amount claimed by the respondent. It is further stated that on perusal of the records, the claim of the respondents is rightful and legally valid. Except the general observation, the Employees Insurance Court has not decided the issues with reference to the documents and evidence produced by the parties. Appeals under Section 75 of the ESI Act are to be adjudicated on merits and in accordance with law and by affording opportunity to the parties. The appeal being a first appeal, the factual aspects are to be considered and the findings are to be arrived by the Employees Insurance Court. However, in the present case, no such exercise has been done by the Employees Insurance Court. Contrarily, the pleadings were recorded and the petition was dismissed by merely stating that the claim of the respondent is rightful and legally valid. Such finding is insufficient for the purpose of satisfying the application of mind to be exercised.

4. This being the factum, this Court is of the opinion that the matter deserves to be remanded back for reconsideration. Accordingly, the order dated 29.12.2017 passed in E.I.O.P.No.22 of 2013 is set aside and the matter is remanded back to the Employees Insurance Court [Principal Labour Court, Chennai] for fresh adjudication by affording opportunity to all the parties and dispose of the appeal on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

5. Accordingly, the Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

SSB

To

The Judge, Principal Labour Court,
(Employees' Insurance Court), Chennai.

+1cc to Mr.S.P.Srinivasan, Advocate, S.R.No.15103
+1cc to M/s.T.S.Gopalan & CO, Advocate, S.R.No. 15047

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CA (CO)
TE (17/04/2021)