

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.168 OF 2017

S.Selvaraj

.. Appellant

Vs.

1. The Management of
Shoba Metallic Yarn Industries,
S.F.No.415, Somaiyampalayam Village,
Kalappanaickenpalayam,
Coimbatore - 641 108.
2. The Regional Director,
Sub-Regional Office,
Employees State Insurance Corporation,
No.333, Cross Cut Road,
Coimbatore - 641 012.

..Respondents

Prayer :

Civil Miscellaneous Appeal filed under Section 82 of the Employee's State Insurance Act, against the order passed in ESI.CMA.No.1 of 2006 dated 13.06.2016 on the file of the Hon'ble Employee's State Insurance Court-cum-Labour Court, Coimbatore.

For Appellant : Mr.M.Vijayaragavan

For Respondents : R1 - Left
R2 - Mr.T.N.C.Koushik

J U D G M E N T

The order dated 13.06.2016 passed in ESI.CMA.No.1 of 2006 is under challenge in the present Civil Miscellaneous Appeal.

2. The Substantial Question of law raised by the appellant, which reads as under:

"1. Can the Lower Court rejected the claim of the Appellant even after came to the conclusion that he has the permanent disability of 10% of loss of earning capacity?

2. Can the Lower Court rejected the claim of medical expenditure to the tune of Rs.25,000/- even though the Respondents themselves admitted that the Appellant is entitled to get the amount spent for medical expenditure under Section 96A of Employees' State Insurance Act?

3. Can the Lower Court after receiving the evidence from the Doctor and the Medical Board who examined the Appellant and issue Certificate to that effect and give evidence before the Lower Court, insist the Appellant to prove the injuries once again by adducing his personal evidence?"

3. The substantial question of law raised are relatable to the facts of the case and the appellant met with an accident and based on the accident report, he filed an application for compensation. The ESI Court adjudicated the issues with reference to the documents and evidences.

4. The learned counsel appearing on behalf of the appellant mainly contended that the medical expenditures were not paid to the appellant, despite the fact that the accident was established. However, perusal of the order passed by the ESI Court reveals that, except the statements mentioned in the Claim Petition, the appellant has not established any disability or otherwise before the ESI Court by submitting evidences or documents. Paragraphs 11 and 12 of the findings are relevant for the purpose of ascertaining the fact that the appellant has not suffered any functional deformity and further, he has not produced any documents to establish that he suffered permanent disability. The learned counsel for the respondent states that the appellant has not submitted the Medical bills and in the event of submitting the medical bills, the authorities competent would be in a position to consider the same.

5. Perusal of the order passed by the ESI Court, this Court is of an opinion that the appellant has not established any disability or otherwise nor produced any medical bills, enabling the ESI Court to consider his case for reimbursement of medical bills. In the absence of any evidence, the ESI Court is right in rejecting the petition and the appellant has not established any acceptable substantial question of law, so as to consider the appeal any further.

6. Accordingly, order dated 13.06.2016 passed in ESI.CMA.No.1 of 2006 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.168 of 2017 stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Employee's State Insurance Court-cum-Labour Court,
Coimbatore.

+1cc to Mr.T.N.C.Koushik, Advocate, S.R.No.15153

C.M.A.No.168 of 2017

JP-II(CO)
CS/01/04/2021



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