

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.27591 of 2017

G.Venkatachalam

...Petitioner

Vs.

1. The Director,
ESI Corporation,
D.No.39/57, Three Road,
Salem 636 009.

2. The Salem Textiles Ltd.,
Sellyampalayam 636 108,
Narasingapuram Post,
Attur Taluk,
Salem District.

... Respondents

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 proceedings dated 22.06.2017 passed in E.S.I.O.P.No.9 of 2013 passed by the Labour Court, Salem and quash the same and direct all the Respondents herein to fix the percentage of loss of earning capacity as 100% and direct the Respondents to pay 100% disability compensation amount to the Petitioner with 18% interest from the date of the accident.

For Petitioner : Mr.A.Rajakumar
For 1st Respondent : Mr.G.Bharadwaj

सत्यमेव जयते
O R D E R

Petitioner has come up with this Writ Petition challenging the proceedings dated 22.06.2017 passed by the Labour Court, Salem in E.S.I.O.P.No.9 of 2013 and for a direction to the Respondents herein to fix the percentage of loss of earning capacity as 100% and pay 100% disability compensation amount to him with 18% interest from the date of accident.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. According to the learned counsel appearing for the 1st Respondent/ESI Corporation, Section 82 of the Employees' State

Insurance (ESI) Act, 1948 empowers the aggrieved party to prefer an Appeal and hence, on the said ground, this Writ Petition is not maintainable.

4. For the sake of convenience, Section 82 of the Employees' State Insurance Act, 1948 is extracted hereunder:

"82. Appeal:

(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

(4) The provisions of sections 5 and 12 of the 1[Limitation Act, 1963 (36 of 1963)] shall apply to appeals under this section."

5. A reading of Section 82 of the ESI Act makes it clear that, be it an interim order or a final order, it can be questioned only by way of a Civil Miscellaneous Appeal under Section 82 of the ESI Act, 1948 and not by way of a Writ Petition. Hence, on the ground of maintainability, the Writ Petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed on the ground of maintainability. It is needless to mention that, it is open to the Petitioner to approach the Appellate forum invoking Section 82 of the ESI Act and explain the reasons for the delay. No costs.

s/d-

Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

(aeb)

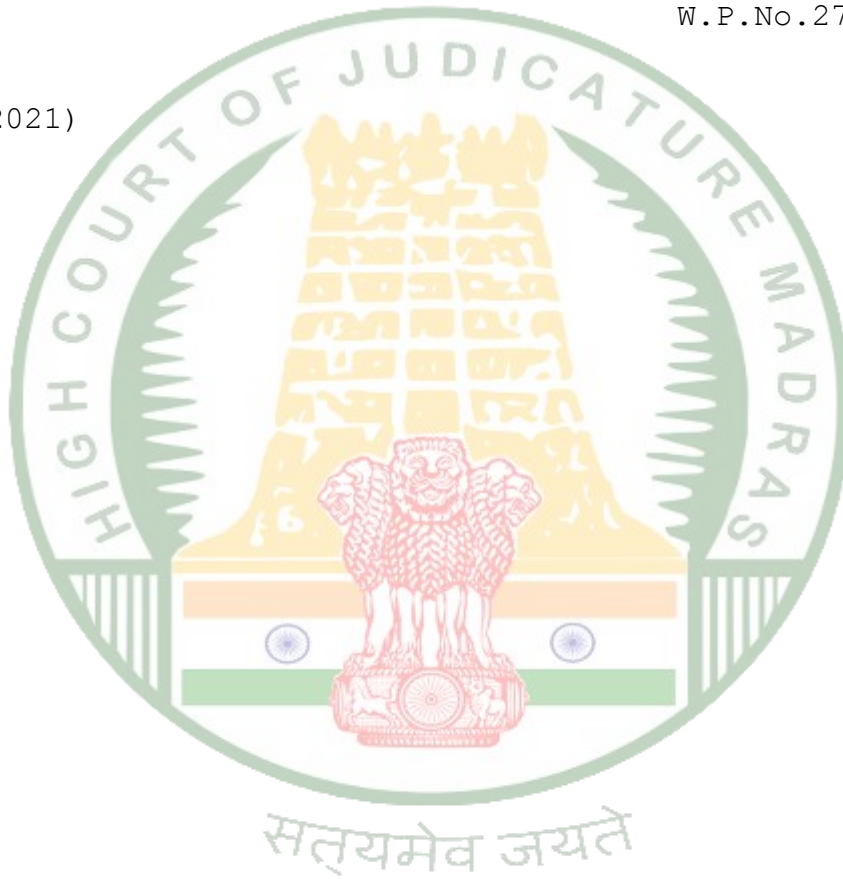
To:

1.The Director,
ESI Corporation,
D.No.39/57,
Three Road, Salem 636 009.

2.The Presiding Officer
Labour Court
Salem.

W.P.No.27591 of 2017

NMI (CO)
SP(06/07/2021)



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