

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.64 OF 2022
IN
WRIT PETITION NO.1737 OF 2022

Employees' State Insurance Corporation and Ors. ...Applicants

In the matter between

M/s. Schindler India Private Limited ...Petitioner

vs.

Employees' State Insurance Corporation and Anr. ...Respondents

Mr. Shailesh Pathak a/w. Mr. Jay Vora, for the
Applicants/Respondents.

Mr. S.C. Naidu a/w. Mr. Manoj Gujar, Mr. T.R. Yadav, Mr. Pradeep
Kumar i/b. C.R. Naidu & Co., for the Petitioner.

CORAM : N. J. JAMADAR, J.

DATE : JUNE 14, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. The applicants/respondents seek review of the order passed by this Court on 21st February, 2022 (Coram: Ravindra V. Ghuge, J.) whereby this Court was persuaded to set aside the order dated 21st December, 2021 passed by the Employees' Insurance Court, Mumbai in Misc. Application (ESI-Ex) No. 44 of 2020 declining to grant waiver of pre-deposit in terms of the provisions contained in section 75 of the Act, and remand the matter back to ESI Court for afresh consideration.

3. This Court was persuaded to remand the matter to ESI Court as for the financial year 2014-15 the ESI Court had considered the prayer for waiver and directed the petitioner to deposit a particular amount as condition under section 75 of the Act 1948 and the said factor was not properly appreciated by the ESI Court while passing the impugned order for the financial year 2015-16.

4. In paragraph 5 of the order dated 21st February, 2022 this Court has made it clear that ESI Court was entitled to take an independent view if it found that the view taken by the said Court in an identical case for the previous year did not merit acceptance.

5. In the aforesaid view of the matter, there is no error apparent on the face of the record nor any other sufficient reason to review the order passed by this Court on 21st December, 2022 whereby this Court has essentially directed the ESI Court to decide the application for waiver afresh.

6. The learned counsel for the applicants submitted that the observations in paragraph 6 of the order dated 21st February, 2022 give an impression that ESI Court is required to delve into the merits of the matter.

7. Though the apprehension does not seem to be well founded, yet, to rule out any misgiving, it is clarified that the ESI Court shall decide the application considering the merit of the claim for waiver.

8. With the aforesaid clarification, the petition stands dismissed.

(N. J. JAMADAR, J.)