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C.M.A. No.2839 of 2022 and C.M.P. No.22112 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2839 of 2022 and C.M.P. No.22112 of 2022

M/s.Hotel Picnic Plaza
rep. by its Partner Devendra Gupta

.. Appellant

Vs.

The Assistant Director,
E.S.I. Corporation,
No.143, Sterling Road,
Chennai - 600 034.

.. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 82 of the Employees State Insurance Act, 1948 against the order of the Employees Insurance Court, Principal Labour Court, Chennai dated 16.08.2022 passed in I.A. No.2 of 2022 in E.S.I.O.P. No.105 of 2006.

For Appellant : Mr.A.Suresh

For Respondent : Mr.C.V.Ramachandra Murthy

JUDGMENT

This appeal has been filed by the appellant, challenging the order dated 16.08.2022 passed by the Employees Insurance Court, Principal Labour Court, Chennai in I.A. No.2 of 2022 in E.I.O.P. No.105 of 2006.

2.The Employees Insurance Court has dismissed the Amendment



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Application filed by the appellant seeking to amend the prayer in the main petition, which was filed under the provisions of the Employees State Insurance Act, challenging the order passed under Section 45-A of the Employees State Insurance Act.

3.Only on the ground of inordinate delay, the Employees Insurance Court has dismissed the Amendment application, filed by the appellant under the impugned order. However, the Employees Insurance Court has erroneously, by total non-application of mind, failed to take note of the fact that the grounds raised in the main petition, filed by the appellant, makes it clear that they have challenged the order, which was passed under Section 45-A of the Employees State Insurance Act.

4.While that be so, the question of dismissing the Amendment Application by the Employees Insurance Court under the impugned order on the ground of inordinate delay does not arise. Sufficient cause has been shown by the appellant and only due to inadvertence, there became a necessity for the appellant to file the Amendment Application. The claim is only for a sum of Rs.37,727/-, which is the subject matter of challenge in E.S.I.O.P. The appellant has also deposited 25% of the said



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amount as per the statutory requirement.

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5.Learned Standing Counsel appearing for E.S.I. Corporation has not raised any serious objection for allowing this appeal.

6.Since the impugned order dated 16.08.2022 has been passed by total non-application of mind and by not appreciating the fact that the inordinate delay does not arise due to the fact that the appellant had infact raised all the grounds in their appeal, which categorically points out that they have only challenged the order passed under Section 45-A of the Employees State Insurance Act, this Court will have to necessarily allow this appeal and the learned counsel for the ESI Corporation has also fairly not raised any serious objection for allowing this appeal.

7.Accordingly, the impugned order dated 16.08.2022 passed by the Employees Insurance Court, Principal Labour Court, Chennai in I.A.



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ABDUL QUDDHOSE, J.

vga

No.2 of 2022 in E.I.O.P. No.105 of 2006 is set aside by this Court and this appeal is allowed.

8.The Employees Insurance Court, after carrying out the amendment as prayed for in I.A. No.2 of 2022 in E.I.O.P. No.105 of 2006, is directed to dispose of E.I.O.P. No.105 of 2006 within a period of three months from the date of receipt of a copy of this judgment. No costs.

15.07.2024

vga

To

1.The Employees Insurance Court,
Principal Labour Court, Chennai.

2. The Section Officer,
V.R. Section,
High Court, Madras.

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