



W.P. No.29399 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.29399 of 2022

B. Sampath S/o. V. Balakrishnan .. Petitioner

Vs.

1. The Regional Director,
Employees State Insurance Corporation,
Chennai.

2. The Assistant Director (Legal),
Regional Office, ESI Complex,
Bouvankare Street, Mudaliarpeta,
Puducherry - 605 004. .. Respondents

PRAYER: The Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records of the 2nd respondent pertaining to the impugned order dated 07.09.2021 bearing Reference in CMA No.306 of 2015 (ESI OP No.11 of 2010) / Legal and quash the same and consequently, direct the respondent to pay Permanent Disablement benefit to the petitioner under the ESI Act as per the order of the ESI court, Puducherry vide order dated 13.06.2014 in ESI OP No.11 of 2010 which was confirmed by this Court in appeal vide order dated 16.04.2019 in C.M.A. No.306 of 2015 from the date of employment inquiry i.e., on



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27.12.1999 and pay its arrears as detailed in the annexure within a stipulated time.

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For petitioner : Mr. P.R. Thiruneelakandan

For Respondents : Mr. K. Prabakar, Standing Counsel.

ORDER

The Writ petition has been filed to quash the impugned order dated 07.09.2021 bearing Reference in CMA No.306 of 2015 (ESI OP No.11 of 2010) / Legal passed by the 2nd respondent and to quash the same and consequently, to direct the respondent to pay Permanent Disablement benefit to the petitioner under the ESI Act as per the order of the ESI court, Puducherry vide order dated 13.06.2014 in ESI OP No.11 of 2010 which was confirmed by this Court in appeal vide order dated 16.04.2019 in C.M.A. No.306 of 2015 from the date of employment inquiry i.e., on 27.12.1999 and pay its arrears as detailed in the annexure within a stipulated time.

2. The learned counsel appearing for the petitioner would submit that the petitioner was employed in Swadeshi Cotton Mills, Puducherry on 18.10.1994, which was covered under the ESI Act. While so, on 27.12.1999, when the petitioner was removing the cotton waste from the 'Simplex machine', the cotton waste fell into his left eye, resulting in a progressive and total loss of vision in both eyes and certified as 100% permanent disability.



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The ESI corporation failed to refer the case to the Medical Board on the ground that the employer had not filed an accident report. Thereafter, the petitioner initiated proceedings before the ESI Court, Puducherry in ESI OP No.11 of 2010. The ESI Court held that the petitioner was entitled to 100% Permanent Disablement Benefit and directed payment accordingly through an order dated 13.06.2014. Thereafter, the department preferred an appeal in C.M.A. No.306 of 2015 and the same was dismissed vide order dated 16.04.2019 by confirming the order of the ESI court. Despite the above order, the respondents paid the Permanent Disablement Benefit only from 03.09.2013 i.e., the date of Medical Board Assessment, not from the date of employment injury on 27.12.1999 and rejected further claim through the impugned order dated 07.09.2021.

2.1. The above said rejection of the claim of the petitioner is illegal. The order of the ESI Court clearly stated that the petitioner sustained 100% permanent disablement due to loss of vision, the injury was an employment injury, caused due to occupational disease and the petitioner is entitled to 100% permanent disablement benefit under the ESI Act and the same was also confirmed by this Court. However, the respondent considered the benefits only from the date of the decision of Medical Board. The said



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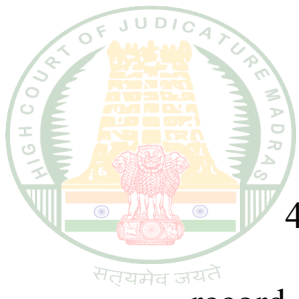
findings are contrary to the beneficial object of the ESI Act and inconsistent to the findings rendered by the Court. The administrative instructions cannot override the judicial orders or defeat statutory rights. The delay in medical reference was due to the respondents' own lapses and the failure of the employer to file the accident report, would not affect the petitioner's rights. Therefore, the order passed by the Authority is against law and the same is liable to be quashed and the petitioner is entitled to the permanent disablement benefits from the date of occupational injury i.e., 27.12.1999.

3. The learned counsel appearing for the respondents would submit that the claimant has not filed any document to show that he sustained injury on the eyes, while he was doing work, so, in the absence of any convincing material evidences, the disability cannot be termed as 'employment injury. The loss of vision is not due to employment injury, but it is due to occupational disease. Therefore, he is not entitled to disablement benefits. The occupational disease has been defined under Section 52-A of the ESI Act. As per Section 52-A of the Act, "if an employee employed in any employment specified in Part A of the Third Schedule, contracts any disease specified therein as an occupational disease peculiar to that employment is deemed to be an employment injury arising out of and in the course of employment.



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Further, for Part C of the Third Schedule, wherein, Serial No.3 specified peculiarly to a cotton industry and occupational disease is mentioned as Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust. Part C of the Third Schedule does not specify loss of vision or any ailment of eyes as an occupational disease. Further, as per Section 77(1A) of ESI Act, every application before the Court shall be made within a period of three years from the date of which the cause of action arose. But the petitioner has filed the Writ petition belatedly. However, as per the order of the Court, the respondents complied the order and paid benefits from the date of 03.09.2013 i.e, the date of Special Medical Board Meeting. In fact, in cases, where the Permanent Disablement Benefits are payable straight away, without any prior spell of Temporary Disablement Benefit, the Permanent Disablement Benefit is payable from the date of the Special Medical Board Meeting, unless or otherwise indicated by the said Board. In this case, action report was not submitted by the employer for the injury sustained by the petitioner on 27.12.1999. Therefore, the Special Medical Board meeting was conducted and decided the case on 03.09.2013. Therefore, the order passed by the Authorities is in accordance with law and the Writ petition is liable to be dismissed.



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4. Heard both sides and perused the entire materials available on record.

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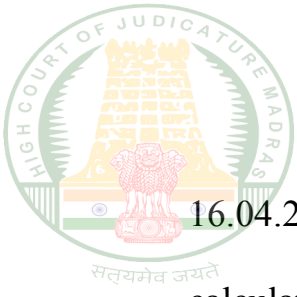
5. In this case, there is no dispute that the petitioner was employed under the Swadeshi Cotton Mills, Puducherry and the same was covered under the ESI Act. Already the petitioner approached the ESI Court, Puducherry and as per the order of the ESI Court, Puducherry, the petitioner is entitled to 100% Permanent Disablement Benefits. The said order of the ESI Court was challenged through an appeal before this Court in C.M.A. No.306 of 2015 and the order of the ESI Court was confirmed. As per the order of the ESI Court, the petitioner sustained 100% permanent disablement due to loss of vision and the injury was caused due to occupational disease and the petitioner is entitled to 100% Permanent Disablement Benefits under the ESI Act. This Court held that ***“In the absence of any evidence to the contrary, it must be considered that the injury sustained by the claimant, including the loss of vision, is an employment injury....”***. The respondent also accepted the above said findings of this Court and thereafter, they decided to extend the benefits of Permanent Disablement to the petitioner. However, they only extended the benefits from the date of Medical Board Certificate dated 03.09.2013. Once the Court held that the petitioner is



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entitled to 100% Permanent Disablement Benefits and the petitioner also established that the injury sustained by the petitioner is an employment injury and the respondent failed to send the petitioner for medical board, it cannot be deprived of his entitlement.

6. According to the respondents, the employer has not sent any report as about the date of accident. However, once the Courts rendered findings that the injury is an employment injury, thereafter, the Board cannot extend the benefits from the date of Board meeting and the petitioner is entitled to the benefits of Permanent Disablement to the employment injury i.e., on 27.12.1999. The respondents cannot interpret the order passed by the Courts and the findings of the Court is that the employment injury was on 27.12.1999, thereby, the petitioner is entitled to the benefits from the date of employment injury and not from the date of Special Medical Board meeting. Therefore the petitioner is entitled to the benefits as prayed for in the petition. The order passed by the Medical Board, the 2nd respondent herein dated 13.06.2014 is quashed and the respondents are directed to pay the Permanent Disablement Benefits to the petitioner from the date of employment injury i.e., on 27.12.1999 in terms of the order dated 13.06.2014 in ESI O.P. No.11 of 2010, which was confirmed by this Court in appeal vide order dated



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16.04.2019 in C.M.A. No.306 of 2015 and to pay the arrears amount as calculated by the petitioner. It is made clear that if there is any arithmetical error in the calculation of the petitioner, it can be corrected by the respondents.

7. With the above said directions, this Writ petition is ***allowed***.

26.08.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

To

1. The Regional Director,
Employees State Insurance Corporation,
Chennai.

2. The Assistant Director (Legal),
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Puducherry - 605 004.

P.DHANABAL, J.,

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