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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 450/2019 & CM APPL. 49532/2019**

VISHWA JAGRITI MISSIONAppellant

Through: None.

versus

EMPLOYEES STATE INSURANCE CORPORATION &

ANR

.....Respondents

Through: Mr. A.K. Verma, Adv. with Mr.
Arvind Kumar Bansal, SSO,
ESIC.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **06.03.2025**

1. No one appeared for the appellant when the matter was called.

Learned counsel for the respondents is appearing through VC.

2. On a perusal of the record, I find that the primary challenge in the present appeal is the impugned order dated 31.05.2019, whereby the petition filed by the appellant/plaintiff was dismissed for want of prosecution.

3. It would be pertinent to reproduce the order dated 31.05.2019 passed by the learned Trial Court, which reads as under:

“No PW is Present.

An application for seeking adjournment is filed by Proxy Counsel for the petitioner by stating that main Counsel is not available to attend the Court today because of medical problems.

The same is opposed by Ld. Counsel for the respondents by stating that ample opportunities have already been granted to the petitioner to conclude the evidence but even the evidence affidavit is awaited from the side of petitioner.

Record perused.

Issues in the present petition were settled on 30.03.2016. Ample opportunities have already been availed and granted to the petitioner to lead evidence. Even, costs were also imposed on 02.05.2018, 24.08.2018 and thereafter, also on 22.02.2019



but the petitioner has failed to get any witness examined. The petitioner has also failed even to place on record any evidence affidavit of any of the witness. Even today, there is no explanation with Ld. Counsel as to why the petitioner/witness is not available. Six opportunities have already been availed by the petitioner and accordingly, the Court do not find it appropriate to grant more time to the petitioner.

Hence, the application is dismissed.

Application stands disposed off.

It is also clear the petitioner is not willing to pursue with the petition. Hence, the same is dismissed for want of prosecution.

File be consigned to Record Room.”

4. It is thus apparent that the petition under Section 75 of the Employees’ State Insurance Corporation Act [hereinafter referred as “ESIC”] was filed for quashing of the Letter dated 14.08.2015, issued by the Assistant Director, ESIC for recovery of damages from the petitioner under Section 85 of the ESIC Act.

5. It is evident that the appellant failed to lead any evidence in the matter despite several opportunities. Therefore, this Court is unable to find any legality, perversity or incorrect approach adopted by the learned Trial Court in dismissing the petition.

6. The present appeal is, accordingly, dismissed. Pending applications, if any, are also disposed of.

DHARMESH SHARMA, J.

MARCH 6, 2025/gunn/sa