

(122) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3530-2026

Date of Decision: 27.04.2026

UNITED INDIA INSURANCE CO. LTD.

...Petitioner

Vs.

JYOTI RANI AND ANOTHER

...Respondents

2.

CR-3542-2026

UNITED INDIA INSURANCE CO. LTD.

...Petitioner

Vs.

MANDEEP KAUR AND ANOTHER

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner-Insurance Company.

VIRINDER AGGARWAL, J. (Oral)

1. This order disposes of two revision petitions filed by the petitioner-Insurance Company, challenging the order dated 07.04.2026 passed by the learned Commissioner under the Employees' Compensation Act, 1923. By the impugned order, the application filed by the petitioner under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, seeking impleadment of the Employees' State Insurance Corporation (ESIC) as a necessary party prior to the adjudication of the main claim petition, was declined.

2. Briefly stated, respondent No. 2, M/s Heritage Poly Foam Pvt. Ltd., was operating a mattress manufacturing unit. On 17.09.2024, a fire broke out at the said premises, resulting in the unfortunate deaths of two employees, namely Vijay Kumar, who had joined service on 15.09.2024, and Ninder

Singh @ Narinder Singh, who had joined on 13.09.2024. The mothers of both deceased employees instituted separate claim petitions under the relevant provisions of law. The claim petitions were contested by respondent No. 2—employer as well as the petitioner-Insurance Company by filing their respective written statements. While the employer admitted the material averments in the claim petitions, the petitioner-Insurance Company contested the same on various grounds. During the course of proceedings, learned counsel appearing on behalf of the petitioner-Insurance Company formed an opinion that the Employees' State Insurance Corporation (ESIC) was a proper and necessary party for the effective, fair, and complete adjudication of the dispute. Consequently, an application dated 12.02.2026 was moved under Order I Rule 10 read with Section 151 of the Code of Civil Procedure seeking impleadment of ESIC as a party to the proceedings. The said application was opposed by the respondent-claimants. Upon consideration, the learned Commissioner, vide order dated 07.04.2026, dismissed the application for impleadment. Aggrieved by the said order, the petitioner-Insurance Company has preferred the present revision petitions.

3. Learned counsel for the petitioner-Insurance Company contended that the learned Commissioner failed to properly appreciate the pleadings on record as well as the settled legal position governing impleadment of parties, and that the impugned order has been passed on surmises and conjectures. It was argued that the learned Commissioner overlooked the well-established principle that an employee becomes entitled to the benefits under the Employees' State Insurance Act, 1948 (in short 'ESI Act') from the very date of employment, irrespective of whether contributions have actually been

deposited with the Employees' State Insurance Corporation. Counsel further submitted that the learned Commissioner failed to consider the true import of Sections 53 and 61 of the ESI Act, which bar an employee or his dependents from claiming compensation under any other law once the case falls within the ambit of the ESI Act. According to the petitioner, in view of the statutory bar, the presence of the Employees' State Insurance Corporation was essential for a fair and complete adjudication of the controversy. It was also contended that the reasoning adopted by the learned Commissioner, that there was no material on record to conclusively establish that the deceased employees were covered under the ESI Act on the date of the accident is legally untenable. The mere fact that the deceased had joined employment only a few days prior to the incident and had not been formally enrolled under the ESI Scheme by that time does not, by itself, disentitle them from coverage under the Act, nor does it negate the necessity of impleading ESIC.

4. On the other hand, the learned Commissioner, while dismissing the application, observed that a mere possibility of the applicability of the ESI Act does not render ESIC a necessary party to the proceedings. It was further noted that the matter had already reached the stage of final arguments, and allowing the application for impleadment at such a belated stage would unnecessarily delay the disposal of the claim petitions, particularly when such impleadment was not shown to be strictly indispensable for passing an effective order. The Commissioner also observed that the Insurance Company would remain at liberty to raise all permissible legal submissions at the stage of final adjudication.

5. It is a settled principle of law that the claimant/plaintiff is *dominus litis*, and it is for him to decide against whom he seeks to litigate. The petitioner-Insurance Company could have raised an appropriate plea in its written statement pointing out the alleged non-joinder of a necessary party. In the event the adjudicating authority were to conclude that, despite opportunity, the claimant failed to implead a necessary party, the proceedings could, if warranted, suffer on account of such non-joinder.

6. However, in the present case, the deceased employees had admittedly not been enrolled under the ESI Scheme at the time of the accident, having joined employment only a few days earlier. In such circumstances, the applicability of the ESI Act itself appears to be uncertain and debatable. The learned Commissioner, therefore, rightly concluded that the Employees' State Insurance Corporation cannot, at this stage, be treated as a necessary party for the purpose of adjudication.

7. The reasoning recorded by the learned Commissioner does not suffer from any illegality, perversity, or material irregularity warranting interference in the exercise of revisional jurisdiction. Furthermore, the petitioner-Insurance Company has already been granted liberty to raise all available legal pleas at the stage of final adjudication, including the plea of non-joinder of a necessary party. In view of the above, no merit is found in the present revision petitions, and the same are accordingly **dismissed**.

8. A photocopy of the order be placed on the file of other connected case.

(VIRINDER AGGARWAL)
JUDGE

27.04.2026

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Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No