

(1986) 09 RAJ CK 0064

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 210 of 1979

Employees State Insurance

APPELLANT

Vs

Mehta Vegitable Products (P) Ltd.

RESPONDENT

Date of Decision : 22-09-1986

Acts Referred:

Citation : (1987) 1 WLN 15

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Guman Mal Lodha, J.—The E.S.I. Corporation has filed appeal against the Mehta Vegetables Company on a short point that the E.S.I. Court was not justified in setting aside the damages on the ground that no loss was accrued to the Corporation on account of delay in payment of contribution of the Employee State Insurance.

2. Having heard Mr. Gupta for the appellant and Mr. Saxena for the respondents I am of the opinion that in charging damages for non payment or failure of payment may be on account of late payment of contribution of the Employee State Insurance. It is not permissible for the Court to insist on proof of losses which are required to the proving cases of contracts or in cases of torts. It may be mentioned that this branch of legislation for insisting on payment or deposit of contribution of Insurance for employees is a social welfare legislation where the employers are under a duty and legal mandate to pay the amount of contribution in time. It is not a commercial transaction where the proof must be of losses incurred by a party who comes to the Court or it can equated or treated analogous to the law of torts.

3. In view of this it is held that it is not necessary to prove actual loss to the employees or to the corporation on account of the non-payment or delayed payment or failure of payment of the contribution which attracts the charging of

damages. All that is required is that the Corporation should prove that there was failure of payment may be total failure by way of non-payment or delayed payments. Once it is proved then the charging of the penalty is mandatory and automatic and the damages which are charged by the Corporation cannot be waived or not they can be excused by the E.S.I. Court on the ground of non-proof of loss. In fact the concept of proof of loss is foreign to this branch of law.

4. Consequently I accept the appeal and reverse the judgment of the E.S.I. Court and hold that the damages claimed by the E.S.I. Corporation were justified. There would be no order as to costs.