

**(1994) 08 BOM CK 0039**  
**In the Bombay High Court**  
**Case No : F.A. No. 948 of 1989**

|                                        |            |
|----------------------------------------|------------|
| Employees" State Insurance Corporation | APPELLANT  |
| Vs                                     |            |
| Nathu Haribhau Dharade                 | RESPONDENT |

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**Date of Decision :** 10-08-1994

**Acts Referred:**

Employees State Insurance Act, 1948 — Section 82

**Citation :** (1995) ACJ 215 : (1999) 3 LLJ 70

**Hon'ble Judges :** D.R. Dhanuka, J

**Bench :** Single Bench

**Advocate :** R.M. Jayakar, instructed by M.V. Jayakar and Co, for the Appellant;  
Kulkarni, instructed by Abhay Kulkarni, for the Respondent

**Final Decision :** Dismissed

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## Judgement

D.R. Dhanuka, J.—Employees" State Insurance Corporation has preferred this appeal against order dated January 11, 1988 passed by the Employees" State Insurance Court at Bombay in Application (ESI) No. 5 of 1985.

2. This appeal does not involve any substantial question of law. The trial Court has rightly followed the ratio of the decision of this Court in the case of Mohamad Ismail Ansari Vs. E.S.I.C. Bombay, . It is not open to this Court to entertain arguments and consider as to whether the said case was rightly decided or wrongly decided. I am in respectful agreement with the above referred judgment rendered by Division Bench of this Court.

3. The respondent was an insured person and an employee under the provisions of Section 2(9) of the Employees" State Insurance Act, 1948. The respondent was working in the premises of M/s. Raymond Wool, Combing Division, Thane on October 8, 1982, when the respondent met with an accident and was admitted to E.S.I. Hospital, Mulund. On November 22, 1982 the respondent resumed his duty with the company. The respondent did receive sickness benefit from the appellant for the period from October 8, 1982 to November 21, 1982. The

appellant Corporation declined to grant disablement benefit to the respondent on the ground that his salary had crossed Rs. 1,000/- per month in the month of September, 1982. It is not disputed that in the month of October, 1982 the respondent had received wages only of Rs. 250.02. In the above referred case decided by this Court, the employee had actually received wages during the month in which the accident had taken place which were less than Rs. 500/- although his total wages for the month during which the accident took place were Rs. 500.70. This judgment is directly against the appellant.

4. In the result, I agree with the order passed by the trial Court. The trial Court has held that the applicant employee was entitled to get disablement benefit from the Employees' State Insurance Corporation on account of employment injury sustained by him on October 8, 1982.

The appeal fails. The appeal is dismissed. The appellant is directed to comply with the order passed by the trial Court latest within four weeks from today, if not already complied with. No order as to costs.