

(2007) 06 KL CK 0001
In the High Court Of Kerala
Case No : M.F.A. No. 1465 of 1998

E.S.I. Corporation

APPELLANT

Vs

Suresh Babu

RESPONDENT

Date of Decision : 01-06-2007

Acts Referred:

Employees State Insurance Act, 1948 — Section 2(9)

Citation : (2007) 114 FLR 1158 : (2007) 3 LLJ 1076

Hon'ble Judges : K. Padmanabhan Nair, J

Bench : Single Bench

Advocate : T.P.M. Ibrahim Khan, for the Appellant; Saigi Jacob Palatty, L.G. Rany Pallan and Suresh Babu, G.P., for the Respondent

Final Decision : Dismissed

Judgement

K. Padmanabhan Nair, J.—The Regional Director, E.S.I. Corporation has filed this appeal challenging the judgment passed by the Insurance Court, Alappuzha by which it was found that workman is entitled to get the benefit for an employment injury. The respondent was working at Ernakulany Regional Milk Producers Union Dairy. He met with an accident on May 16, 1995. The respondent claimed the disablement benefit. It was contented that the injury sustained by him was an employment injury and on account of that injury he lost vision of one of his eyes. Since the Regional Director refused to grant reliefs, he filed petition before the Insurance Court. The main contention raised by the appellant was that the petitioner was not an employee on the date of the accident as he was drawing salary in excess of Rs. 3,000/-. The contention was rejected by the Insurance Court and directed the appellant to extend the disablement benefit to the respondent. Challenging that finding, this appeal is filed.

2. It is argued by the appellant that the injury sustained by the respondent was not an employment injury and he was not an employee as defined u/s 2(9) of the E.S.I. Act.

3. The respondent was an employee working at Ernakulam Regional Milk Producers Union Dairy. He sustained injury on May 16, 1995. He claimed the disablement benefit. The contention raised by the appellant was that the respondent was not an employee as defined under the Act. Such a contention was raised on the ground that on date of accident the respondent was drawing a salary exceeding Rs. 3000/-.

4. In this case, the accident occurred on May 16, 1995. The respondent also did not dispute the fact that on the date of accident he was drawing more than Rs. 3,000/- as salary. But according to him, in view of proviso to Section 2(9) of the E.S.I. Act, he is entitled to get the disablement benefit. Till September 30, 1994 the respondent was a covered employee. The salary was increased only from October 1, 1994. The benefit period corresponding to the contribution period was from April 1, 1994 to June 30, 1995. As already found, the accident occurred on May 16, 1995, which was within the benefit period. So, the fact that there was increase in the salary as the date of accident was not a ground to reject the claim put forward by the appellant. The order passed by the Insurance Court does not call for any interference and I confirm that order.

In the result, the appeal is dismissed.