
(1993) 08 SC CK 0082

In the Supreme Court Of India

Case No : Civil Appeal No. 9970 Of 1983

Modella Woollens Ltd.

APPELLANT

Vs

Employees' State Insurance Corporation and Another

RESPONDENT

Date of Decision : 25-08-1993

Acts Referred:

Employees State Insurance Act, 1948 — Section 2(22)

Citation : (1994) 3 SCC 580 Supp

Hon'ble Judges : Yogeshwar Dayal, J; P. B. Sawant, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The question involved in the present case is whether the production bonus paid to the employees is "wages" within the meaning of Section 2(22) of the Employees' State Insurance Act, 1948 (hereinafter referred to as the "Act"). The Insurance court has taken the view that the production bonus in question is "wages" and the High court has confirmed it relying on two full bench decisions of the A. P. and Karnataka High courts, viz. ESI Corpn. v. A.P. Paper Mills Ltd. and N.G.E.F. Ltd. v. Deputy Regional Director, E.S.I.C. which have also been relied upon by the Insurance court. The definition of wages reads as follows:

" "Wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes (any payment to an employee in respect of any period of authorised leave, lock-out, strike which is not illegal or lay-off and) other additional remuneration, if any (paid at intervals not exceeding two months) but does not include (a) any contribution paid by the employer to any pension fund or provident fund, or under this Act; (b) any travelling allowance or the value of any travelling concession; (c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or (d) any gratuity payable on discharge."

2. IT cannot be disputed that the production bonus is nothing but remuneration for the additional production which the employees have contributed. Under the agreement the bonus in question is to be paid at the end of each quarter. There is also a provision in the agreement that the employees can claim advance against such bonus and the finding recorded by the Insurance court shows that every employee has received such advance. The mere term in the agreement that the payment of bonus would be made at the end of the quarter, therefore, does not make the bonus, a payment other than remuneration for the labour put in during the said quarter. Hence the stipulation in the agreement that the payment of the bonus would be made at the end of the quarter is not material for deciding the question whether the payments would be covered by the first part of the definition or not. What the court has to look into is the nature of the payment. The term production bonus itself shows that it is a payment connected with or relatable to the production over a period. Hence it cannot be a payment other than "wages" within the meaning of the said definition.

3. DR Prakash next contended that the Insurance court had not decided the exact amount to be paid. According to him, since the Insurance Corporation has made the assessment on an ad hoc basis, it was the duty of the court to decide the exact amount which was liable to be paid by the appellants as contribution. It is the appellant who had gone to the court against the demand for contribution made by the Corporation. In the application filed before the Insurance court, the appellants did not come out with the correct amount which according to them was payable, assuming that their contention that the production bonus was not wages, was not upheld. Beyond stating in the application that the amount demanded by the Corporation was incorrect, the appellants said and proved nothing before the court. We are, therefore, of the view that in the circumstances, there was nothing wrong if the Insurance court did not go into the further question and examine the exact amount payable by the appellants and accepted the amount calculated by the Corporation as the correct amount of contribution. The appeal is, therefore, dismissed with costs.