
(1991) 06 KL CK 0054
In the High Court Of Kerala
Case No : M.F.A. No. 563/86

Regional Director, E.S.I. Corporation

APPELLANT

Vs

Cheerans Auto Agencies

RESPONDENT

Date of Decision : 18-06-1991

Acts Referred:

Employees State Insurance Act, 1948 — Section 82

Citation : (1991) 63 FLR 562 : (1992) 1 LLJ 704

Hon'ble Judges : Varghese Kalliat, J;G.H. Guttal, J

Bench : Division Bench

Advocate : T.P.M. Ibrahim Khan, for the Appellant; M.V. Joseph, for the Respondent

Judgement

Varghese Kalliat, J.—This is an appeal by the Regional Director, E.S.I. Corporation, Trichur. Appeal is against the judgment of the Employees' Insurance Court, Calicut. The question raised in the appeal lies in a very narrow complex. According to the Appellant, Respondent's establishment is one covered by the Employees' State Insurance Act. It is seriously disputed by the Respondent. The dispute involves the question as to how many persons are employed by the Respondent. According to the Respondent, it employed only 18 persons and 2 persons were taken as trainees. According to the Regional Director, 21 persons are employed by the Respondent. Assuming that what the Regional Director has said is correct, then also a question whether out of 21 persons, 2 persons are employees or not has to be decided.

2. The definite case of the Respondent is that 2 persons are not employees, but only trainees. The Regional Director was not in a position to give clear evidence on this aspect of the matter. The court has adverted to it. Perhaps, he may not be in a position to know what is the nature of the work done by the disputed persons. But there is clear evidence on the side of the Respondent to establish the fact that 2 persons, Muraleedharan and Narayanankutty are not employees, but they are only trainees. One among the trainees has been examined and he

has deposed that he is only a trainee and also that the establishment has got another trainee. This information has been accepted on the court and the court held that assuming that there are 21 persons, even then there are only 19 persons as employees in the establishment and so the provisions of the Employees' State Insurance Act are not applicable.

3. This is an appeal u/s 82 of the Employees' State Insurance Act. The provision makes it clear that an appeal lies to the High Court from an order of the Employees' Insurance Court only if it involves a substantial question of law. The question whether the 2 persons are employees or not is a question which has to be decided on an assessment of fact and it is a question of fact. At any rate, it cannot be treated -in the circumstances of the case, as a substantial question of law. The Insurance Court has given sufficient reason to hold that the 2 persons are trainees. If that finding is correct, what has been done by the Employees' Insurance Court is perfectly legal and valid.

We see no reason to interfere with the judgment impugned in this appeal. Appeal is only to be dismissed. We do so.