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Bar of benefits under ESI Act: An Anathema to society

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Abstract

The E.S.I. Act of India is a wide-ranging welfare system which is created to provide working individuals and their families with social as well as economic safety. The Employees' State Insurance Corporation is the primary corporate authority in charge of the complete scheme. This plan is focused on workplace injuries and prohibits workers from collecting compensation under any other legislation if they are covered under the ESI Act. The author of this article deals with the controversy of dual compensation through various judicial pronouncements. The capacity to sue based on substantive law cannot be extinguished by a procedural clause in Section 53 or Section 61 of the E.S.I. Act of 1948.

I. Introduction

The E.S.I scheme is an inclusive criterion of Social Welfare encapsulated in the E.S.I Act[1475], and it is built to safeguard 'employees' in view of the implications of incidents of illness, maternity, disability or death due to employment injury[1476], as well as to offer additional healthcare services to individuals covered by insurance and their family members. The provision of this act applies to industries and other organizations that employ 10 or more people, such as transport sector, hotel, restaurants, theaters, publications, retailers, and academic/healthcare facilities. But, in some states, the requirement for organization cover remains at 20. Workers of the aforementioned enterprises and organizations who earn up to rupees 15,000 monthly are entitled to get the socio-economic security advantages in accordance with the E.S.I. Act of 1948.[1477]

The E.S.I. Act tends to provide a robust scheme and system for offering various kinds of social as well as economic benefits to employees/workmen[1478]. The duty of overall administration of the E.S.I scheme is undertaken by the Employees' State Insurance Corporation (ESIC) which is a statutory body/organization. It is a scheme that works with the inputs of both, the employee and the employer, which implies that funds are collected from both in order to make the E.S.I framework function. [1479] There are standard contribution rates which are fixed by the corporation for smooth, effective and conflict-free fund collection. The employer's contribution rate is higher than that of the employees (it is 4.75% of the earnings distributed to the employees) and employee's contributions calculated at 1.75% of an employee's gross compensation. The workmen or employees who receive less than rupees 137 each day are not obliged to pay their part of contribution.[1480]

II. Judicial Trends and Landmark Judgments

The principal question raised for deliberation in this plea in the historic Supreme Court decision in Western India Plywood Limited v. Shri. P. Ashokan[1481] wherein, the employee had

[1475] Employees' State Insurance Act, 1948, No. 34, Acts of Parliament, 1948 (India).
[1476] Employees' State Insurance Act, 1948, s. 2(8), No. 34, Acts of Parliament, 1948 (India).
[1477] National Portal of India, https://www.india.gov.in/spotlight/employees-state-insurance-scheme#tab=tab-1 (last visited on Jan. 7, 2023).
[1478] Employees' State Insurance Act, 1948, s. 2(9), No. 34, Acts of Parliament, 1948 (India).
[1479] The Economic Times, https://economictimes.indiatimes.com/wealth/insure/health-insurance/what-is-esic-scheme-who-is-eligible-what-are-its-benefits/articleshow/89150964.cms (last visited on Jan. 8, 2023).
[1480] Ministry of Labor & Employment, Government of India, https://labour.gov.in/general-overview (last visited on Jan. 8, 2023).
[1481] Western India Plywood Limited v. Shri. P. Ashokan, AIR 1997 SC 3883.

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sustained injuries during the period of his employment and had obtained benefit under the E.S.I. Act of 1948. Afterwards, he sued his employer for harm and injuries caused to him even after previously being compensated under the E.S.I. Act. The court in this case relied upon its judgement in Trehan v. Associated Electrical Agencies and Anr.[1482] which has finally resolved the issue regarding a workmen's claim towards their employers for an injuries as a result or outcome of employment. In the said matter, Trehan who was an employee of the respondent had suffered some facial injuries while performing repair work on a TV within the course of his work, as a consequence of which he impaired eyesight in his left eye. He issued a notice on the respondent asking Rs. 7 lacs in damages after getting the compensation from the Employees' State Insurance Corp. under the ESI Act. The employer challenged the act of the Mr. Trehan, citing Section 53 and 61 of the E.S.I. Act. The Commissioner struck down the employer's complaint and decided to abide by the decision of the Full Bench of the Kerala High Court in the Western India Plywood case, observing that, because ESI is a social assistance regulation, the Parliament could not have planned to impose a barrier to workers asserting more favourable benefits under the Workmen's Compensation Act. The Court examined the terms of section 53 of the Act and found the following:

"It would neither be acceptable nor reasonable to enter a distinct purpose by referencing the previous record of the legislation when such a bar is imposed in plain and unambiguous language. Trying to bypass the threshold in this way would mean subverting the purpose of the regulation. The section's explicit language makes it impossible for us to justify construing it in a way that preserves the ability of a worker who is both a covered individual and employed under the E.S.I Act to seek reimbursement under the Workmen's Compensation Act."

Two key judgements are there which are concerned with the barrier under section 53[1483] of the Employee's State Insurance Act, 1948 as against a claim under the norms of the Motor Vehicles Act. In the matter of *Tribhuwan Singh v. Ramesh Chandra*[1484], the distinguished single Judge ruled that section 53 of the E.S.I. Act does not preclude the worker from suing the tortfeasor in accordance with the terms of the Motor Vehicles Act. Additionally, the court determined that section 53 of the Employee's State Insurance Act could not invalidate the entitlement to compensatory damages under the Motor Vehicles Act in the case of *Madhya Pradesh State Road Transport Corporation v. Praveer Kumar Bhatnagar*[1485]. The honourable judge interpreted section 53 and found that the phrase "any other law" must legitimately relate to a measure of legal provision with an identical theme to the recognised Act and thus section 166 of the new Motor Vehicles Act is not covered by section 53.

The Madras High Court had ruled in Mangalamma's case[1486] that Section 53 of the E.S.I. Act was intended to shield employers from dealing with many lawsuits resulting from the exact same event. According to the Supreme Court, this is the right interpretation of the aforementioned law. In Dhropadabai and Others v. M/S Technocraft Toolings[1487], the appellants, the legitimate successors of Ambadas Lahane, filed an appeal for damages under the 1923 Act before the Maharashtra Labour Court. The respondent, the employer, adopted two positions: 1) that the rightful successors of the departed employee were not eligible to any payment under the 1923 Act since the departed employee was a covered person under the Employees' State Insurance Act and

[1482] Trehan v. Associated Electrical Agencies and Anr., (1996) 4 SCC 255.

[1483] Employees' State Insurance Act, 1948, s. 53, No. 34, Acts of Parliament, 1948 (India).

[1484] Tribhuwan Singh v. Ramesh Chandra, 1998 ACJ 579, 1996 (3) WLC 377.

[1485] Madhya Pradesh State Road Transport Corporation v. Praveer Kumar Bhatnagar, 1994 ACJ 579.

[1486] Mangalamma and Ors. v. Express Newspapers Ltd. and Anr, AIR 1982 madras 223.

[1487] Dhropadabai and Others v. M/S Technocraft Toolings, C.A. No. 8155 of 2014.

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(ii) The tragedy did not take place within the period of his employment because his death was caused by a cardiac ailment that was not associated with the place of employment.

The Labor Court determined that there was no reason to reject compensation under the 1923 Act merely because the worker was covered under the E.S.I. Act. The employer complained to the High Court over the aforementioned decision. Based on the ruling in A. Trehan v. Associated Electrical Agencies and Others[1488], a single judge decided that the rightful successors would not be able to claim compensation under the 1923 Act since he was a covered person under the 1948 Act. The aforementioned section was construed by a two-Judge Bench in A. Trehan's case, whereby the Bench came to find as under after repeating the said paragraph and taking account of the classification of workman as specified under Section 2(1)(n) of the 1923 Act:

"Both Acts clearly give recompense to a workman or employee for personal damage caused to him by an injury arising out of and in the scope of employment, as shown by a juxtaposition of the relevant clauses of the two Acts. A subsequent Act with a broader scope is the E.S.I. It covers greater ground. Additionally, it offers a worker greater compensatory damages than what is offered under the Workmen's Compensation Act. The rewards that an employee is eligible for under the ESI Act are more significant than those under the Workmen's Compensation Act.... The Legislature could not have intended to establish a different recourse and a venue for pursuing recompense for an injury occurred within the period of employment when it passed the ESI Act."

A reference has been made to the cases of A. Trehan and Bharagath Engineering[1489] in National Insurance Company Ltd. v. Hamida Khatoon and Ors.[1490], and as it seems that the latter Bench agreed with the viewpoint presented in the previous case. When an employee becomes a covered individual under Section 2(14) of the 1948 Act, neither he nor his beneficiaries would be allowed to receive any recompense or damages from the employers under the 1923 Act, according to Justice Dipak Mishra's ruling in Dhropadabai and Ors. v. M/S Technocraft Toolings[1491]. Given that the Act's plain wording makes this conclusion evident, we are required to hold it.

In the case of *Afzal Ali & Others v. Samshun Nisha and Others*, it was held that the petition filed under Section 163A of the Motor Vehicles Act must be deemed maintainable when the provision of Section 163A of the Motor Vehicles Act states that there is no bar under any other law. Since Section 163A was presented much later than the terms of Section 53 of the ESI Act. Section 53 of the E.S.I. Act cannot be invoked in light of Section 163A of the Motor Vehicles Act.[1492]

In the most recent instance of *Prem and Others v. Amar Jeet Singh and Others*[1493], the Rajasthan High Court, ruled that the arguments advanced by the claimants' attorney that they can use both of the remedy provided by these two separate laws enacted and that the sum of money granted by one forum can be modified to reflect the amount granted by other forums are valid. This claim by the claimant's attorney is without merit because courts cannot be used as a venue for collective bargain, and claimants cannot approach two forums at the same time if they believe they have not received enough compensatory damages and that they can approach another forum to seek additional compensation.

Section 53 just wouldn't apply if the victim had been hurt in an accident unrelated to and

[1488] *Supra* 8.

[1489] Bharagath Engineering v. R. Ranganayaki and Another, (2003) 2 SCC 138.

[1490] National Insurance Company Ltd. v. Hamida Khatoon and Ors., (2009) 13 SCC 361.

[1491] *Supra* 12.

[1492] Motor Vehicles Act, 1988, No. 59, Acts of Parliament, 1988 (India).

[1493] Prem and Others v. Amar Jeet Singh and Others, Appeal No. 1799/2011.

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beyond the scope of his job. As the damage was sustained outside the scope of his/her employment. Claimants have occasionally been forced to return money obtained as compensatory damages under the ESI Act of 1948 in order to qualify for benefits under other laws, such as the Motor Vehicle Act of 1988.

III. Conclusion

Given the accepted legal situation, it is evident that applicants can't be permitted to reap the benefits of two separate assertions made under 2 distinct statutes, namely the Workmen's Compensation Act of 1923 and the ESI Act of 1948. The applicant must select just one forum, and once selected, he cannot select a different forum to receive additional rewards. Appellants cannot get benefits under both the acts. As per section 53 of the E.S.I Act, 1948, workmen or employees who have sustained occupational harm or injuries are prohibited from obtaining the benefit of dual compensation under the Workmen's Compensation Act or any other existing and concerned legal provision for that matter. However, the principles of the rule are such that an insured person wouldn't be permitted to make a claim in Torts that has the force of law under the E.S.I Act, which clearly suggests that this law is not limited to removing the remedy required solely under any status. Although the E.S.I. Act is a useful form of legislation, the Legislature decided it was reasonable to bar a covered individual from pursuing a claim or seeking damages under any other statute, including tort law, if the injury was occupational in nature .The stance of the Madhya Pradesh High Court cannot be neglected in the case of Madhya Pradesh State Road Trans. Corpn. v. Praveer Kumar Bhatnagar. The right to claim compensation based on substantive law, primarily tort law, cannot be extinguished by the procedure based provisions of sections 61[1494] or 53 of the E.S.I. Act, 1948.

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[1494] Employees' State Insurance Act, 1948, s. 61, No. 34, Acts of Parliament, 1948 (India).