

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.09.2009

CORAM

THE HONOURABLE Mr. JUSTICE S. NAGAMUTHU

W.P.No.46005 of 2002

and

W.P.M.P.NOs.67046 & 67047 OF 2002

Cosmopolitan Club,
63, Anna Salai,
Chennai - 600 002,
rep by its Honorary Secretary.

..Petitioner

VS

1. The Deputy Director (Inspn),
Regional Office (Tamil Nadu)
Employees' State Insurance
Corporation,
"Panchdeep Bhevan"
143, Sterling Road,
Chennai 600 034.

2. The Regional Director,
Employees' State Insurance Corporation,
143, Sterling Road,
Chennai 600 034.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records of the first respondent leading to the issue of the communication TN/S-11/12/1/2000-01/IPN dated 20.05.2002 and quash the same

For Petitioner : Mr. S.Ravindran for
M/S. T.S.Gopalan & Co.

For Respondents: Mr.S. Vaidyanathan

ORDER

The impugned order of the first respondent is a clarification issued stating that the conveyance Allowance paid as per the contract of service would also fall within the definition of 'wages' for the purpose of Section 2 (9) as well as 2 (22) of the E.S.I Act. The petitioner challenges the same in this writ petition.

Bc 0082942

2. The learned counsel appearing for the petitioner would rely on a judgment of the Hon'ble Supreme Court in Regional Director Employees' State Insurance Corporation Madras VS Sundaram Clayton Ltd., Moppet Division, Madras reported in 2004(1) L.L.N.630 wherein the Hon'ble Supreme Court has held that conveyance allowance shall not form part of the wages for the purposes of E.S.I. Act.

3. In view of the above said law laid down by the Hon'ble Supreme Court, the writ petition is allowed and the impugned order is quashed. It is made clear that the conveyance allowance shall not form part of the wages for the purposes of E.S.I. Act. Connected miscellaneous petitions are closed. No costs.

pal

Sd/-
Asst. Registrar

/True Copy/

[Signature]
Sub. ASST. Registrar

To

1. The Deputy Director (Inspn),
Regional Office (Tamil Nadu)
Employees' State Insurance
Corporation,
"Panchdeep Bhavan"
143, Sterling Road,
Chennai 600 034.

2. The Regional Director,
Employees' State Insurance Corporation,
143, Sterling Road,
Chennai 600 034.

+1 cc to M/s T.S. Gopalan & Co., Advocate, SR.No.47949.

+1 cc to Mr. S. Vaidyanathan, Advocate, SR.No.48280.

WP.No.46005 of 2002

NG (CO)
AR/6.10.2009.

Bc 0082943