

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
M.R. SHAH; B.V.NAGARATHNA, JJ.

April 25, 2022

CIVIL APPEAL NO.3175 OF 2022; (Arising out of S.L.P.(Civil)No.3506 of 2022)
TALEMA ELECTRONIC INDIA PRIVATE LIMITED vs. REGIONAL DIRECTOR, ESI CORPORATION & ANR.

Employee State Insurance Act, 1948; Section 2(22) - "Conveyance allowance" is equivalent to the traveling allowance and therefore any conveyance allowance/traveling allowance is excluded from the definition of "wages".

[Referred to Employees State Insurance Corporation v. Texmo Industries, 2021 (7) SCALE 438]

(Arising out of impugned final judgment and order dated 30-03-2021 in CMA No. 643/2020 passed by the High Court of Judicature at Madras)

For Petitioner(s) Mr. T. Harish Kumar, AOR

For Respondent(s) Mr. Mahesh Srivastava, Adv. Mr. Vaibhav Manu Srivastava, AOR

ORDER

Leave granted.

We have heard learned counsel for the respective parties.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 30th March, 2021 passed by the High Court of Judicature at Madras in C.M.A.No.643/2020 by which the High court has allowed the said appeal preferred by the respondent-ESI Corporation and has set aside the order passed by the ESI Court dated 1st August, 2017 in ESIOF No.3 of 2007, by which the ESI Court held that the "conveyance allowance" paid to the employees by the appellant herein does not include the wages, the employer has preferred the present appeal.

Having heard the learned counsel appearing for the respective parties and taking into consideration the recent decision of this Court in the case of **Employees State Insurance Corporation v. Texmo Industries, 2021 (7) SCALE 438**, by which on interpretation of Section 2(22)(d) of the ESI Act, it is observed and held that the "conveyance allowance" is equivalent to the traveling allowance and therefore any conveyance allowance/traveling allowance is excluded from the definition of "wages" in the above clause, the impugned judgment and order passed by the High Court is unsustainable and the same deserves to be quashed and set aside.

In view of the above and for the reasons stated above, the present appeal is allowed. The impugned judgment and order passed by the High Court is hereby quashed and set aside, and the order dated 1st August, 2017 passed by the ESI Court is hereby restored. No Costs.