

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 4021 OF 2010

EMPLOYEES STATE INSURANCE CORPORATION AND ANR. Appellant(s)

Versus

K.SURENDRAN NAIR Respondent(s)  
WITH

CIVIL APPEAL NOS. 4022 OF 2010 AND 4023 OF 2010

O R D E R

These appeals are directed against the judgment and order dated 06.11.2006 passed by the High Court of Kerala at Ernakulam in MFA No. 1350 of 2000 whereby the High Court dismissed the appeal filed by the appellants.

Heard learned counsel for the parties.

This Court in Goetze (India) Limited Versus Employees State Insurance Corporation 2008(8) SCC 705 decided the similar issue and observed as under:

"As there was delay in making the payment of the contribution the Corporation had issued notice on 29.06.1990 at the first instance and thereafter the order was passed under Section 45-A of the Act on 23.07.1992. The same was challenged before the ESI Court in which an interim stay was granted on 9.10.1992. During the pendency of the matter there was reverification and the quantum payable by the appellant was worked out. The liability to pay interest is statutory. There is no power of waiver.

The question of any compromise or settlement does not really arise. Even otherwise the order of the ESI Court referred to and relied upon by the appellant is of no assistance to the appellant. It only noted statement of the appellant that he had deposited the contribution payable. The reference to 'no further dues" is obviously relatable to the contribution payable and nothing beyond that."

In view of the aforesaid decision, the appeals have to be allowed and we hold that there is liability of payment of interest as laid down by this Court in the aforesaid decision.

Therefore, the order passed by the High Court is set-aside and the appeals are allowed.

.....J.  
(ARUN MISHRA)

.....J.  
(MOHAN.M. SHANTANAGOUDAR)

New Delhi,  
Dated: 25th July, 2017.

ITEM NO.111

COURT NO.9

SECTION XI -A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4021/2010

EMPLOYEES STATE INSURANCE CORP. &amp; ANR.

Appellant(s)

VERSUS

K. SURENDRAN NAIR

Respondent(s)

WITH

C.A. No. 4023/2010 (XI -A)

C.A. No. 4022/2010 (XI -A)

Date : 25-07-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s)      Mr. Mahesh Srivasrva, Adv.  
                                 Mr. Vaibhav Manu Srivastava, Adv.  
                                 Ms. Sringarika Priyadarshini, Adv.  
                                 Mr. P. N. Puri, AOR

Mr. S. Thananjayan, AOR

Ms. Promila, AOR

For Respondent(s)      Mr C. N. Sree Kumar, AOR  
                                 Mr. Amit Sharma, Adv.

Mr Nishe Rajen Shonker, AOR

Mr. M. T. George, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeals are allowed in terms of the signed order.

(SHASHI SAREEN)

AR CUM PS

(Signed order is placed on the file)

(TAPAN KUMAR CHAKRABORTY)

BRANCH OFFICER