

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.3575 OF 2011
[Arising out of SLP(C) No.19661 of 2006]

EMPLOYEES STATE INSURANCE CORPORATION ... Appellant(s)

Versus

HOTEL LUCIYA CONTINENTAL ... Respondent(s)

O R D E R

Leave granted.

2. Despite service of notice there is no one present on behalf of the sole respondent, when the matter is taken up for consideration.

3. The question involved in this appeal is as to whether by virtue of the proviso to Section 77(1A)(b) of the Employees' State Insurance Act, 1948, the Employees State Insurance Corporation is debarred from making any claim after five years from the date on which the claim arises. The High Court held in the affirmative on account of the decision of a Full Bench of the Kerala High Court reported in 2003(3)KLT, P-42.

4. The said question fell for the determination of this Court in ESI Corporation Vs. C.C.Santha Kumar, reported in 2007(1)SCC 584, along with other appeals, including Civil Appeal Nos.6295 and 6297 of 2004, where the decision of the

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Full Bench of the High Court was reversed and it was held that no limitation would apply as far as recovery under Section 45A of the Act was concerned.

5. The issue having been decided in the aforesaid case, the present appeal where the same issue is involved, has to be allowed. The appeal is accordingly allowed and the impugned order of the High Court is set aside.

6. There will be no order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(CYRIAC JOSEPH)

NEW DELHI;
April 25, 2011.
ITEM NO.5

COURT NO.2

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19661/2006

(From the judgement and order dated 21/02/2006 in MFA No. 1031/1995
of The HIGH COURT OF KERALA AT ERNAKULAM)

EMPLOYEES STATE INSURANCE CORPORATION

Petitioner(s)

VERSUS

HOTEL LUCIYA CONTINENTAL

Respondent(s)

(With office report)

Date: 25/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s)

Mr. V.J. Francis, Adv.
Mr. Anupam Mishra, Adv.
Mr. Jenis V. Francis, Adv.

For Respondent(s)

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

Leave granted.

The appeal is allowed and the impugned order of the
High Court is set aside in terms of the signed order.
There will be no order as to costs.

(Sheetal Dhingra) (Juginder Kaur)
Court Master Court Master

[Signed order is placed on the file]