

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1199 OF 2011
 (@ SPECIAL LEAVE PETITION(C)NO.32701 OF 2010

ALL INDIA EMP.ST.INSU.CORPN EMP.FEDN&ANR

APPELLANT(S)

VERSUS

EMPL. STATE INSURANCE CORPN & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties.

2. This appeal is directed against the judgment and order

dated 11.08.2010 passed in Writ Petition (C)No.7690 of 2004 by the

High Court of Delhi at New Delhi.

The short question which arises

for consideration is regarding the refund of the amount by

the

employees in view of their undertaking.

3. The relevant portion of the undertaking given by each of

the employee is reproduced as under :

"If the above said Writ Petition or any SLP that the

ESI Corporation may choose to file in the Supreme

Court is decided in favour of the Corporation, I

shall refund forthwith the entire arrears of pay of

allowances and also the excess pay and allowances

that might have been paid to me consequent upon

implementation of the Orders of the Tribunal."

In the said undertaking it was also mentioned that "in the event of

my failure to refund the arrears and also the excess payment made

: 2 :

forthwith, the Corporation shall have a right to recover such

amounts from me."

4. In view of the categorical undertaking submitted by the

employees, they are under an obligation to refund the excess amount

paid to the Corporation or the Corporation would be at liberty to

recover excess amount paid to the employees.

5. In the facts and circumstances of this case, we direct the

Corporation to recover the excess amount paid to the employees

within six years by fixing yearly installments.

6. Looking to the peculiar facts of this case, we further direct the Corporation not to recover the amount from the legal heirs of the deceased employees.

With this observation, the appeal is disposed of, leaving the parties to bear their own cost.

.....J.
(DALVEER BHANDARI)

.....J.
(DEEPAK VERMA)

NEW DELHI;
31ST JANUARY, 2011
ITEM NO.48

COURT NO.4

SECTION XIV

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).32701/2010

(From the judgement and order dated 11/08/2010 in WPC No.
7690/2004 of The HIGH COURT OF DELHI AT N. DELHI)

ALL INDIA EMP.ST.INSU.CORPN EMP.FEDN&ANR

Petitioner(s)

VERSUS

EMPL. STATE INSURANCE CORPN & ORS. Respondent(s)
(With appln(s) for exemption from filing c/c of the impugned
Judgment and prayer for interim relief and office report)

Date: 31/01/2011 This Petition was called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr.Neeraj Kishan Kaul, Sr.Adv.
Mr.A.K.Behera, Adv.
Mr. Anurag Pandey,Adv.

For Respondent(s) Mrs.Rekha Palli,Adv.
Mr.A.V.Palli, Adv.

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

Leave granted.

Heard learned counsel for the parties.

The appeal is disposed of, leaving the parties to bear their own cost, in terms of the signed order.

(G.V.Ramana)
Court Master

(Neeru Bala Vij)
Court Master

(signed order is placed on the file)