

Whether ESI Act Excludes NGT Jurisdiction? Supreme Court Leaves Question of Law Open While Affirming NGT Award on Gas Leak Compensation

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The Supreme Court has refused to interfere with an order passed by the National Green Tribunal for relief and compensation for the victims of a toxic gas leak which happened in Rourkela Steel Plant in 2021. How A bench comprising Justices S. Ravindra Bhatt and Justice Aravind kumar was hearing an appeal filed by the Rourkela Steel Plant. The Court didn't interfere with the compensation award granted by NGT and directed the appellant to deposit the same within 8 weeks.

A pertinent question of law had arisen in this case- Whether NGT can exercise jurisdiction when the matter is covered under the ESI act? The Court opined that this issue merits consideration. But given the circumstances of the case, chose not to interfere with the compensation given and kept the question of law open for the future.

The court observed "There is some merit in the submission made by the appellant with respect to the jurisdiction of the tribunal which needs a closer examination. However, looking at peculiar circumstances, no further order needs to be passed. Amounts directed by a tribunal shall be disbursed within 8 weeks."

ESI Act excludes the jurisdiction of NGT since exclusive remedies for victims are provided under Sections 46, 52, and 53 contended Appellant The appellant relied on sections 53 and 61 of the ESI Act, 1948 to contend that the employees who receive benefits under the said Act are not entitled to receive similar benefits under any other Act.

He submitted that compassionate appointments had been given to the relatives of the deceased earning wages up to 40,000 per month. Monthly compensation is also being provided to the family members for their upkeep.

NGT lacked jurisdiction to award compensation in view of express bar under section 17, NGT Act argued Appellant He further submitted that Section 17 of the NGT Act, 2010 specifically excludes the applicability of the said section to "workman". The term "workman" in turn is defined under Section 2(o) of the Act as having the same meaning assigned to it in the Workmen's Compensation Act, 1923 (8 of 1923).

He pointed out that Workmen's Compensation Act, 1923 pursuant to the amendment is known as the Employee's Compensation Act, 1923, and the term "workman" has been substituted with "employee" by the Workmen's Compensation (Amendment) Act.

He contended that the workman, who unfortunately lost their life in the incident, satisfy the definition of "employee" under the Employee's Compensation Act.1923 under Section 2(dd)(iii) read with clause

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(ii) of Schedule II and as such the provisions of Section 17 of the NGT would not be applicable to the present case.

The Amicus sought to counter the submissions by contending that the combined effect of section 15 and section 33 of the NGT Act has to be seen where NGT can award compensation in these cases.

BACKGROUND OF THE CASE

There was a leakage of toxic gas CO(Carbon Monoxide)at the Coal Chemicals Department of the Rourkela Steel Plant (RSP) on 06.01.2021 The workers of 'Star Constructions', a maintenance contractor firm, died due to it.

The Indian Express covered the story and NGT took suo moto cognizance of it.

The question for consideration was relief and compensation to the victims.

The tribunal held that the NGT Act overrides all other Acts as per section 33. Even though such a provision exists in Section 53 of the ESI Act also, NGT Act would cover the remedy and override earlier since it was enacted afterward.

Applicability of ESI Act doesn't exclude NGT's jurisdiction to award compensation under section 17 of NGT Act held NGT The tribunal observed that the deceased, being employed under the contractor are not covered by the definition of workman/employee in Workmen's/Employee's Compensation Act, 1923 although covered by a wider definition under the ESI Act.

The tribunal noted that they have not been paid as per Workmen Compensation Act, 1923. Section 53 of the ESI Act excludes Workmen Compensation Act.

Therefore, NGT has jurisdiction to provide relief and compensation under section 17 of the Act.

The tribunal observed that "Applicability of ESI Act does not exclude the NGT Act as section 17 is not attracted to such a case. Moreover, the jurisdiction of this Tribunal for victims of violation of environmental norms stands. Section 33 of the NGT Act provides for the overriding effect of the said Act".

The tribunal held that Liability to pay compensation for an entity engaged in hazardous activity is absolute as per law laid down in M.C. Mehta, (1987) finally, the NGT fixed the compensation act 30 lakhs, 20 lakhs, and 15 lakhs for the deceased workers.

Aggrieved by the said decision, the appellants preferred an appeal before the

Supreme Court.

Case citation: Rourkela Steel plant v. OPCB

Citation: 2023 LiveLaw (SC) 593

[Judgement – click here to view the judgement](#)