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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2248/2012

MEER SINGH YADAV

..... Petitioner

Through: Mr. Naresh Thanai, Mr. J.P. Singh
and Mr. Kunal Kumar, Advs.

versus

GOVT. OF NCT OF DELHI AND ANR

..... Respondents

Through: Ms. Sonia Arora, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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23.02.2015

1. This petition has been filed by one Mr. Meer Singh Yadav to claim reimbursement of medical expenses incurred on behalf of his wife, Smt. Saroj Yadav.

1.1 However, during the pendency of the writ petition, the husband, i.e. Mr. Meer Singh Yadav, expired, and thus, the requisite steps were taken to bring on record Smt. Saroj Yadav. Order to that effect was passed by this court on 1.4.2013.

2. Briefly, insofar as the merits of the case are concerned, Smt. Saroj Yadav was admitted to Deepak Memorial Hospital and Medical Research Centre (in short Deepak Memorial Hospital), which is operated by Kailash Health Care Limited, on 28.4.2011, and was discharged, on 29.4.2011. It appears that since her condition deteriorated, she was referred by Deepak Memorial Hospital to a "*higher centre for further management*".

3. It is not in dispute that the medical expenses incurred qua the treatment of Smt. Saroj Yadav, while she was admitted to Deepak Memorial Hospital, were reimbursed by the respondent.

4. Continuing with the narrative, on 29.4.2011, Smt. Saroj Yadav was admitted to Kailash Hospital and Heart Institute (in short Kailash Hospital), which is also a unit of Kailash Health Care Limited. She was discharged from the said hospital on 18.5.2011.

5. Therefore, the reimbursement of medical expenses, which Smt. Saroj Yadav seeks, is vis-a-vis expenses incurred on her treatment, which includes room charges, consultation charges and other expenses, while she was admitted to Kailash Hospital.

5.1 The discharge summary generated by the said hospital indicates that on admittance, which happened on 29.4.2011, she was immediately, shifted to the ICU for further management under the care of the consultant physician. It appears that the doctors, at that stage, suspected that she had developed "fungal infection", and, therefore, was put on broad spectrum anti-biotics.

6. The bills in respect of which Smt. Saroj Yadav seeks reimbursement are appended at pages 19 to 24 (Annexure-P6 – colly) and page 26 (Annexure-P8) of the paper book. The details of the total amount which the petitioner claims are adverted to in Annexure-P9, which is appended at page 32 of the paper book.

7. Learned counsel for the petitioner says that, broadly, the respondent's objection is that the expenses incurred towards treatment of Smt. Saroj Yadav, while she was in Kailash Hospital, cannot be reimbursed, as the said hospital, is not an empanelled hospital.

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7.1 This apart, an additional objection is taken, according to the learned counsel for the petitioner, is to the effect, that, there was no emergent situation, which required, admittance of Smt. Saroj Yadav to a non-empanelled hospital.

8. Learned counsel for the petitioner says that though the respondents have relied upon Office Memorandum (page 56 of the paper book) dated 25.10.2007 (in short 2007 O.M.), what requires to be seen along with the said O.M. is a clarification issued by the respondents vide Office Memorandum dated 2.2.2010.

8.1 Learned counsel for the petitioner, in particular, relies upon paragraph 3(ii) clause (a) of the Office Memorandum dated 2.2.2010.

9. Ms Arora, in her submissions, has affirmed that the objections articulated in paragraph 7 above, are in fact the same objections of the respondents.

9.1 To be noted, there are no other objection articulated before me, by Ms. Arora.

10. I may only indicate that insofar as the respondents have taken the objections that no emergent condition arose which, required the admittance of Smt. Saroj Yadav to a non-empanelled hospital, the said objection does not appear to be tenable. The discharge summary issued both by the Deepak Memorial Hospital and Kailash Hospital, belies this objection. Immediacy and criticality of Smt.Saroj Yadav's condition is writ large on the discharge summary.

11. The only other question which then arises for consideration is: whether Smt.Saroj Yadav's relatives could have admitted her, in an empanelled hospital, which was closer in proximity to Deepak Memorial

Hospital as compared to the Kailash Hospital.

11.1 Ms. Arora, as a matter of fact, based on clause 10(i) of 2007 O.M., contended that, considering the urgency in the matter, a reference could have been, straightway made by the Authorized Medical Attendant (AMA) attached to Deepak Memorial Hospital, in view of the stated criticality of Smt. Saroj Yadav's health status.

12. In this context, it is necessary to evaluate documents filed. A perusal of the discharge summary of the two hospitals would show that both hospitals are managed by Kailash Health Care Limited.

12.1 As indicated above, the discharge summary issued by Deepak Memorial Hospital, inter alia, alludes to the following :-

“referred to higher centre for further management.”

12.2 The discharge summary of Kailash Hospital is also indicative of the fact that, it is a unit of Kailash Health Care Limited; a fact which I have already noted hereinabove. Therefore, in sum and substance, what appears to have been conveyed to Smt. Saroj Yadav's relatives, is that, since Deepak Memorial Hospital did not have the necessary facilities, they could access the requisite medical facilities, which Smt. Saroj Yadav was in urgent need of, at Kailash Hospital.

13. Clause 10(i) of 2007 O.M. is indicative of the fact that, a reference can be made by the AMA at the attached dispensary or the hospital concerned, if such, a transfer is required in an emergent condition. As a matter of fact, the said clause adverts to the fact that the retired beneficiary need not approach the concerned department.

14. Factually, reference in this case was made by Deepak Memorial Hospital, to Kailash Hospital. The discharge summary of Deepak Memorial

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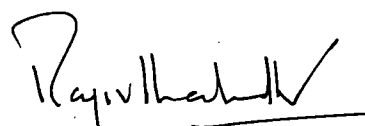
Hospital, bears this fact out. This, in my view, entails substantive compliance with Rule 10(i) of the 2007 O.M. It must be borne in mind that in an emergent situation, the onus is squarely on the referring hospital. Amongst other factors, in arriving at a decision, the referring hospital, will possibly, have to look at the suitability of the other hospital i.e., the transferee hospital. In this behalf, the accessibility to relevant medical facilities both in terms of infrastructure and expertise of the treating doctor may have to be borne in mind by the doctor / A.M.A. of the referring hospital. Therefore, the physical distance between the referring hospital and the hospitals to which the patient is to be transferred, cannot be the only determinative factor.

15. In these circumstances, I am of the opinion that the objections taken by the respondents are not tenable in law or on facts. Accordingly, the respondents are directed to verify the bills submitted by Smt. Saroj Yadav, and pay, what is due to her as per the extant rules, which operate in the matter.

16. Counsel for the petitioner, at this stage, say that he does not wish to press the prayer made for interest in the petition. The said statement is taken on record.

17. Needful will be done within four weeks from today.

18. The petition is disposed of.


RAJIV SHAKDHER, J

FEBRUARY 23, 2015
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