



2026:DHC:7385-DB



\$~56

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010382382026
+ **W.P.(C) 11885/2026, CM APPL. 55011/2026 & CM APPL. 55012/2026**

UNION OF INDIA & ORS. Petitioners
Through: **Mr. Deepender Banger and Ms. Manisha Deo, Advs.**

versus

SATYENDRA KUMAR Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGEMENT (ORAL)
% **31.08.2026**

C. HARI SHANKAR, J.

1. We express our unmitigated distress at the fact that, despite judgment after judgment having been rendered by Division Benches of this Court, clearly holding that, in a case where medical treatment is availed as a matter of urgency, the person availing medical treatment is entitled to be reimbursed the actual medical expenses borne by her or him, orders granting the said relief continue to be challenged before this Court.

2. We may extract, for this purpose, the following passages from the earlier decisions of Division Benches of this Court on the point:



Union of India v. Joginder Singh¹

13. The medical claim for treatment undertaken in emergency should not be denied for reimbursement merely because the hospital is not empanelled. The test remains whether the claimant had actually undertaken the treatment in emergent condition as advised and if the same is supported by record. Preservation of human life is of paramount importance. The State is under an obligation to ensure timely medical treatment to a person in need of such treatment and a negation of the same would be a violation of Article 21 of the Constitution of India. Administrative action should be just on test of fair play and reasonableness. Accordingly, keeping into consideration the constitutional values, the executive instructions need to be applied than rejecting the claim on technical ground of undertaking treatment in a nonempanelled hospital, since the CGHS/State is responsible to ensure proper medical treatment in an emergent condition and further cannot escape the liability, if the treatment undertaken is genuine. Any denial of claim by the authorities in such cases only adds to the misery of the Government servant by further forcing him to resort to Court of law.

14. Observations of the Hon'ble Apex Court in **Shiva Kant Jha²** (supra), as reflected in paras 17, 18 & 19 may also be beneficially reproduced:—

“17. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure

¹ 2023 SCC OnLine Del 2707

² Shiva Kant Jha v. UOI, (2018) 16 SCC 187



as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

18. *This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the Ministry concerned, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.*

19. *In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs. 4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only."*

15. It needs to be kept in perspective that patient has a little scope to decide the nature of treatment and merely looks forward to an expert guidance/treatment for relieving him from immense pain



and suffering. The patient in distress is not in a position to go against the specialist medical advice for surgery in emergency.

16. Even assuming that in emergency, gamma knife surgery may not render an immediate relief as contended by learned counsel for the petitioners, but it is an established alternative medical treatment for trigeminal neuralgia as per literature. There may be a difference of opinion on the line of treatment to be adopted by the experts but only the treating physician/surgeon appears to be the best placed to adopt the right course of treatment in an emergent situation.

Jasbir Singh v. Union of India³

“24. The respondents are expected to be compassionate and give a sympathetic consideration while considering the claim for medical reimbursement, in order to mitigate the financial hardships, rather than aggravate the situation by rejecting/restricting the claims. It needs no reiteration that right to health is integral to right to life and the authorities are under an obligation to provide full reimbursement for medical facilities availed in emergency.

25. Unfortunately, the respondents merely proceeded to deny the ‘reimbursement claim’ without any clinching evidence to conclude that emergency admission was not required at the nearest hospital despite clear depiction in ‘emergency certificates’ given by Paras Hospital for the subsequent admissions. The treating doctors/physicians/specialists are best in position to assess whether the emergent treatment is required in order to save the life of the patient. In view of above, presumption drawn by the respondents that the treatment was not in an emergent condition is unjustified in the facts and circumstances of this case. The respondents, as such, could not have denied the medical reimbursement claim for subsequent admissions or restrict the claim in respect of first admission in October, 2012.

26. For the foregoing reasons, the order passed by the Tribunal restricting the claim in respect of first medical reimbursement and order passed by the respondents denying the complete medical reimbursement for subsequent admissions is set aside.

27. It is unfortunate that the petitioner has been made to run from pillar to post for the purpose of reimbursement of medical expenses on account of treatment of his deceased mother and has been contesting the petition for over a decade. In the facts and circumstances, respondents are directed to reimburse the medical



2026:DHC:7385-DB



claims preferred by the petitioner, after deducting the amount already paid, along with simple interest @ 7% per annum.”

Jagir Kaur v. Union of India⁴

6. The provision under Article 21 of the Constitution of India ensures health and timely medical treatment being necessary components of the fundamental right to life, and the same cannot be negated or even diluted on the basis of bald suspicion of the State that the non-empanelled hospitals would unjustly enrich themselves even in such dire situations of the pandemic. Right to health being an integral part of right to life, it was the bounden duty of the State to ensure best possible medical treatment, at least for survival of its Subjects through government medical facilities. And that having collapsed, now the State cannot turn around to reject the medical claims on the ground that the medical treatment was availed from a non-empanelled hospital.

7. One cannot dispute the peculiar circumstances that were created during Covid pandemic worldwide, in which on account of extreme scarcity of medical beds and collapse of infrastructure, number of lives were lost. During Covid, the unprecedented calamity across the world, hospitals and clinics were inundated with patients, far exceeding their capacity with extensive strain on the intensive care units and emergency rooms. There was acute shortage of medical oxygen, so the demand skyrocketed. The pandemic exacerbated economic inequalities, whereby the economically disadvantaged met with extreme difficulty to access the necessary medical care. That crisis underscored the need for comprehensive reforms in the healthcare sector across the world and especially in our country writhing under severe resource crunch. In such frantic and forlorn scenario the priority above financial implications was to save lives of kith and kin, so one could not be expected to wait for a bed and/or oxygen etc. in CGHS panelled hospital. The Covid patients were being shifted wherever the medical beds, oxygen, ICU and ventilators were available across the country. Priority, as aforesaid was to save life.

8. The only test in such extraordinary situations must be as to whether the medical treatment was actually availed of. Once the answer is in affirmative, the reimbursement must be full while dealing with such cases pertaining to Covid pandemic. In the present case, it is not at all in dispute that late Sh. Pritam Singh had to be admitted in the Indraprastha Apollo Hospital in emergency, where he was diagnosed with Covid and in the course of medical treatment, shuttling between the Ward and the ICU, he passed



2026:DHC:7385-DB



away while being on ventilator support. That should be a close of the chapter so far as reimbursement claim of petitioner is concerned.”

Hira Lal Bhat v. BSNL⁵

“26. These decisions, which follow the exordium in *Shiva Kant Jha*, make it clear that in a case in which the patient has to undertake emergency treatment, she or he is entitled to reimbursement of the actual expenses undergone. The Court cannot go behind the Emergency Certificate. In such a situation, the issue of whether the hospital is, or is not, empanelled, recedes into insignificance. The only factor which remains as relevant is whether the claimant did, or did not, undergo the concerned treatment. If she, or he, did, *complete reimbursement of the expenses incurred must follow*.

34. We express our displeasure at the manner in which this case has been contested by the respondent. The Supreme Court, in the passages from its judgment in *Shiva Kant Jha* already extracted *supra*, has clearly advocated an expansive approach while dealing with medical reimbursement claims of persons who have undergone serious and emergency medical treatment. We regret to say that these words of advice of Supreme Court have apparently fallen on deaf ears as, in case after case where emergency treatment is undertaken, the concerned persons, after having suffered the ailment and undergone emergency treatment, are having to battle for years before Court for getting their due reimbursement.”

3. The present case is squarely covered by the aforesaid decisions, among others. The respondent’s wife Beena Kashmiri was a chronic heart patient. She was admitted in Max Hospital from 9 to 16 February 2016. Thereafter, she was referred by the Railway Hospital to the Delhi Heart & Lung Institute in an emergency and expired on 5 December 2018 during the course of treatment.

⁵ 2024 SCC OnLine Del 9065



2026:DHC:7385-DB



4. The petitioner has, on affidavit, admitted, before the Tribunal, that the respondent's admission in the Railway Hospital was in an emergency. The facts, even otherwise, make this apparent.
5. The respondent submitted his claim of ₹ 1,88,687/- being the actual expenses undertaken by the respondent for the treatment of his wife. Out of this, the petitioner paid only ₹ 75,399/-, even while admitting that the respondent had to undertake the treatment in the case of emergency.
6. The respondent, aggrieved by the aforesaid, petitioned the Central Administrative Tribunal⁶ by way of OA 319/2025. By judgment dated 24 March 2026, the OA has been allowed. The petitioner has approached this Court, aggrieved by the said decision.
7. Learned Counsel for the petitioner places reliance on the petitioner's policy as well as the judgment of the Supreme Court in *Shiva Kant Jha v. UOI*⁷. We have dealt with the policy of the petitioner as well as the judgment of the Supreme Court in *Shiva Kant Jha* in the decisions cited by us *supra* from which the relevant extracts already stand reproduced *supra*.
8. It is well settled, beyond any scope for doubt, that in a case where emergency treatment is availed by a CGHS beneficiary, the medical expenses have to be reimbursed.

⁶ "Tribunal" hereinafter
⁷ (2018) 16 SCC 187



2026:DHC:7385-DB



9. Needless to say, if the treatment, or therapy, is elective rather than emergent, this principle may not apply.

10. In that view of the matter, we find no error in the view adopted by the Tribunal. The writ petition is accordingly dismissed in *limine*.

11. We direct compliance with the order of the Tribunal positively within six weeks from today.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

AUGUST 31, 2026/AR