

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17801 of 2010

- =====
1. Anil Kumar Sah S/O Muni Lal Sah R/O Vill.- Morauna, P.O.- Durgadih, P.S.- Bikramganj, Distt.- Rohtas
2. Seema Devi W/O Anil Kumar Sah R/O Vill.- Morauna, P.O.- Durgadih, P.S.- Bikramganj, Distt.- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Executive Director, State Health Society Bihar Family Welfare Bhawan, Sheikhupura, Patna-14
3. The District Magistrate Cum Chairman District Health Society, Sasaram, Distt.- Rohtas
4. The Civil Surgeon cum Secretary District Health Society, Rohtas At Sasaram
5. The Deputy Superintendent Sub-Divisional Hospital, Bikramganj, Distt.- Rohtas
6. The State Programme Officer State Health Society, Bihar, Patna-14
7. The In charge Medical Officer Referral Hospital, Sub-Divisional Hospital, Dhangain, P.S.- Bikramganj, Distt.- Rohtas
8. Dr. Dharendra Narayan, The Surgeon Sub Divisional Hospital, Bikramganj, P.S.- Bikramganj, Distt.- Rohtas
9. The Oriental Insurance Company
10. The Ministry Health and Family Welfare Govt. of India, Nirman Bhawan, New Delhi through the Secretary Health and Family Welfare Govt. of India, New Delhi

.... Respondent/s

=====

Appearance :

For the Petitioner/s :	Mr. UDAY SHANKAR PANDEY
For the for the State Health Society	Mr. K.K.Sinha
For the Union of India	Mr. Rajesh Kumar Verma
For the Insurance Company	Mr Durgesh Kr. Singh
For the State	Mr. Subhash Kr. Singh G.A.6

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-05-2016

Heard the counsel for the petitioners, respondent no.9 as well as the counsel for the Union of India.

Be it noted that no counter affidavit on behalf of the respondent Union of India has been filed. Mr. Verma assisted the Court on the basis of the instruction received by him. He states that in pursuance of the direction issued by the Hon'ble Apex Court in Civil Writ Petition

No. 209 of 2003 (Ramakant Rai vs. Union of India), in case of complaint the compensation amount is paid to the complainant under the Family Planning Insurance Scheme subserved by the respective State Governments.

The petitioners seek a direction for payment of compensation for negligence in providing medical assistance to the wife (petitioner no.2) who had undergone tubectomy operation/surgery under the scheme sponsored by the Central Government and implemented through the Bihar State Health Society. It is stated that a grievance application was filed by the petitioners whereafter the District Quality Assurance Committee recommended for payment of a sum of Rs. 25,000/- only in its meeting held on 14.12.2009. It is to be paid by the respondent concerned under the scheme.

Counsel for the Insurance Company states that no document of insurance of the patient or the consumer under the scheme has been produced either by the petitioners or the respondent Union of India.

Be that as it may, any service found deficient causing physical or mental agony is to be compensated by the respondent under the scheme. For this reason, the case of the petitioners was placed before and considered by the District Quality Assurance Committee chaired by the Civil Surgeon cum Chief Medical Officer and the case of the petitioners was recommended for payment of a sum of Rs. 25,000/-. For payment of a paltry amount of Rs. 25,000/- this matter is pending in this Court since 2010 and numerous adjournments were granted to the parties. This much is evident the respondents are not seriously disputing the case of the petitioners for payment of the compensation amount as recommended by



the District Quality Assurance Committee or the District Health Society, as the case may be. The question is who shall pay the amount of compensation. In my considered view, it is a matter between the Central Government and the State Government to decide as to who shall pay the amount as recommended by the District Quality Assurance Committee to the petitioners. It is borne in mind that petitioner no.2 had undergone the surgery in 2006 and a recommendation in her favour for payment of Rs. 25,000/- was made in 2009. It is a meagre amount as against the claim raised by the petitioner(s).

Under the circumstances, this Court dispose of the writ application directing the respondent(s), particularly the Executive Director, State Health Society (respondent no.2) as well as the District Magistrate-cum-Chairman District Health Society (respondent no.3) to ensure payment of the compensation amount, as recommended by the District Quality Assurance Committee to the petitioner no.2 within 04 weeks from the date of receipt/production of a copy of this order before both of them. It will be open to those respondents to take thereafter steps for realization of the said amount from the concerned authority/company in accordance with the provisions of the Scheme or the insurance policy, if any.

The amount of compensation as recommended by the District Quality Assurance Committee could have been paid to the petitioners by the respondent but the same was not done and the petitioner had to file the writ petition in this Court which remained pending for nearly 06 years. In the circumstances, the Court directs that in addition to the amount of Rs. 25,000/-, as recommended by the District Quality Assurance Committee ,

the petitioners shall also be entitled to payment of a sum of Rs. 2,500/- by way of cost or consolidated interest. In doing so, the petitioners shall render full cooperation to those respondents.

(Kishore Kumar Mandal, J)

HR/-

U			
---	--	--	--