

RA-CR No.133-CII of 2014(O&M) in

FAO No.529 of 2012

Ashok Chaudhary Vs. Tanuj Bhatia and others

Present: Mr. J.S. Rozera, Advocate for the applicant-appellant.

Mr. Banny Thomas, Advocate for respondents.

Prayer in this application filed under Order 47 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') is for review of order dated 25.04.2014 passed in FAO No.529 of 2012.

By way of application for review, the applicant-appellant has claimed certain additional benefits (compensation) on the basis of bills (Ex.P16 to Ex.P18), reimbursement for purchase of 3 FORTEO injections at the cost of Rs.20,000/- each in the light of statement of Dr. Rajesh Bawari (PW-7) and certain other benefits.

A relevant extract from order dated 30.07.2014 passed by this Court reads as follows:-

“The counsel for the petitioner states that the petitioner is prepared to face any investigation regarding whether he had claimed re-imbursement from the Government for his medical expenses. He states that he has filed review only for re-consideration regarding the failure of the tribunal to consider Annexures P-16 to P-18 and the cost of future medical expenses. No other head of claim is liable for being re-opened.”

Counsel for the applicant has submitted that the applicant is entitled to compensation in regard to expenses incurred for physiotherapy evidenced by documents Ex.P16 to Ex.P18. It is argued that Dr. Rajesh Bawari, (PW-7), has deposed that the patient was started on medicines to improve the quality of bones and fracture healing. For this, the patient was

started on injections (FORTEO) to hasten and ensure bone healing. This injection was continued for 7 to 10 months till the bones united. It is further submitted that the bills Ex.P9 to Ex.P12 pertains to purchase of 7 such injections and the applicant is entitled to reimbursement of 3 more injections on the basis of its average value reflected in Ex.P9 to Ex.P12.

Counsel for respondent No.3 has refuted contentions of the applicant with the submissions that as the applicant has not proved any bills with regard to purchase of 3 more injections of FORTEO, he is not entitled to any compensation in this regard.

I have heard counsel for the parties, perused the paper-book and the records of the Tribunal.

The applicant examined PW-5 Dr. (Mrs.) Manju, Physiotherapist, Rotary Club, Panipat. The witness marked prescription slip Ex.P15, certificates against payment charged from the patient Ex.P16 to Ex.P18. In her cross examination conducted in part, she has deposed that their centre is being run on the basis of charity. She has not brought any record regarding attendance by the patient and the daily receipts issued to him regarding daily charges. Her further cross examination was deferred with a direction to produce the relevant record. There is nothing on record suggestive of the fact that the witness appeared in the witness box with records or her cross examination was concluded. As the witness did not appear in the witness box for her further cross examination, statement of PW-5 cannot be taken into consideration and it entails adverse consequence that documents Ex.P15 to Ex.P18 cannot be considered for awarding compensation on the basis of certificates Ex.P16 to Ex.P18.

So far as the claim for reimbursement of price of 3 more injections (FORTEO) on the basis of bills Ex.P9 to Ex.P12, there is no explanation by the applicant that if he had actually purchased three more injections in pursuance of any prescription by the doctor, why he could not produce the documentary evidence in support thereof. In this view of the matter, the applicant cannot seek reimbursement of three more injections on the basis of statement of Dr. Rajesh Bawari (PW-7).

In view of the above, there is no justification to review order dated 25.04.2014. Accordingly, the review application is dismissed.

AUGUST 8, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE