

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-25978-2015 (O&M)
Date of decision: 30.05.2017**

Pooja Chaudhary

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Rajinder Singh Malik, Advocate for the petitioner
Mr. Sourav Girdhar, AAG Haryana
Mr. Surinder Mahajan, Advocate for respondent no.2

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Petitioner Pooja Chaudhary is working as an Additional General Manager with respondent no.2 department. On 5.8.2011, she delivered a pre-mature baby girl through caesarean delivery in Government Medical College and Hospital Sector 32, Chandigarh. There was an emergent need of ventilator care of the child. Since the ventilator was not available in the Government Medical College and Hospital Sector 32, Chandigarh, therefore, to save the life of the baby girl, she was shifted to Chaitanya Hospital, Sector 44-C, Chandigarh, where the petitioner incurred expenses of Rs.1,13,131/-. The baby girl remained admitted in Chaitanya Hospital, Sector 44-C, Chandigarh from 5.8.2011 to 12.8.2011. Thereafter, when the treatment was available in the Government Medical College and Hospital Sector 32, Chandigarh, she was shifted to the said hospital and remained admitted there from 12.8.2011 to 23.9.2011. Petitioner submitted the medical bills. However, the respondents reimbursed the medical bills to the tune of Rs.51,291/- as per PGI rates. It is stated that the emergency

certificate dated 5.9.2012 (Annexure P7) was issued by the Civil Surgeon, Panchkula and the Director, Health Services also forwarded the same to the Managing Director, Panchkula. Petitioner claimed full reimbursement of the medical bills in terms of the policy dated 2.5.2011 (Annexure P8).

Respondent no.2 in the reply has taken the stand that as per government instructions, full reimbursement is allowed for treatment taken in the government hospitals. However, in case of treatment taken outside the government hospitals, reimbursement equal to the PGI Chandigarh rates is made. The said reimbursement at PGI Chandigarh rates comes to Rs.51,291/-.

I have heard learned counsel for both the parties and have also carefully perused the record.

Admittedly, the petitioner delivered a baby girl and she needed the ventilator support, which was an emergency. Civil Surgeon, Panchkula has already issued emergency certificate (Annexure P7), which was endorsed by the Director, Health Services, Haryana vide letter dated 11.9.2012 (Annexure P9).

Now, the question would arise as to whether in these circumstances, full medical reimbursement is to be given or the reimbursement is to be given as per PGI Chandigarh rates?

Learned counsel for the petitioner has relied upon clause 11 of the policy dated 2.5.2011 (Annexure P8), which is reproduced as under:-

11. Ordinarily no relaxation from the policy shall be given. For the convenience of the employees, however, relaxation in the policy can be granted in exceptional cases with the prior approval of the Hon'ble Chief Minister and Finance Department. Such relaxation can be granted in the conditions like treatment of a very old person, highly sensitive nature of

diseases involving multi-system disorder and treatments taken in life threatening emergency situation etc. Justification for such expenditure, however, shall have to be first obtained from a Committee of experts headed by DGHS and two subject specialists posted in Panchkula or PGIMS Rohtak."

Learned counsel for the petitioner has pressed that the relaxation means that the relaxation even with regard to the payment of expenditure at PGI rates plus 75% of the remaining amount. It is to be noted that as per clause 3 of the policy (Annexure P8) if the treatment is taken from the empanelled hospitals mentioned in the said policy, the expenditure is to be reimbursed at PGI rates plus 75% of remaining amount subject to the provisions of the policy. After going through the clause 11 of the policy, I am of the view that the clause can be never mean to say that reimbursement under clause 3 is to be relaxed. At the most, the exception can be made if treatment is taken in emergency from non-empanelled hospitals. However, the rate of reimbursement cannot exceed the rate allowed to the empanelled hospitals. In the present case, the treatment was taken from the private hospital and as per certificate of the Civil Surgeon (Annexure P7), the treatment was taken in emergency. Therefore, it is held that the petitioner shall be entitled to the reimbursement at PGI rates plus 75% of the remaining amount. Since, reimbursement has been made to the petitioner at PGI rates, he will be paid additional 75% of the remaining amount in terms of the policy dated 2.5.2011 (Annexure P8) along with interest @ 9% per annum from the date payment was made at PGI rates.

The petition is accordingly allowed to the above noted extent.

30.05.2017

gk

Whether speaking/ reasoned:

Whether Reportable:

(Kuldip Singh)

Judge

Yes

No