

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 209

Regular Second Appeal No.4362 of 2012 (O & M)
Date of Decision: August 09, 2017

State of Haryana through Collector, District Rewari & others
..... PETITIONERS

VERSUS

Pushpa Yadav
..... RESPONDENT

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Mr. C.S. Bakhshi, Additional Advocate General,
Haryana.

Ms. Divya Godara, Advocate, for the respondent.

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Jaspal Singh, J

1. Defendants – State of Haryana & others, have preferred the instant appeal feeling dis-satisfied against judgment & decree dated November 30, 2011 passed by the District Judge, Rewari whereby appeal filed by the defendants has been partly allowed against the judgment & decree dated February 01, 2011 passed by the Civil Judge (Junior Division), Rewari, whereby suit filed by the plaintiff (respondent herein) for declaration and mandatory injunction alongwith consequential relief, was decreed.

2. Brief facts giving rise to the instant appeal are that plaintiff Pushpa Yadav, a retired JBT teacher submitted her medical bill(s) of Sir

No.4 – The Block Education Officer, Khol, District Rewari, on April 16, 2008. However, only ₹ 2,24,967/- were sanctioned by the appellants – defendants on January 31, 2009 and reimbursement of ₹ 1,17,609/- was declined. Pushpa Yadav instituted a suit for declaration and mandatory injunction claiming that she is entitled to reimbursement of ₹ 1,17,609/- alongwith interest @ 24% per annum as well as equal interest on the delayed payment of amount of ₹ 2,24,967/-.

3. The suit was contested by the appellants – defendants by filing written statement. Issues were framed. Parties led oral as well as documentary evidence in support of their respective case.

4. The trial court, vide judgment & decree dated February 01, 2011 decreed the suit of plaintiff while holding that plaintiff is entitled for reimbursement of ₹ 1,17,609/- alongwith interest @ 8% per annum from the date of its submission i.e. April 16, 2008 till the date of payment. She has further been held entitled to interest @ 8% per annum on the aforesaid amount of ₹ 2,24,967/- from April 16, 2008 till April 09, 2009.

5. Aggrieved defendants filed an appeal against the aforesaid judgment & decree of the trial court. The first appellate court, vide impugned judgment & decree dated November 30, 2011 partly allowed to the following effect:-

“22. Consequent to the above decision, the appeal filed by the State of Haryana and others-defendants is partly allowed. The defendants are directed to reimburse the balance amount of medical bill i.e. Rs.1,17,609/- to the plaintiff within a period of three months from the date of this judgment, failing which the plaintiff will be entitled to interest @ 8% per annum from the date of this judgment till the date of actual payment. The claim of the plaintiff for interest on the amount of medical bill is declined and the judgment and decree passed by learned trial court to that extent is set aside.”

6. Still dis-satisfied, appellants – defendants have approached this Court challenging the judgments and decrees passed by both the courts below.

7. Assailing the impugned judgments and decrees, learned State counsel has contended that impugned judgments & decrees are against the facts as well as settled canons of law. Misreading and misappreciation of evidence and legal proposition has resulted into miscarriage of justice. As per the Government instructions (No.2/295/86-HB dated November 19, 1986 and No.2/10/30-1 HR-III dated November 30, 1993), if any Government employee gets treatment from approved hospital, he/she shall be paid equal to AIIMS, New Delhi/ PGI Chandigarh rates plus 75% of the excess amount shall be reimbursed, whereas rest 25% shall be borne by the employee. Out of the total amount of medical bill(s), ₹ 77,000/- were paid as room rent for 28 days, therefore, reimbursement @ 600/- per day i.e. 16,800/- was sanctioned as per the instructions. Balance amount of ₹ 60,200/- was not reimbursable. Similarly, ₹ 38,350/- claimed as Visiting Charges, was not reimbursable under rules. Further, in continuation of aforesaid Government instructions, State Government issued a clarification vide Instructions F.D.Hr. No.2/8/1988-HB-III dated May 20, 2008 clearly mentioning that reimbursement is to be made at PGIMER/AIIMS rate + 75% of excess amount. Visiting Charge is not reimbursable as it is covered under the procedural charges. The appellants – defendants have paid an amount of ₹ 2,24,967/- out of total claim of ₹ 3,42,576/-. As such, impugned judgments & decrees of the courts below are not sustainable in the eyes of law and deserve to be set aside.

8. Per contra, learned counsel for the respondent – plaintiff has

supported the judgments & decrees passed by the courts below submitting

that the same are absolutely in consonance with the legal proposition of law as well as evidence available on record. The impugned judgments & decrees do not suffer from any infirmity or illegality. Accordingly, instant appeal is liable to be dismissed.

9. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

10. The petitioner submitted her medical treatment bill amounting to ₹ 3,42,576/- on April 16, 2008, out of which, an amount of ₹ 2,24,967/- was sanctioned by the Government on January 31, 2009, however, an amount of ₹ 1,17,609/- was denied. The trial court, vide judgment dated February 01, 2011 allowed the reimbursement of ₹ 1,17,609/- alongwith interest @ 8% per annum from the date of submission of claim i.e. April 16, 2008. Petitioner was further held entitled for interest @ 8% per annum on an amount of ₹ 2,24,967/- from April 16, 2008 till April 09, 2009. On appeal preferred by the defendants – State, first appellate court, vide judgment & decree dated November 30, 2011 set aside the judgment passed by the trial court to a limited extent that interest on amount of ₹ 2,24,967/- was declined while allowing reimbursement of balance amount of medical bill of ₹ 1,17,609/- alongwith interest @ 8% per annum from the date of judgment.

11. Vide instructions No.2/26/12-IHB-III endorsed on March 19, 2014, State of Haryana has amended instructions dated June 24, 2013 to the extent that *now the medical bills related to the treatment of the Haryana Govt. employees/ Officers/ Pensioners and their dependents from the Hospital will be reimbursed at the rate of PGI Chandigarh/ AIIMS New*

is not entitled to the balance amount of ₹ 1,17,609/- and is entitled only to reimbursement of ₹ 2,24,967/-. Since the payment of ₹ 2,24,967/- was made after a delay of almost one year i.e. April 9, 2009 from the date of submission of claim i.e. April 16, 2008. At the most, the respondents would have taken two months period for the finalization of the medical reimbursement which has not been done in the instant case. Thus, plaintiff is entitled for interest which is fixed @ 8% per annum but from June 17, 2008 to April 08, 2009 which shall be paid within a period of three months from the date of receipt of a certified copy of this judgment.

12. In the light of aforesaid discussion, instant appeal is partly allowed. Impugned judgments & decrees are set aside/ modified to the extent, referred hereinabove. No order as to costs.

August 09, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No