

**CM-4311-C-2017 in/and
RSA No. 1780 of 2017(O&M)**

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM-4311-C-2017 in/and
RSA No. 1780 of 2017(O&M)
Date of Decision: 11.05.2017**

The Financial Commissioner and Secretary
to Government of Haryana & others

...Appellants

Vs.

Jagdish Chand Garg

...Respondent

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.T. Redhu, DAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

CM-4311-C-2017

Application for condonation of delay of six days in filing the
appeal is condoned.

RSA No. 1780 of 2017

To save ₹ 75,000/- and odd, the State of Haryana has filed this
second appeal against the concurrent findings of the courts below in a
medical reimbursement matter where the son of the plaintiff suffered a
kidney transplant in a private hospital. The medical expenses incurred in
treatment were paid in part by the department, but not in full before the suit
was filed. There was no valid justification in withholding the balance
outstanding dues on the bills submitted by the claimant. In para. 15 of the
trial Court judgment the following findings have come and are reproduced:-

*“The defendants have pleaded that the medical
bill of Rs.14031/- dated 11.05.2015 has been
reimbursed as per the rules and regulations.
However, DW-1 in his cross examination has
admitted that he has not brought any rules and
regulations according to which the aforesaid bill has
been reimbursed to the plaintiff and even during the*

course of arguments no such rule or regulation has been brought to the notice of the court according to which the sum of Rs.7740/- has not been reimbursed.

The amount of Rs.14852/-, Rs. 1576 and Rs. 1840/- have not been reimbursed out of the bills of Rs.40946/- Rs. 41735, Rs. 25260/-, respectively on the ground that the medicines have been purchased in excess to the prescribed medicines. Defendants have admitted in written statement that original bills have been deposited by the plaintiff to the defendants. However, the defendants have not placed on record medical bills to prove that plaintiff had purchased medicines in excess to the prescribed medicines and as such there is no evidence on record that plaintiff has purchased excess medicines. Furthermore, plaintiff has placed on record Ex. PY (medical prescription) according to which the patient had been advised to continue the medicine for longer periods till further orders. Hence, in view of foregoing discussion, issue no.1 is decided in favour of plaintiff and against the defendants.”

The lower appellate court agreed with the reasoning of the trial Judge and dismissed the State's first appeal. The State did not produce any cogent evidence to resist the claim of the plaintiff for the balance unpaid amount of claim on the bills submitted towards expenses incurred in the treatment and, therefore, onus was not be discharged by the defendant State. The total pending medical reimbursement bill is about ₹ 75,000/- for which amount the suit has been decreed.

The State could have avoided filing this appeal which it has in an irresponsible and casual manner to spoil the precious time of this Court in a trifling matter only for the seal of this Court, whereas two Courts have applied their mind and passed perfectly good orders in accordance with law

decreeing the suit. The appeal is *ex facie* frivolous and vexatious and deserves to be deprecated coming from the State which has a litigation Policy to adhere to.

Accordingly, this appeal is dismissed at the threshold for wanton litigation with ₹ 75,000/- as costs to match the corpus of the subject matter. The sum is directed to be deposited by the appellant-department with the Haryana State Legal Services Authority, Panchkula for wasting the precious time of the Court in a case where no question of law arises and there are findings of fact. Payment be made within two months from today. In case of default, the amount of costs in default will earn interest @ 9% per annum till deposit with the authority.

(RAJIV NARAIN RAINA)
JUDGE

11.05.2017

neeraj

Whether speaking/reasoned

Yes

Whether reportable

No