

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.12.2018
CORAM
THE HON'BLE DR.JUSTICE S.VIMALA
W.P.No.32482 of 2018

Sheeba Emily

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Petitioner

Vs

- 1.State of Tamil Nadu
rep.by its Additional Home Secretary
Secretariat Building, Chennai.
- 2.The District Collector
The Nilgiris District, Udhagamandalam.
- 3.Medical and Public Health Service
rep.by its Joint Director, Udhagamandalam
The Nilgiris.
- 4.District Treasury Officer, Government Treasury
Office, Udhagamandalam, The Nilgiris.
- 5.United India Insurance Co., Ltd.,
Divisional Office VI, 2nd Floor, P.L.A.Rathna Towers
No.212, Anna Salai, Chennai - 600 006. Respondents

For Petitioner : Ms.Aiyshwarya S
for M/s.Sarvabhauman Associates
For Respondents : Mr.R.S.Selvam,
Government Advocate for R1 to R4

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents to consider the petitioner's representation dated 24.04.2017 sent to the fourth respondent and to direct the respondents to reimburse the medical expenses.

O R D E R

The petitioner is a teacher, employed in Government Higher Secondary School at Bitherkad, Nilgiris. The petitioner is covered by Government of Tamil Nadu New Health Insurance Scheme 2012. , and monthly deductions are being made from the salary of the petitioner towards the health insurance scheme. The petitioner's husband and minor sons are also covered under the insurance scheme. When the petitioner's husband went to his native village, he developed severe chest pain and he was rushed to the nearest Hospital in Trivandrum. He was diagnosed to have "Acute Infero Posterior Wall Myocardial Infarction" and Angioplasty was done immediately. The hospital authorities gave bill for Rs.3,08,052/- towards hospitalisation and other expenses and the petitioner has paid the same. Thereafter, by a representation dated 24.04.2017, the petitioner has approached the fourth respondent, seeking reimbursement of medical expenses. The fourth respondent has returned request stating that the petitioner's husband took treatment in a non-network hospital and

therefore, no further action could be taken. Therefore, the petitioner has filed the present writ petition.

2. Mr.R.S.Selvam, learned Government Advocate takes notice on behalf of the respondents.

3. Learned counsel for the petitioner relied upon the order of this Court made in W.P(MD)No.16947 of 2016 dated 02.11.2016, wherein it was held that,

"5.The issue regarding treatment having been taken in an unapproved hospital is the issue arising in several cases and in a decision 2016 (3) CTC 394 in the case of N.Raja vs. The Government of Tamil Nadu, the contention that the petitioner therein was treated in a hospital which is a non listed hospital, was not accepted by this Court and in that case, the Government was directed to sanction and reimburse medical expenses incurred by the petitioner for his treatment with 9% interest from the date of remittance of the amount to the Hospital by the petitioner till the date of payment. Facts and circumstances of the present case are also similar to the abovesaid decision and therefore, the said decision squarely applies to this case also."

4. Considering the facts and circumstances, this Court is of the view that taking treatment at a non network hospital, that too, on an emergency, cannot be a ground for the respondents to reject the claim of the petitioner. This Court has time and again has dealt with similar facts and circumstances, where the medical reimbursement was not granted for treatment taken in a non-network hospital. The Division Bench of this Court, by the judgment dated 02.03.2018 in W.A.No.338 of 2018 (Government of Tamil Nadu -Vs- Dr.V.R.Isaac) has held as follows,

"The issue involved in this writ appeal is whether the claim for medical reimbursement for the surgery and the medical treatment undergone by the writ petitioner has to be considered or whether the same has to be rejected on the ground that the treatment availed by him was administered in a hospital, which is not accredited by the Government. However, it is not in dispute that the very same issue was considered by this Court in several decisions, latest being a case of District Collector, Madurai District, Madurai v. J.Kanagam reported in W.P.(MD)No.843 of 2017, wherein the Division Bench of this Court, after taking into consideration the earlier decision in the case of N.Raja v. the State of Tamil Nadu reported in (2006) 3 CTC 394, and the judgment in W.A.(MD)No.1579 of 2016 dated 16.12.2016 dismissed the appeal filed by the Government.

In our considered view, we are not experts to decide as to which medical treatment requires emergency care and attention and these issues are best left to the medical professionals. The law is well settled by this Court in several decisions some of which are noted above. We find there are no merits in the appeal filed by the appellants."

5. Under the circumstances, this Court is of the view that the above catena of decisions squarely apply to the facts and circumstances of the present case and the respondents are directed to consider the petitioner's representation dated 24.04.2017 sent to the fourth respondent, in the light of the above decisions of this Court cited supra, and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KST
To

- 1.The Additional Home Secretary, Secretariat Building, Chennai.
- 2.The District Collector ,The Nilgiris District, Udhagamandalam.
- 3.The Joint Director, Medical and Public Health Service
Udhagamandalam,The Nilgiris.
- 4.District Treasury Officer, Government Treasury
Office, Udhagamandalam, The Nilgiris.
- 5.United India Insurance Co., Ltd.,
Divisional Office VI, 2nd Floor, P.L.A.Rathna Towers
No.212, Anna Salai, Chennai - 600 006.

+1cc to M/s.Sarvabhauman Associates , Advocate SR.No. 84831

+1 CC TO GOVERNMENT PLEADER SR.NO. 85421

W.P.No.32482 of 2018

A.SK(25/01/2019)

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