



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.A. (MD) No.278 of 2018

and

C.M.P. (MD) No.1666 of 2018

1. The Secretary to Government,
Secretariat, Fort. St. George,
Chennai.
2. The Director of Treasuries and Accounts,
Panagal Buildings,
Saidapet,
Chennai 600 015.
3. The District Level Committee,
represented by Collector,
Madurai,
Madurai District.
4. The District Treasurer,
The District Treasury Office,
Nagercoil,
Kanyakumari District.

... Appellants / Respondents 1,2,4 and

5

Vs.

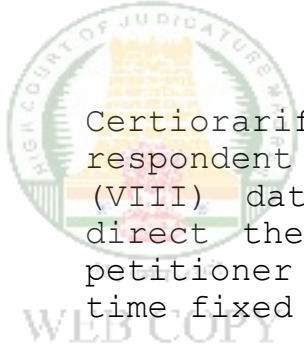
1. S.Nelson ... 1st Respondent/Writ Petitioner
2. The United India Insurance Company Limited,
represented by its Divisional Manager,
Divisional Office VI,
5th Floor, P.L.A. Rathna Towers,
212, Annasalai, Chennai 600 006.

... 2nd Respondent / 3rd Respondent

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, against the order passed by this Court dated 27.02.2017 in W.P. (MD) No.1509 of 2017.

[https://hccprajisecourt.gov.in/WP\(MD\)1509/2017/](https://hccprajisecourt.gov.in/WP(MD)1509/2017/) : **Prayer in WP(MD). 1509/ 2017 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of



Certiorarified mandamus to call for the records on the file of 5th respondent pertaining to its order bearing Na.Ka.No. 21977/2015/L 2-(VIII) dated 23-08-2016 and to quash the same and consequently direct the respondents to disburse Rs.1,62,930.27/- spent by the petitioner for the treatment underwent by her within a stipulated time fixed by this Honourable Court.

For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader

For Respondent No.1 : Mr.S.C.Herold Sing
For Respondent No.2 : Mr.Haja Mohideen

J U D G M E N T

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**)

Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader for the appellants, Mr.S.C.Herold Sing, learned counsel for the first respondent/writ petitioner and Mr.Haja Mohideen, learned counsel for the second respondent.

2. This appeal by the State is directed against the order in W.P.(MD).No.1509 of 2017, dated 27.02.2017. The said writ petition was filed by the first respondent, challenging the proceedings of the fourth appellant viz., the Treasurer, District Treasury Office, Nagercoil, Kanyakumari District, dated 23.08.2016, by which the fourth appellant indicated the reason for rejection of the writ petitioner's application for medical reimbursement on the ground that the treatment was taken in a non-network hospital. In this regard, a reference was made to G.O.(Ms).No.171, dated 26.06.2014 and Government Letter No.34231/Pension/2015-1, dated 01.07.2015, issued by the Finance Secretary (Pension) Department. The writ Court, after taking into consideration the decision in the case of **N.Raja vs. The Government of Tamil Nadu, represented by its Secretary and others** reported in **2016(3) CTC 394** and the judgment in **W.A. (MD).No.1579 of 2016 (MD India Healthcare Services (TPA) Limited vs. K.Parameshwari and others**, dated 16.12.2016, allowed the writ petition. Recently, in Writ Appeal (MD). Nos.75 to 78 of 2018, the Division Bench has tested the correctness of a similar order in an appeal filed by the State and the appeal was rejected by assigning the following reasons:

"... 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 **W.A. (MD)No.1579 of 2016** dated **16.12.2016** dismissed the appeal filed by the Government. The only relief granted was to reduce the interest to 6% instead of 9%. Very



recently, the Division Bench of this Court in the case of **the Director of Pension, DMS Complex, Thenampet, Chennai-6 and 3 others v. B.Sarada** reported in **W.A. (MD) No.1382 of 2017**, considered all the decisions on the said point and dismissed the appeals filed by the Government by judgment dated 09.11.2017.

3. The learned Special Government Pleader sought to make a distinction with regard to the case by submitting that in case of emergency, the Government order itself provides necessary protection for the persons to take treatment, but, however, in most of the cases, the procedure adopted is elective procedure I.e., surgery is preplanned and therefore, for claiming the Insurance reimbursement the person has to undergo such surgery in the Government accredited hospital. 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."

3. It is pointed out by the learned Special Government Pleader that the writ Court had directed payment of interest at 9% and it is submitted that the amount of interest awarded is excessive.

4. We have heard the learned counsel for the first respondent/writ petitioner on the above submissions.

5. In our considered view, ends of justice would be met, if interest is awarded 6% per annum. Accordingly, the writ appeal is partly allowed and the finding rendered by the writ Court allowing the writ petition is sustained and insofar as the rate of interest is concerned, the same is reduced to 6% instead of 9% and the appellants are directed to release the eligible amount to the first respondent/writ petitioner within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Secretariat to Government, Fort. St. George,
Chennai.



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Kanyakumari District.

Akv

MV:KKR:SAR1:22/03/2018/4P/5C

W.A. (MD) No.278 of 2018

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