



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.02.2018

CORAM:
THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.298 of 2018
and
C.M.P. (MD) No.1769 of 2018

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Joint Director,
Medical and Rural Health Services,
Kanyakumari District,
Nagercoil.

3.The Block Development Officer,
Kurunthancode Panchayat Union,
Kurunthan Code, Kalkulam Taluk,
Kanyakumari District.

... Appellants/Respondents

Vs.

1.K.Subramanian Pillai

2.The General Manager,
Star Health and Allied Insurance,
No.8, New Tank Street,
Valluvarkottam High Road,
Nungambakkam,
Chennai-600 034.

... Respondents/Respondents

PRAYER:This appeal is filed under Clause 15 of the Letters Patent, against the order of this Court dated 21.06.2016 in W.P.(MD). No.13190 of 2013.

Prayer in WP(MD). 13190/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 2nd respondent in Na.Ka. No. 3882/M1/2012 dated 02.04.2013 and to quash the same and consequently direct the respondents to reimburse the medical expenses payable to the petitioner under the Health Insurance Scheme within time frame by this HOnourable Court

For Appellants

: Mr.V.R.Shanmuganathan
Special Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/>

For R1

: Mr.G.Ramanathan

For R2

: Mr.T.Antony Arul Raj

**JUDGMENT**

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

Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the appellants and Mr.G.Ramanathan, learned counsel appearing for the first respondent and Mr.T.Antony Arul Raj, learned counsel appearing for the second respondent.

2.This appeal is directed against the order passed by the learned Single Judge in W.P.(MD)No.13190 of 2013. The issue involved in the writ appeal is whether the claim for medical reimbursement for the surgery and the medical treatment undergone by the writ petitioner/his spouse has to be considered or whether the same has to be rejected on the ground that the treatment availed by them was by admission in the 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. 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.

4.Accordingly, the appeal fails and stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(CS-II)

/True copy/



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