



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.02.2018**

CORAM:

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

AND

THE HONOURABLE Mrs. JUSTICE R. THARANI

W.A. (MD).No.92 of 2018 against W.P. (MD) No.12294 of 2016
and
C.M.P. (MD) No.446 of 2018

1. The District Collector,
Madurai District, Madurai.
2. The Joint Director,
Medical and Rural Health Services Department,
Madurai District Head Quarters,
Usilampatty, Madurai District.
3. The Treasury Officer,
District Treasury,
Madurai-625 020.
4. The Director of Pension,
DMS Complex, Chennai-6. ... Appellants/Respondents

Vs.

J.S.V. Leela ... Respondent/Petitioner

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order on 14.11.2016 and passed in W.P. (MD) No.12294 of 2016.

Prayer in WP (MD) No.12294/ 2016:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari and Mandamus to call for the records connected with the impugned order of Rejection of Medical Re-imbursement passed by the third respondent in his letter O.Mu.No.163/1/2016/M1, dated 20.07.2016 and quash the same and consequently direct the respondents to Reimburse Rs.2,41,900/- (Rupees Two Lakhs Forty One Thousand and Nine Hundred Only) being the actual medical expenditure incurred by the petitioner for the Major Surgeries of Grade IV Osteoarthritis Left Knee with Pathological Stress Fracture Proximal Tibia Left Side Operation undergone by the petitioner in Taj Hospital Multi Speciality Health Care Centre, Madurai on 31.10.2015 and in the light of the Judgment of this Court in W.P.No.17584 of 2014 dated 05.08.2016 within a specified period that may be fixed by this Court.

<https://hcservices.ecourts.gov.in/hcservices/>
(Prayer amended as per order dated 24.10.2016 made in W.M.P (MD) No.11887 of 2016).



For Appellants : Mr.D.Muruganantham
Additional Government Pleader
For Respondent : Mr.S.Govindan

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JUDGMENT

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

Heard Mr.D.Muruganantham, learned Additional Government Pleader appearing for the appellants and Mr.S.Govindan, learned counsel appearing for the respondents

2.This appeal is directed against the order passed by the learned Single Judge in W.P.(MD)No.12294 of 2016. The issue involved in all this writ appeal is whether the claim for medical reimbursement for the surgery and the medical treatment undergone by the writ petitioner/her spouses has to be considered or whether the same has to be rejected on the ground that the treatment availed by her 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 Additional 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

<https://hcc.madurai.gov.in/services> appeal filed by the appellants.



4. Accordingly, the appeal fails and stands dismissed, however, we direct that the interest should be reduced to 6% instead of 9%. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai District, Madurai.
2. The Joint Director,
Medical and Rural Health Services Department,
Madurai District Head Quarters,
Usilampatty, Madurai District.
3. The Treasury Officer,
District Treasury,
Madurai-625 020.
4. The Director of Pension,
DMS Complex, Chennai-6.

+1cc to The Spl.Government Pleader Sr.No.51589

+1cc to Mr.S.Govindan, Advocate SR.No.51351

MRN/RMK

VB/SV/MMS/SAR3/16/03/2018/3P/7C

W.A. (MD) .No.92 of 2018

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