

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH****Date of decision: 03.12.2018****CWP No.13494 of 2016**

Manoj Jain

...Petitioner

Vs.

State of Haryana &amp; others

...Respondents

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

Present: Mr. Dinesh Arora, Advocate, for the petitioner.

Mr. J.S.Bedi, Addl. AG, Haryana.

Mr. Rajeev Kawatra, Advocate, for respondents No.3 &amp; 4.

**RAJIV NARAIN RAINA, J. (ORAL)**

There are a sufficiently large number of precedents of the Supreme Court and the High Courts that medical reimbursement cannot be refused for expenses incurred in treatment as an out-door patient, but such expenses have to be at rates prescribed by hospitals and medical institutions like AIIMS, PGI, etc.

The petitioner's wife was treated for Chronic Kidney Disease (CKD), which is recognized as a chronic disease by the Haryana Government policy/instructions. The treatment was taken from 2014 to 2016. The petitioner's wife was treated twice in emergency situation. Firstly, she was treated at Maan Hospital, Rohtak, an approved hospital, for which reimbursement on bills was disbursed, but payment was short and secondly, she was treated at Apollo Hospital, New Delhi for which no medical reimbursement has been made so far citing the reason that Apollo

Hospital was though approved up to 2013, but the institution had not applied to Government for approval thereafter. If the Apollo Hospital did not apply for extension of continuation of empanelment, then it does not mean that earlier empanelment had ceased to exist or the hospital was not recognised. It may be so on paper, but it would be a very harsh interpretation to apply that Apollo Hospital did not seek approval for empanelment and, therefore, the Government is not bound to reimburse the medical bills. Another reason for declining the reimbursement is that treatment was not categorized as an emergency as far as out-door patient treatment is concerned.

Mr. Dinesh Arora for the petitioner, draws the attention of this Court to certificate dated 23.04.2014 (Annex P-6) issued by the Board of Doctors' headed by the Civil Surgeon, Rohtak as Chairman of the Medical Board. In the certificate, it is recorded that Smt. Shubha Jain was suffering from Chronic Renal Failure (CRF), which is a chronic disease prescribed at Sr.No.4 for which he/she is entitled to reimbursement of out-door medical expenses. Such medical certificate is reviewable after a period of two years from the date of issue.

On the other hand, Mr. Bedi and Mr. Kawatra refer to the policy dated 06.05.2005 pointing out to Clause 4 dealing with 'Unapproved Hospitals'. Clause 4 reads as follows:

“4. Unapproved Hospitals

- (a) The reimbursement for the treatment taken in an emergency in an unapproved hospital will be allowed equal to PGI, Chandigarh rates with the approval of Finance Department.
- (b) Head of the Department in consultation with concerned Civil Surgeon is competent to certify an emergency.”

The policy recognizes reimbursement for treatment taken in emergency in an unapproved hospital, but equal to rates at PGI, Chandigarh

with the approval of the Finance Department. What is an 'emergency' is to be certified by the Head of the Department in consultation with the Civil Surgeon. It is contended that since the Civil Surgeon has not certified the treatment as an 'emergency', the Government was right in refusing to reimburse the bills for out-door treatment.

In the present case, the out-door treatment was taken from 07.04.2014 till 20.03.2016 from both the hospitals i.e. Maan Hospital, Rohtak, and Apollo Hospital, New Delhi for different periods. Treatment of the patient, namely, Shubha Jain is not disputed by the State or the High Court. The choice of treatment is a prerogative of the patient keeping in view the hospitals and Doctor in whom he or she has faith and trust. Neither would a Doctor treat a patient who has no faith in him. This is part of the Hippocratic oath that Doctors make while entering into the medical profession.

In **Dr. Harinder Pal Singh Vs. State of Punjab & others**, 2014 (3) SCT 483, a Single Bench of this Court after noticing several judgments including of the Supreme Court in State of Punjab Vs. Ram Lubhaya Bagga, (1998) 4 SCC 117 and the Division Bench of this Court in Waryam Singh Vs. State of Punjab, 1996 (2) SCT 495, observed that in case of an emergent need any person reaches the hospital, where he can get the best treatment is to be approved since it may save life. At that stage, there is no time to find out or peruse the list of government/approved hospitals, which could enable an employee to get reimbursement of the expenses incurred or seek prior approvals. Had there been no emergency, any patient would certainly go to the hospital which is recognized by the Government as in that case, he gets full reimbursement. If an employee is treated in an

approved hospital, reimbursement on the expenditure incurred for treatment is made at the rates fixed by the Department of Health and Family Welfare. As against that, reimbursement is denied in case of treatment from an unapproved hospital. The Bench was dealing with a Punjab matter. The Bench further observed in paragraph 15 that the relationship of a doctor and a patient is a matter of confidence and trust. Any patient would like to go to the best doctor available for his medical treatment. Even if the petitioner had not gone to any government or any of the approved hospitals and had chosen to get himself treated from a hospital abroad, the liberty cannot be left with the Head of the Department to refuse reimbursement, once it is found that the patient had taken treatment which was medically advised. The Court held that rejection of the claim on these hyper-technical grounds is totally arbitrary. The beneficial policies cannot be interpreted or kept in a water tight compartment. These are to be interpreted liberally considering the facts and circumstances of the case. In that case, the petitioner had been operated upon in Prince Wales Hospital, Australia and medical reimbursement was allowed to him.

In the similar lines is the judgment in **Surinder Paul Vs. State of Punjab**, 2014 (3) SCT 213 rendered by single bench of this Court wherein treatment was taken from a hospital in Vancouver General Hospital, Canada and medical reimbursement was directed to be released at the PGI/AIIMS rates.

Mr. Dinesh Arora, learned counsel for the petitioner, relies on several other judgments, which may not be necessary to deal with or reproduce extracts from them only to add needless heft to the order.

It may also be noticed that the Civil Judge (Senior Division), Rohtak had sought clarification from the Director, Health Services, Sector-6, Panchkula, Haryana vide letter dated 10.11.2015 (Annex R-2/1) on the medical reimbursement bills submitted by the petitioner who was working as Reader Grade III to the Civil Judge (Junior Division), Rohtak. Clarification as given and thereafter the impugned order (Annex P-2) was passed by the Director General Health, Haryana informing the District & Sessions Judge, Rohtak that the claimant is not entitled for the outdoor treatment of chronic disease taken from unapproved hospital.

Having considered the arguments of the respondents, I am not inclined to accept them when the treatment is not denied and when it was essential to life saving and the disease was listed chronic. However, payments are to be regulated at the rates of PGI/AIIMS for the entire expenditure incurred for the emergency treatment and for out-door treatment for the relevant periods from 07.04.2014 until 20.03.2016.

Accordingly, this petition is accepted, the impugned order (Annex P-2) is quashed. The respondent/State is directed to calculate the amount of medical reimbursement due for the treatment of the petitioner's wife by keeping in view the expenditure chart (Annex P-1) and disburse the amount to the petitioner within a period of two months from the date of receiving of the certified copy of this order. In case required, the petitioner may be associated in the process of calculation and verification of bills for indoor and out-door treatment so that neither any mistake surfaces later on nor a grievance remains on this account.

**03.12.2018**  
Vimal

**[RAJIV NARAIN RAINA]**  
**JUDGE**

Whether speaking/reasoned:  
Whether Reportable:

Yes  
No