

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Regular Second Appeal No.6214 of 2018 (O&M)
Date of Decision: November 26th, 2018

Dakshin Haryana Bijli Vitran Nigam Ltd., Rewari and others

...Appellants

Versus

Shanti Devi and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Pawan Kumar Longia, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 06.10.2016 passed by the Civil Judge (Junior Division), Gurgaon, which has been upheld by the learned Additional District Judge, Gurugram, vide judgment dated 18.07.2018.

2. Respondent No.1-plaintiff had filed a suit for declaration claiming medical reimbursement on the ground that she had suffered an accident because of which she had to be rushed to the nearest hospital available, where she was treated and the expenditure incurred thereon was sought to be reimbursed as she was entitled for the same from the appellants. The claim of respondent No.1-plaintiff was rejected on the ground that she had not produced the emergency certificate from the competent authority as per the procedure and further that the hospital, from where she had taken treatment, was not a Government recognised hospital. The said objections, which have been taken by the appellants-defendants while rejecting the claim of respondent No.1-plaintiff, have not been accepted by the Courts below leading to the challenge to the judgments and decree passed by the Courts below, according to which the plaintiff has been held entitled to medical reimbursement.

3. It is the contention of learned counsel for the appellants that as per sub-clause B of clause 4 as contained in para 3 of the Medical Reimbursement Rules, 2003, the emergency certificate has to be submitted by the head of the department in consultation with the concerned Civil Surgeon, who is alone competent to issue the emergency certificate, which certificate has not been produced by respondent No.1-plaintiff. He further contends that although he would not be in a position to assert that respondent No.1-plaintiff is not entitled to the claim as she had taken the treatment from a unrecognised hospital in the light of the judgment of the Supreme Court which has been relied upon by the Courts below but still since the emergency certificate which has been produced, although belonging to the concerned hospital which is in any case not recognised, is not from the competent authority, respondent No.1-plaintiff would not be entitled to the claim. He, therefore, contends that the document on which reliance has been placed is only a marked document and not exhibited and, therefore, could not have been taken into consideration by the Courts below.

4. I have considered the submissions made by the counsel for the appellants and with his assistance, have gone through the judgments passed by the Courts below.

5. The law which has been settled down by the Supreme Court in *State of Punjab Versus Prem Kumar 2001 (4) SCT 404* clearly spells out that in case of an emergency, a person who is otherwise entitled to reimbursement and is either a Government employee or an employee of the authority, which has accepted and adopted the rules and regulations of the Government but takes treatment from an unrecognised hospital, cannot be denied the said benefit. What really is emphasized upon by the

Hon'ble Supreme Court is a case where there is an emergency and where the first available medical treatment is taken by the concerned employee. It is also settled preposition of law and it is also not disputed that respondent No.1-plaintiff had fallen from 20-22 feet height in her house on 27.06.2010 and had suffered multiple injuries on her chest, ankle and cervical. It is under these circumstances that that she was admitted and treated in Kathuria Hospital, Model Town, Khndsa Road, Gurugram, and was admittedly in hospital from 27.06.2010 to 23.07.2010. These facts having been not disputed, the mere requirement of emergency certificate which has been insisted upon, especially when the document is very much there on record and is not exhibited, the benefit cannot be denied to an employee, which otherwise he or she would be entitled to. Present is a case where it cannot be said that it was not an emergency where respondent No.1-plaintiff would have waited for going to a Government approved or Government Hospital for getting her treatment. The priority is saving the life and for that the steps, which have been taken by respondent No.1-plaintiff, cannot be doubted.

6. Finding no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.17453-C of 2018, stands disposed of as infructuous.

November 26th, 2018

Puneet

AUGUSTINE GEORGE MASI(H)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No