



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) No.1057 of 2019

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The Divisional Manager
United India Insurance Co Ltd.
PLA Rathina Towers, 5th Floor
212, Anna Salai
Chennai 600 006

... Appellant/2nd Respondent/
1st Respondent/Writ Petitioner

-VS-

1.R.Premavathi

2.The Secretary to Government
Finance (Pension) Department
Secretariat
Chennai-600 009

3.The Director of Medical and
Rural Health Services
DMS Complex
Chennai-600 006

4.The Treasury Officer
District Treasury
Madurai 625 020

... Respondents 2,3,4/
Respondents 1,3,4

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 25.04.2019, passed in W.P.(MD) No.9151 of 2019, on the file of this Court.

Prayer in W.P. (MD) No.9151 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling records of the third and fourth respondents ie., the Director of Medical and Rural Health Services, Chennai in his Oo.Moo.No.65194 / Kapi 1 / 3 / 2018 dated 28.03.2019 and the Treasury Officer, District Treasury, Madurai in his letter Na.Ka.No.12008 / 2 / 2017 M1, dated 31.10.2018 and quash the same and consequently direct the first respondent ie., the Secretary to Government, Finance (Pension) Department, Chennai to sanction eligible amount to the petitioner since the claim of the petitioner cannot be rejected on the only ground that the treatment was taken in an unapproved hospital not listed by the Government, within a specified time frame that may be fixed by



For Appellant : Mr.A.Shajahan

For Respondents : Mr.S.Visvalingam for R1
Mr.M.Murugan
Government Advocate for R2 to R4

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J U D G M E N T

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.A.Shajahan, learned counsel appearing for the appellant, Mr.S.Visvalingam, learned counsel, who accepts notice for the first respondent and Mr.M.Murugan, learned Government Advocate, who accepts notice for the respondents 2 to 4.

2. With the consent of both sides, this writ appeal is taken up for final hearing at the admission stage itself.

3. This writ appeal by the United India Insurance Company Limited is directed against the order, dated 25.04.2019, passed in W.P. (MD) No.9151 of 2019.

4. The writ petition was filed by the first respondent herein challenging orders, dated 28.03.2019 and 31.10.2018, passed by the respondents 3 and 4 respectively, and for a consequential direction to the second respondent to sanction medical reimbursement amount to her as the same should not have been rejected on the ground that the treatment was taken in a hospital not listed in the Government Order approving certain hospitals. By the impugned order, dated 25.04.2019, the said writ petition was disposed of with a direction to the appellant / Insurance Company to settle the medical reimbursement claim made by the first respondent.

5. It is the submission of the appellant / Insurance Company that direction should have been issued to the State Government, because, the reimbursement of medical expenses is pursuant to a Scheme formulated by the State Government, which is being serviced by the appellant / Insurance Company.

6. The learned counsel appearing for the first respondent has placed reliance upon the decision of the Honourable Supreme Court in the case of **Shiva Kant Jha vs. Union of India**, reported in **(2018) 5 MLJ 317 (SC)**, wherein it has been held that the right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Further, it has been held that once it is established that the treatment given was duly supported by records, the claim cannot be denied on technical grounds.



Therefore, we find that the learned Single Bench was perfectly right in directing the medical reimbursement to be granted to the first respondent. However, a minor error has crept in while passing the impugned order, as direction has been issued to the appellant / Insurance Company instead of the State Government. Therefore, to that extent, we are inclined to modify the order passed in the writ petition.

7. Accordingly, the writ appeal is partly allowed and the direction issued in Paragraph No.5 of the impugned order to the appellant / Insurance Company is modified and the second respondent herein, namely, the Secretary to Government, Finance (Pension) Department, Secretariat, Chennai-600 009, is directed to pass appropriate orders for payment of the medical reimbursement claim made by the first respondent and sanction the eligible amount, which shall be disbursed within a period of four weeks from the date of receipt of a copy of this Judgment. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar (CS)

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To:

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai-600 009.

2.The Director of Medical and
Rural Health Services,
DMS Complex,
Chennai-600 006.

3.The Treasury Officer,
District Treasury,
Madurai 625 020.

+2 CC to M/s.A.SHAJAHAN, Advocate (SR-93679[F] dated 22/10/2019)

+1 CC to M/s.GP (SR-94065[F] dated 23/10/2019)

W.A. (MD) No.1057 of 2019

22.10.2019

KM/ (07.11.2019) 3P 7C