

RSA-4786-2019 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-4786-2019 (O&M)

Date of Decision: 31st October, 2019

Union of India & others

...Appellants

Versus

Parupkar Singh Sodhi

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rajiv Sharma, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-13612-C-2019

Prayer in this application is for condonation of delay of 50 days
in filing the appeal.

For the reasons mentioned in the application, which is duly
supported by an affidavit of the Chief Medical Superintendent, Ferozepur
Division, Northern Railway, Ferozepur, the same is allowed. Delay of 50
days in filing the appeal stands condoned.

CM-13611-C-2019

Exemption is granted from filing certified and typed copy of
'grounds of appeal' and the photocopy of the same is taken on record,
subject to all just exceptions.

Application stands allowed.

RSA-4786-2019

Challenge in this appeal is to the judgment and decree passed by the Additional District Judge, Jalandhar, dated 23.01.2019, whereby, judgment and decree passed by the Civil Judge (Junior Division), Jalandhar, dated 29.11.2017, dismissing the suit for declaration of the respondent – plaintiff claiming reimbursement of two medical bills amounting to ₹ 39,946/- and ₹ 1,23,335/- of his wife, who was treated for cancer, because of which she had to undergo an emergency breast removal surgery in Patel Cancer Hosipital, Jalandhar, which was without taking permission from the Railway Authorities for the said purpose has been set aside and the suit decreed.

2. It is the contention of the learned counsel for the appellants that the respondent – plaintiff was unable to justify the reason for taking his wife for treatment in a private hospital and that too, undergoing a surgery of cancer for removal of the breast especially when outdoor treatment was being taken by the said patient. Once a treatment was being taken as outdoor patient, there was no impediment for the respondent – plaintiff to have not reported the matter to the Railway Hospital for arrangement of further treatment. Respondent – plaintiff has not been able to prove that there was such an emergency that without the operation having been carried out urgently, there would have been danger to the life of his wife. He, thus, contends that the judgment and decree as passed by the lower Appellate Court cannot sustain and deserve to be set aside.

3. I have considered the submissions made by the learned counsel

for the appellant and with his assistance have gone through the impugned judgment but do not find myself in agreement with the contentions as raised by him.

4. There is no dispute that a certificate (Ex.P-16) has been duly issued by Dr. Deepak Chawla, who had carried out the surgery, which clearly mentioned that the wife of the respondent – plaintiff required immediate surgery as she was suffering from cancer. This factum has been admitted in the cross-examination by DW-1, Anil Kumar, Senior DMO, Northern Railway Health Unit, Jalandhar City. Not only this, it has also been admitted that Dr. Deepak Chawla is posted in the Surgery Department of the Patel Cancer Hospital, Jalandhar. The factum of the wife of the respondent – plaintiff suffering from cancer is not disputed. It has also been admitted that there is not empanelled hospital for treatment of cancer patient by the Northern Railway at or around Jalandhar. If that be so, the medical certificate which has been issued by the competent doctor who had ultimately carried out the surgery, the factum there being emergent situation, which required immediate attention cannot be ruled out. The requirement of the instructions which permitted admission and treatment at any hospital in the case of an emergency, the mandate of the said instructions/rules having been fulfilled but the respondent – plaintiff was entitled to the reimbursement of the amount as claimed by him i.e. ₹ 39,946/- and ₹ 1,23,335/-.

5. The lower Appellate Court has rightly relied upon the judgment of the Hon'ble Supreme Court in **Shiva Kant Jha Vs. Union of India** 2018

RSA-4786-2019 (O&M)

AIR (SC) 1975. The judgment and decree, therefore, as passed by the lower Appellate Court, dated 23.01.2019, cannot be said to be not in accordance with law as it is based upon proper appreciation of the pleadings, evidence and the records as well as the requirement of the statutory rules/instructions having been fulfilled.

6. In view of the above, there being no substantial question of law involved in the present appeal, no interference in the appeal by this Court is called for. The appeal, therefore, stands dismissed.

CM-13616-C-2019

In the light of the dismissal of main appeal, no order is required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

31st October, 2019
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No