

Appl.Side-3

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1493/2016 & CM APPL. 6500/2016

BABY NISAGRA AND ANR Petitioners
Through Mr. Ashok Aggarwal, Advocate

versus

EMPLOYEES STATE INSURANCE
CORPORATION AND ORS Respondents
Through Ms. Shyel Trehan, Amicus
Curiae with Ms. Sonali Malik,
Advocate.
Ms. Shiva Lakshmi, CGSC with
Mr. Siddharth Singh and Mr.
Ruchir R. Rai, Advocates for
UOI.
Mr. Yakesh Anand with Mr.
Nimit Mathur, Advocates and
Dr. Naresh Arora, AD (D) and
Mr. Dhruv Prasad UDC for
ESIC.
Mr. Ramesh Singh, Standing
Counsel (Civil) with Mr. Chirayu
Jain and Mr. Aniruddha
Deshmuk and Mr. Krishna
Kumar, Advocates for GNCTD.
Mr. Tanveer Oberoi, Advocate
for AIIMS.
Mr. Rajshekhar Rao with Mr.
Kotla Harshvardhan and Ms.
Mansi Sood, Advocate for Sanofi
Genzyme.

%

Date of Decision: 15th April, 2019

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed by Baby Nisagra. As the petitioner-patient is suffering from a rare genetic disorder named Gaucher disease Type-1, she seeks extension of medical cover for life saving Enzyme Replacement Therapy on the ground that her mother is insured with Employees State Insurance Corporation (for short 'ESIC').
2. In the present writ petition, it has been averred that ESIC had denied medical treatment to the petitioner citing Clause 5.1 of the ESIC Decisions on Medical Services-July, 2014 inasmuch as it imposed a ceiling limit of Rs.10 lacs per beneficiary per year.
3. During the pendency of the present writ petition, the impugned Clause 5.1 has been amended by way of a Circular dated 07th November, 2016 wherein it has been stipulated that for all the cases where expenditure incurred/to be incurred is more than Rs.10 lacs per beneficiary, the same shall be examined on case to case basis by a Committee constituted by ESIC Headquarter office and a decision with the approval of Chairman ESI Corporation shall be taken.
4. Thereafter, the petitioner's case was placed before the said Committee. The said Committee found the petitioner eligible for treatment. The Committee's report dated 12th July, 2018 is reproduced hereinbelow:-

"Name of Patient
Father's Name

Baby Nisarga
Mr. Noel A.

Age	7 years
Gender	Female
Insurance No.	5036881879
Diagnosis	Gaucher's Disease

The above case was discussed in the meeting and all the documents were reviewed. This child has been diagnosed as Gaucher's disease Type I based on clinical examination, investigations and as per Lab Report from Sir Ganga Ram Hospital, New Delhi. The child has been prescribed Enzyme Replacement Therapy (ERT) from Indira Gandhi Institute of Child Health, Bangalore, Karnataka.

The prescribed drug (Cerezyme) is being procured by the ESICH, PGIMSR, Rajaji Nagar, Bangalore and is being administered at Deptt. Of Pediatrics, of the same Hospital.

As per the published literature the Enzyme Replacement Therapy (ERT) is beneficial in these cases to ameliorate their symptoms and signs. Such patients may lead near normal life if proper treatment is started at any early age and continued uninterruptedly. Hence, the committee recommends that the treatment of this patient to be continued as before.

The Committee further recommends that a progress report be maintained at level of treating hospital/RD to assess the response to Enzyme Replacement Therapy (ERT). For this a detailed Proforma & a diary card have been framed by the department of Pediatrics, ESIC PGIMSR, Basaidarapur, New Delhi (proforma enclosed). The same may be asked by the ESIC Hqrs. Office at any time.

As per documents, this patient is eligible for SST treatment as per ESIC eligibility criteria vide circulars dated 07.11.2016 & 15.12.2016. However, the photo verification of patient and IP verification as per the HCT proforma have not been done which is required before final recommendation. The case is being examined as per the direction of Court Order dated 27.05.2017."

5. Learned counsel for the petitioners states that the petitioners are receiving medical treatment in accordance with the aforesaid decision.

6. The respondent-ESIC is directed to comply with the aforesaid recommendation of the Committee and grant medical treatment to the petitioner.

7. With the aforesaid direction, the present writ petition and application stand disposed of.

MANMOHAN, J

APRIL 15, 2019

js

