

Appl.Side-5

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

+ W.P.(C) 4444/2016

KUMARI PRIYA AND ANR

..... Petitioners

Through Mr. Ashok Aggarwal, Advocate

versus

**EMPLOYEES STATE INSURANCE
CORPORATION & ORS**

..... Respondents

Through

Ms. Shyel Trehan, Amicus
Curiae with Ms. Sonali Malik,
Advocate.

Ms. Shiva Lakshmi, CGSC with
Mr. Siddharth Singh, Mr.
Ruchir R. Rai, Mr. Sanjeev
Uniyal with Mr. Dhawal
Uniyal, 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, Advocate for
GNCTD.

Mr. Anand Verma and Mr.
Shwetank Singh and Mr.
Tanveer Oberoi Advocates for
AIIMS.

Mr. Rajshekhar Rao with Mr.
Kotla Harshvardhan and Ms.
Mansi Sood, Advocate for
Sanofi Genzyme.

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Date of Decision: 16th 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 Kumari Priya. 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 father 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. She has also challenged Clause 5.3 of the ESIC Decisions on Medical Services-July, 2014.
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:-

<i>"Name of Patient</i>	<i>Priya</i>
<i>Father's Name</i>	<i>Mr.Raj Bali</i>
<i>Age</i>	<i>15 years</i>
<i>Gender</i>	<i>Female</i>
<i>Insurance No.</i>	<i>6910928780</i>
<i>Diagnosis</i>	<i>Gaucher's Disease</i>

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 in November, 2015 based on clinical examination, investigations and as per prescription from All India Institute of Medical Sciences (AIIMS), Deptt. of Paediatrics, New Delhi and the treatment was started in July, 2016.

The prescribed drug (Cerezyme) is being procured by the ESICH, Manesar, Haryana and is being administered at Deptt. of Pediatrics, ESIC Hospital, Manesar, Haryana..

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 PGIMS, Basaidarapur, New Delhi (proforma enclosed). The same may be asked by the ESIC Hqs. 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."

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 stands disposed of.

APRIL 16, 2019

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MANMOHAN, J

