



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.2060 of 2014

S.Sebastian

... Petitioner

Vs.

1.The State Medical Commissioner,
E.S.I. Corporation,
No.143, Sterling Road,
Nungampakkam,
Chennai-600034.

2.The Regional Administrative Medical Officer,
E.S.I. Corporation,
Madurai-625020.

3.The Medical Officer,
E.S.I. Hospital,
Vickramasingapuram-627425,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent herein to consider the petitioner's representation dated 23.10.2013 by taking the cost of treatment at the relevant period into account and pass orders within a time stipulated by this Court.

For Petitioner : Mr.P.Subbiah
For R-1 : Mr.P.Ganapathysamy

ORDER

The petitioner was a labourer in Madura Coats Private Limited, Vickramasingapuram in Tirunelveli District with E.S.I.No.1148485. The policy covers injuries not only to the petitioner as a direct beneficiary but also to his family members who are dependant on him. Naturally, the wife is a dependant.

2. The wife of the petitioner S.Elsi fell down from the first floor of the house by an accidental slip on 29.03.2012 at about 6.30 P.M. The petitioner took her to hospitals at Ambasamudram and later at Nagercoil where she was admitted. Her shoulder bone and rib bones on the right side were fractured. She



underwent surgery on 01.04.2012 and was discharged from the hospital on 10.04.2012. The medical expenses came to Rs.74,687/-.

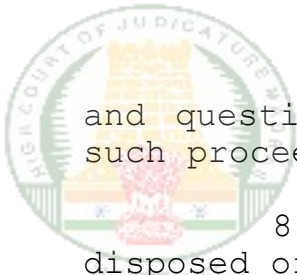
3. The petitioner applied for reimbursement from the third respondent/ the Medical Officer, E.S.I. Hospital, Vickramasingapuram in Tirunelveli District. The third respondent also gave a certificate that the petitioner was eligible for getting super specialty treatment. However, the second respondent sanctioned Rs.46,692/-.

4. The petitioner thereafter gave a representation on 23.10.2013 seeking the difference amount to be paid to the petitioner. The Writ Petition, had been filed on 06.02.2014. A counter had also been filed on 15.12.2014. The Writ Petition had been pending on the file of this Court from the year 2014 onwards.

5. In the meanwhile, learned counsel for the petitioner states that in February 2015, that by a letter dated 08.02.2015, the petitioner was informed that the representation has been rejected but the same could not be pressed before this Court because the Writ Petition was never listed and perusal of the note papers revealed that it was listed last on 07.02.2014. The learned counsel for the petitioner was therefore not able to bring that to the notice of the Court or take any effective steps. The matter has been listed again today.

6. The petitioner has to question the rejection of the claim by approaching the E.S.I. Court which is specifically established for this particular purpose. There is a limitation on the petitioner that he should initiate such steps within a period of three (3) years from the date of rejection but since the petitioner had already approached this Court and the Writ Petition has been pending and a direction could also have been given by this Court to de hors the rejection to consider the representation in a favourable manner or even examine the reasons given, I would therefore grant the benefit of Section 14 of the Limitation Act for having approached *bona fide* a particular forum which unfortunately cannot enter into a discussion on facts and the only forum to enter into such discussion is the E.S.I. Court.

7. Naturally, this would categorize that this particular Court is not the proper Court to agitate the rights of the petitioner herein. I would therefore give the liberty to the petitioner to press for exception and benefit under Section 14 of the Limitation Act if at all the petitioner seeks to take up the issue further before the E.S.I. Court with jurisdiction. The period between 06.02.2014 and the period on which the order copy is made ready and put up in the website of this particular Writ Petition may be sought to be exempted by the petitioner if at all he files any suit / application before the concerned E.S.I. Court. The



and question the rejection and the legality of such rejection in such proceedings.

8. With the said observations, this Writ Petition is disposed of. There shall be no order as to costs.

WEB COPY

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Lm/Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:-

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- 2.The Regional Administrative Medical Officer,
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- 3.The Medical Officer,
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+1 CC to M/s.P.SUBBIAH, Advocate (SR-35512[F] dated 23/11/2021)

W.P(MD)No.2060 of 2014
22.11.2021

PS (CO)

GC(04.12.2021) 3P 5C