BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.19354 of 2021
and W.M.P(MD).No.16084 of 2021

K.A.Jeya Sheela ... Petitioner

Vs.

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

2.The Director of Public Health Services,
No.359, Anna Salai,
D.M.S.Complex,
Teynampet,
Chennai.

3.The Joint Director of Health and Rural Services/
Grievance Redressal Officer Under
New Health Insurance Scheme 2018,
O/o.The Joint Director of Health and Rural Services,
Dindigul District,
Dindigul.

4.The Senior Divisional Officer,
United India Insurance Company,
Divisional Office VI,
No.212, Pala Rathna Towers,
5th floor, Anna Salai,
Chennai-600 005

5.The Chairman,
Meenakshi Mission Hospital and Research Centre,
Melur Road,
Madurai.

... Respondents

(4th respondent is substituted as per the order of this Court dated 28.02.2022)

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned authorization letter-1 dated 10.07.2021 and 27.07.2021 issued by the fourth respondent and quash the same so far as relating to restricting the guarantee of payment to the fifth respondent hospital for a sum of Rs.2,57,000/- is concerned and consequently direct the respondents to reimburse the remaining Medical expenses of Rs.5,72,628/- incurred by the petitioner towards the surgery for Kidney transplantation as per G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018 with interest at the rate of 12% per annum.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader
for RR1 to 3

Mr.A.Shajahan for R4
(newly substituted respondent)

O R D E R

The orders impugned dated 10.07.2021 and 27.07.2021 passed by the fourth respondent are under challenge in the present Writ Petition.

2. The petitioner, admittedly, is a member of the New Health Insurance Scheme and underwent the surgery of Kidney Transplantation in a network hospital. Therefore, both the hospital and treatment are approved under the New Health Insurance Scheme. The petitioner has made a request to clear the entire medical expenditure incurred by her in the approved hospital. However, the respondent/Insurance Company restricted the claim to Rs.2,57,000/-, inspite of the fact that the petitioner is eligible for a sum of Rs.7,50,000/-, as per the Scheme which was in-force at the time of taking treatment by the petitioner.

3. The learned counsel appearing for the petitioner made a submission that when the ceiling of Rs.7,50,000/- is fixed by the Government under the Policy, the Insurance Company is liable to pay the expenditure, as per the medical bills issued by the hospital. In the case of the writ petitioner, the Insurance Company restricted the bill which is in violation of the New Health Insurance Scheme.

4. The learned counsel appearing for the Insurance Company objected the said contention by stating that in respect of kidney transplantation treatment, a package scheme is to be granted and in

the case of the writ petitioner, a package scheme has already been settled. When the medical reimbursement claim has already been settled as per the package, the petitioner cannot claim over and above the package fixed by the Insurance Company.

5. This Court is of the considered opinion that if uniform package is fixed in respect of kidney transplantation treatment, the very purpose and object of fixing the outer limit of Rs.7,50,000/- will be defeated. There may be several cases where the medical expenditure may go on above a sum of Rs.7,50,000/- and in such cases, it is to be restricted to Rs.7,50,000/- . The Insurance Company fixing the package is beyond the scope of the New Health Insurance Scheme. In such circumstances, the Policy itself requires an amendment. However, as per the terms and conditions of the Health Insurance Policy issued in G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018, the maximum eligibility for kidney transplantation treatment is a sum of Rs.7,50,000/-. Paragraph No.10 of the said Government Order reads as under:

10.Medical Assistance:-

(1) The scheme shall provide coverage for the treatments and surgeries as listed in the Annexure-I to these Guidelines upto a maxium of Rupees Four Lkah per pensioner (including spouse)/Family Pensioner for a block of four years from 01.07.2018 to 30.06.2022 ordinarily in any of the Network Hospital on CASHLESS basis and in case of Emergency care or following an Accident in a Non-Network Hospital on reimbursement basis. However, the financial assistance shall be enhanced to Rupees Seven Lakh and Fifty Thousand for specified treatments and surgeries as listed in the Annexure-I A to these Guidelines. In any case, the maximum limit of assistance admissible per Pensioner (including spouse)/Family Pensioner shall not exceed Rupees Seven Lakh and Fifty Thousand.

6. Therefore, any decision taken by the Insurance Company cannot run counter to the New Health Insurance Policy issued by the Government in G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018. Any decision in respect of eligibility must be fixed strictly in consonance with the scheme. Therefore, the package fixed by the Insurance Company is in violation of the New Health Insurance Scheme. When the above Paragraph No.10 of the Government Order enumerates that in respect of kidney transplantation, the maximum amount shall be a sum of Rs.7,50,000/-. There is no reason whatsoever to restrict the amount, in view of the fact that the petitioner has taken treatment in the network hospital. Thus, the question of ingenunity does not arise at all and the Insurance

Company has to settle the amount to the hospital, as per the medical expenditure incurred.

7. Interestingly, the petitioner took treatment on 23.07.2021 and the Government issued revised rates under the Tamil Nadu Medical Attendance Rules in G.O.Ms.No.401, Health and Family Welfare(Z1) Department dated 09.09.2021. Though the above Government Order is in-applicable as far as the case of the writ petitioner is concerned, only for the limited purpose of reference, the Government Order contends that the treatment for living donor has also been included under the scheme. The New Health Insurance Scheme is a welfare scheme to the pensioner/family pensioner/spouse of the pensioner. Thus, narrow interpretation is to be avoided. The welfare scheme is to be extended so as to serve the purpose and object of the scheme. In the event of unnecessarily restricting the claim, the same will result in denial of the concession conferred to this pensioner and the purpose and object of the scheme itself would be defeated. Therefore, when the scheme contemplates the ceiling of Rs.7,50,000/- and the treatment is taken in the network hospital, the Insurance Company is well within the powers to verify the nature of the treatment and settle the medical expenditure within the prescribed amount of Rs.7,50,000/-. If the medical expenditure exceeds, then the petitioner will be in a position to settle the excess amount.

8. The order impugned is an authorisation letter in respect of the amount settled in favour of the hospital by the Insurance Company. Therefore, for settling the additional claim, the said order need not be interfered with. In view of the fact that the petitioner has erroneously impleaded the MD India Healthcare Services (TPA) Private Limited, this Court is inclined to delete the name of fourth respondent and substitute the Senior Divisional Officer, United India Insurance Company, Divisional Office VI, No.212, Pala Rathna Towers, 5th floor, Anna Salai, Chennai-600 005 as fourth respondent. MrA.Shajahan, learned counsel takes notice of the newly substituted respondent.

9. This being the factum, the petitioner is at liberty to submit all the documents along with the applications and the order passed by this Court in the present Writ petition before the District Level Empowered Committee through proper channel. The District Level Empowered Committee is directed to decide the issues with reference to the quantum of eligibility to the petitioner in accordance with the New Health Insurance Scheme and accordingly, issue necessary recommendation to the Insurance Company/fourth respondent to settle the additional claim of the petitioner on merits and as per his eligibility. The said exercise is directed to be done as expeditiously as possible, preferably within a period of 12 weeks from the date of receipt of a copy of this order.

10. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

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Sub Assistant Registrar(CS)

ssb

To

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

2.The Director of Public Health Services,
No.359, Anna Salai,
D.M.S.Complex,
Teynampet,Chennai.

3.The Joint Director of Health and Rural Services/
Grievance Redressal Officer Under
New Health Insurance Scheme 2018,
O/o.The Joint Director of Health and Rural Services,
Dindigul District,Dindigul.

4.The Senior Divisional Officer,
United India Insurance Company,
Divisional Office VI,
No.212, Pala Rathna Towers,
5th floor, Anna Salai, Chennai-600 005

5.The Chairman,
Meenakshi Mission Hospital and Research Centre,
Melur Road, Madurai.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-9162[F] dated 01/03/2022)
+1 CC to M/s.A.SHAJAHAN, Advocate (SR-9362[F] dated 01/03/2022)
+1 CC to M/s.SPL GP (SR-9218[F] dated 01/03/2022)

W.P.(MD) No.19354 of 2021

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MGJ(25.03.2022) 5P 9C