



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.03.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)No.24765 of 2018

1. Umapriya (Died)

2. V.Vishwanathan

3.Minor V.Isvarya ... Petitioners

**(3rd Petitioner Minor represented by her father
and next friend 2nd petitioner)
(P2 & P3 are substituted, vide Court
order,dated 10.03.2022 in W.M.P. (MD)No.5 of 2022 in
W.P. (MDNo.24765 of 2018)**

vs

1. The Government of Tamilnadu
represented by the District Collector,
Madurai District,
Collectorate, Madurai - 20.

2. The Joint Director,
Health and Welfare Department,
Usilampatti, Madurai.

3. United India Insurance Company Ltd.,
24, Whites Road, Chennai - 600014
Through its Managing Director.

4. The Divisional Manager,
M/S.United India Insurance Company Ltd.,
West Veli Street, Madurai.

5. The Secretary of Finance,
Government of Tamilnadu,
Fort St.George, Chennai - 9.

6. The Director of Treasury and Accounts,
3rd Floor, Veterinary Hospital Campus,
Anna Salai, Nandanam,
Chennai - 35.

... Respondents

**(R5 & R6 are impleaded vide order dated
20.06.2019)**

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the relating to the petitioner in Na.Ka.No.E5/51096/2016 dated 09.10.2018 and quash the same and further direct the respondents to



pay the petitioner a sum of Rs.1,20,507/- with 12% interest from the date of treatment namely 26.10.2017 till payment.

For Petitioner : M/S.V.Janaki Devi
for M/S.T.S.R.Venkataramana

For Respondents : Mrs.D.Farjana Ghoushia for R1 & R2
Special Government Pleader

Mr.A.Shajahan for R3 & R4

O R D E R

This writ petition is filed to quash the impugned order, dated 09.10.2018 and further direct the respondents to pay the petitioner a sum of Rs.1,20,507/- with 12% interest from the date of 26.10.2017.

2. The brief facts of the case are that the petitioner was born with 70% disability. The petitioner suddenly became sick and was admitted in ICU of Kennet Hospital. The petitioner was in Hospital for three days and treated as inpatient for five days and the total Medical expenditure is Rs.1,20,507/- (Rupees One Lakh Twenty Thousand and Five Hundred and Seven only). The petitioner was a member in the Group Insurance Scheme. The petitioner submitted an application for refund of the Medical Bill with all relevant documents. The first respondent, vide order, dated 19.10.2018 returned the petitioner's claim since it is not approved by the Insurance Company as the treatment was taken in a Non-Network Hospital. Aggrieved over the same the present writ petition is filed.

3. The respondents have filed a counter affidavit stating that the claim of the petitioner was placed before the Empowered Committee and after careful consideration through various Government Orders and the applicability of the same, the respondents have noticed that the petitioner had undergone the treatment in a Non-Network Hospital. Therefore, first respondent, vide order, dated 09.10.2018 have rejected the claim as per G.O.Ms.No.202 Finance (Salary) Department, dated 30.06.2016. The relevant portion is extracted hereunder:

"cl(v)-page No 2:

The coverage of medical assistance under the Scheme shall be extended to accident cases where the patient got approved treatment/undergone surgery in an non-network Hospital"

Also as per the above said G.O at page 10 - Para 12 it states as follows:



d) This Scheme is on CASHLESS basis and no payment for approved cost need to be made by the employee or their eligible family members to the approved Hospitals.

c) The eligible charges which are entitled to under this Scheme should be ascertained for the approved treatments/Company/Third party Administrator shall not be allowed to charge any excess amount.

f) Any claim for reimbursement made in deviation of the above procedure shall be rejected."

4. The respondents also relied on G.O.Ms.No.391 Finance (Salaries) Department, dated 10.12.2018 where it has been stated as under:

"(4) In case, an employee/eligible family members undergoes emergency treatments/surgeries not covered under this Scheme in either Network Hospital or Non-Network Hospital, no claim can be filed under the New Health Insurance Scheme. However, they shall be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and the G.O.Ms.No.1023, Health and Family Welfare Department, dated 17.06.1980. It may be noted that the Tamil Nadu Medical Attendance Rules requires that treatment in private Hospitals should not be restored to except in cases of emergencies. Clause 2(3) of the aforesaid Government Order states that in genuine cases of emergency, the claims will be restricted to the expenditure that would have been incurred had the patient taken treatment in a Government hospital excepting diet charges. For claims under Tamil Nadu Medical Attendance Rules, the Beneficiaries may apply to the authority in the department in which the Government employee is working."

5. It has been mentioned that an employee undergoes emergency treatments not covered under this Scheme in either Network Hospital or Non-Network Hospital, no claim can be filed under the New Health Insurance Scheme. The contention of the respondents are that based on the above Government Order and clarification, the claim of the petitioner cannot be entertained. However, they will be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules. Therefore, this Court is of the considered opinion that the petitioner's claim ought to be considered by the first respondent under Tamil Nadu Medical Attendance Rules. The learned Counsel appearing for the petitioner submitted that the petitioner died on 12.11.2021 and the legal heirs are impleaded. The first



5. The Secretary of Finance,
Government of Tamilnadu,
Fort St.George, Chennai - 9.

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6. The Director of Treasury and Accounts,
3rd Floor, Veterinary Hospital Campus,
Anna Salai, Nandanam,
Chennai - 35.

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-13394[F] dated 22/03/2022)

+1 CC to M/s.T.S.R.VENKAT RAMANA, Advocate (SR-13422[F] dated
22/03/2022)

+1 CC to M/s.SPL GP (SR-13504[F] dated 22/03/2022)

W.P. (MD) No.24765 of 2018
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MGJ(20.04.2022) 5P 10C