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W.P. No.26518 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.26518 of 2022 and
W.M.P. Nos.11715 of 2023 & 25580 of 2022

G.Janardhanan Pillai

... Petitioner

Vs.

1.The Insurance Ombudsman
Office of Insurance Ombudsman
Tamil Nadu & Puducherry
Fatima Akhtar Court, 4th Floor
453, Anna Salai, Teynampet
Chennai - 600 018

2.National Insurance Co. Ltd.
Rep. by its Authorised Signatory
Regional Office
No.190, Hamid Building
II Floor, Anna Salai
Chennai - 600 006

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus to call for the records in impugned proceedings in Claim Policy No.251100/50/20/10000379 dated 15.10.2021 passed by the 2nd respondent and impugned order in Award No.IO/CHN/A/HI/0088/2022-2023 dated 30.06.2022 passed by the 1st respondent and quash the same to the extent of denying the claim made by the



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petitioner and consequently direct the 2nd respondent to settle the entire claim of the petitioner with interest till the date of realisation.

For Petitioner : Mr.Parthiban
For Respondents : Mr.S.Vadivel for R2
R1 served. No Appearance

ORDER

The petitioner is a senior citizen and in terms of the doctor's certificate issued by Billroth Hospitals, he suffered from multiple co-morbidity diseases and he was admitted on 11.10.2021 and discharged on 14.10.2021 with a complaint of bleeding in rectum and drowsiness. Given the list of diseases he is suffering, the doctors advised him to get admitted and accordingly he was treated as inpatient between 11.10.2021 and 14.10.2021.

2. The petitioner had obtained a mediclaim insurance policy from the second respondent and once discharged, he raised a claim for Rs.54,422/-, which he had paid to the hospital. This claim was rejected by the second respondent on the following ground.

"4.7. The claim is repudiated as charges incurred at



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hospital or nursing home primarily for diagnosis, X-ray or laboratory examination or other diagnostic studies not consistent with or incidental to the diagnosis and treatment of positive existence of presence of any ailment, sickness or injury for which confinement is "

3. Aggrieved by the same, the petitioner has approached the Ombudsman, the first respondent, has mercifully accepted 50% of the petitioner's claim and directed the second respondent to pay it, which the second respondent has since paid and it is for the balance 50% of the claim amount, the petitioner has approached this court.

4. Mr.S.Vadivel, learned counsel appearing for the second respondent explained or rather justified the correctness of the stand taken by the second respondent in rejecting the claim.

5. This court is at a loss to understand who decides the course of any treatment, is it the hospital or the insurance company. The medical certificate shows that the petitioner has a list of diseases and describes the petitioner as a patient of multiple co-morbidities. It is this patient who goes to the hospital with a complaint of bleeding from his rectum (anus) and in a situation of such as that, it is for the hospital to decide what course of treatment has to be administered



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to him. It should not be forgotten the petitioner is also a senior citizen. This court could not appreciate the reason for rejecting the petitioner's claim.

6. To conclude, the writ petition is allowed. The second respondent is directed to disburse the balance 50% that is now remains to be paid, within a period of two weeks from today. No costs. Consequently, the connected writ miscellaneous petitions are closed.

11.07.2023

Asr

To

1.The Insurance Ombudsman
Office of Insurance Ombudsman
Tamil Nadu & Puducherry
Fatima Akhtar Court, 4th Floor
453, Anna Salai, Teynampet
Chennai - 600 018

2.National Insurance Co. Ltd.
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Note to office: Issue order copy today.

N.SESHASAYEE, J.,



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Asr

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