



W.P.No.15541 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM

THE HONOURABLE MR JUSTICE J.SATHYA NARAYANA PRASAD

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1. K.Jeelani (deceased)
2. Ameena Bee
3. Minor Mohammed Abrar,
Represented by his Mother and Natural Guardian,
Ameena Bee, S/o.K.Jeelani(late),
No.70/33, 2nd Street, Pension Line,
Line Medu, Salem- 636 006.
4. Minor Afsheen,
Represented by her Mother and Natural Guardian,
Ameena Bee, D/o.K.Jeelani(late),
No.70/33, 2nd Street,
Pension Line, Line Medu, Salem- 636 006.
5. Mallika John

.... Petitioners

Vs.

1. The District Collector,
Office of District Collector,
Udhagamandalam, Nilgiris District.
2. The Executive Engineer,
Executive Engineer Office,
Operative and Maintenance,



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TANGEDCO, Kundah, Nilgiris District.

3. The Assistant Executive Engineer,
Electrical Maintenance,
Kundah Power House-2,
Pegumbahallah Camp P.O,
Geddai, Nilgiris 643 219.

4. The Manager,
United India Insurance Co Ltd,
Divisional office VI,
PLA Rathana Towers, 5th Floor,
212, Anna Salai, Chennai 600 006.

5. The Manager,
MD India Health Insurance TPA Pvt Ltd,
Guna Complex,
No. 443 and 445 Anna Salai,
Teynampet, Chennai 600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records of the 1st respondent in Na.Ka.No.E1/8858/2017 dated 17.02.2020 and quash the same and consequently directing the respondents 1 to 5 reimburse the medical expenses of Rs.2,13,031/- for undergone Medians Sternotomy and Thymectomy treatment to the petitioner with 9% interest from the date of remittance of the amount to the Hospital by the petitioner till the date of payment.

For Petitioners	:	Mr.C.Venkatesan
For R1	:	Mr.M.Rajendiran Additional Government Pleader
For R2 & R3	:	Mr.David Sundar Singh Senior Standing Counsel



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For R4 : Mr.P.Sankaranarayanan
For R5 : No appearance

ORDER

The present Writ Petition is filed challenging the impugned order dated 17.02.2020 passed by the first respondent and consequential direction to the respondents 1 to 5 to reimburse the medical expenses of Rs.2,13,031/- for underwent surgery for Medians Sternotomy and Thymectomy treatment to the petitioner with 9% interest from the date of remittance of the amount to the hospital by the petitioner till the date of payment.

2. Pending the Writ Petition, the petitioner died and his legal heirs were substituted as petitioners 2 to 5.

2.1. The case of the petitioners is that, the deceased first petitioner was working in 3rd respondent and due to Median Sternotomy and Thymectomy, he has been taking treatment was admitted on 31.05.2019 as inpatient in G.Kuppuswamy Naidu Memorial Hospital at Coimbatore, later on the advise of the doctor he was admitted in Mazumder Shaw Medical Centre, Bangalore and



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undergone surgery, thereby incurred total medical expenses of Rs.2,13,031/- which was paid by him and he claimed for reimbursement of the said medical expenses by making a representation to the third respondent and also to the Insurance Company. According to the petitioners, as per the rules of the Tamil Nadu Employees Insurance Scheme, the 4th and 5th respondents have to pay the medical expenses for surgery treatment. However, the 1st respondent, vide proceedings dated 17.02.2020 rejected the claim of the petitioner. Hence the Writ Petition.

3. A counter affidavit has been filed on behalf of the 1st respondent on 30.11.2020. The third respondent has filed a counter affidavit on 01.12.2020 and similarly the fourth respondent has filed the counter affidavit on 11.11.2024.

4. The learned counsel for the petitioners would submit that, as per the advise of the doctor, the first petitioner was admitted in G.Kuppuswamy Naidu Memorial Hospital at Coimbatore and undergone surgery for Median Sternotomy and Thymectomy. He would further submit that the Joint Director of Health Services sent a letter to the District Collector, Nilgiris,



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Udhagamandalam, stating that the first petitioner namely K.Jeelani was examined by the Medical Board on 27.11.2019, with regard to the Financial Assistance applied by him under Tamil Nadu Government Employees Health Fund and it is also certified that the first petitioner had undergone surgery for Median Sternotomy and Thymectomy in G.Kuppuswamy Naidu Memorial Hospital, Coimbatore, and the same is genuine.

5. The learned counsel appearing for the fourth respondent/Insurance Company would submit that the first petitioner admitted with the diagnosis of Anterior Mediastinal Mass-Thymoma on 21.05.2019 and underwent surgery for Median Sternotomy and Thymectomy only on 03.06.2019 in G.Kuppuswamy Naidu Memorial Hospital, Goimbatore. He would contend that, since the first petitioner was diagnosed on 21.05.2019, and the surgery was conducted on 03.06.2019, he had 9 days of time, and the first petitioner could have very well got admitted in the network hospital, however, the same was not done so. Hence, he prayed for dismissal of the present Writ Petition.

6. Mr.M.Rajendiran, learned Additional Government Pleader appearing for the first respondent submitted that the matter was not referred to



District Level Empowered Committee and the matter may be directed to refer to the District Level Empowered Committee to redress the petitioner's grievance with regard to reimbursement of Medical expenses incurred by the deceased first petitioner. He also placed reliance upon judgment of this Court in W.P.(MD).No.13429 of 2013 etc., batch dated 28.05.2019 and relevant portion of the said judgment is extracted hereinunder:

"79. Like that, in some of the cases, writ of mandamus have been sought for, where claim has been made for medical reimbursement and for one reason or other, those claims have been kept pending or yet to be decided and in those cases certainly the authorities are bound to decide the same for sanction and grant of medical reimbursement.

80. In order to reconsider all these claim made by the respective writ petitioners for medical reimbursement, by remitting the matters back, the following directions are issued:

(i) All the impugned orders in the respective writ petitions in this batch of cases, are hereby quashed.

(ii) The writ petitions where impugned orders are quashed as well as the writ petitions where mandamus sought for, are hereby remanded with directions to the concerned District Level Empowered Committee, before whom, these matters shall be placed and the Committee shall reconsider every individual case.

(iii) While reconsidering, the Committee shall not reject any claim merely on the reason of non network hospital or non listed disease.

(iv) The Committee, wherever possible, shall give suitable direction to the Insurance Company to reimburse the claim made by the respective claimant / employee / pensioner.

(v) If the Committee finds some cases where the Insurance Company cannot be directed to reimburse, in those



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cases, suitable orders shall be passed directing / recommending the State authorities to reimburse the claim under Medical Attendance Rules.

(vi) Once such orders are passed, the Insurance Company shall immediately reimburse the medical claim with 6% interest from the date of due till date of payment, within a period of thirty days from the date of receipt of such order to be passed by the Empowered Committee of the District concerned.

(vii) On receipt of such orders / recommendation from the Empowered Committee, the Sanctioning authority / State authority / High Power Committee in the State Level shall pass necessary orders allowing the medical reimbursement claimed by the individual claimant / employee / pensioner under the Medical Attendance Rules.

(viii) While ordering medical reimbursement under Medical Attendance Rules, the rate approved, accepted or quoted by the Insurance Company under the Medical Insurance Scheme shall be taken as the rate and by calculating the reimbursement on the said rate, the reimbursement claim shall be immediately sanctioned and the amount shall be reimbursed to the claimant with 6% interest from the date of due till date of payment, within a period of thirty days from the receipt of the recommendation / order from the District Empowered Committee.

With these directions, all these writ petitions are ordered to the terms indicated above. Consequently, connected miscellaneous petitions are closed. However there shall be no order of costs."

7. By relying upon the counter affidavit filed by the first respondent, the learned Additional Government Pleader submitted that as per the G.O.Ms. No.202, Finance (Salaries) Department dated 30.06.2016, any grievance/complaint about difficulty in availing treatments, non- availability of



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facilities, availing of bogus treatments for ineligible individuals etc., shall lie with District Level Empowered Committee headed by the District Collector and comprising the Joint Director of Medical and Rural Health Services, the District Treasury Officer and a representative of Insurance Company. He further submitted that appeal against the decision of the District Level Empowered Committee lies before the State Level Empowered Committee and further appeal lies with the High Level Committee.

8. By relying upon the counter affidavit filed by the first respondent, the learned counsel for the Insurance Company would submit that the reimbursement need not be made for the treatment taken in non-network hospitals. Further, the learned counsel relied upon the paragraphs nos.7 & 8 of the counter affidavit, which reads as follows:

"7. I state that GKNM Hospital, Coimbatore is not a network Hospital and not listed in the above G.O. Further the writ petitioner has taken treatment in the above said hospital for the period from 31.05.2019 to 19.06.2019 for Anterior Mediastinal Mass - Thymoma, Post Operative Empyema and Diabetes Mellitus was newly detected. The said diagnosis and line of procedure does not come under the emergency clause. The said Procedure is a planned procedure and since there was no pre-authorisation the claim was rejected by us vide office letter dated 05.02.2020 sent through DLEC, Nilgris. The above said scheme is a cashless scheme and after approval of the treatment



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to be taken by the employees by our service provider the hospitals are paid directly by us through NEFT and reimbursement is not permitted under the said scheme. The claim of the petitioner has been rejected by this respondent.

8. I state that in this connection Finance (Salaries) Department, Secretariat issued a letter No. 34231 (Pension 2015/1) dated 01-07-2015 wherein it is stated that reimbursement need not be made for the treatment taken in non-network hospitals."

9. Heard both sides and perused the materials available on record.

10. On perusal of the records, it appears that the diagnosis for the deceased first petitioner was made on 21.05.2019 and surgery was conducted for Median Sternotomy and Thymectomy only on 03.06.2019, after a period of 9 days in G.Kuppuswamy Naidu Memorial Hospital, Coimbatore. Admittedly, the case of the first petitioner was not referred to the District Level Empowered Committee.

11. In view of the above facts and circumstance of the case, and in the light of the judgment in W.P.(MD).No.13429 of 2013 etc., batch dated 28.05.2019, the first respondent is directed to consider the case of the petitioner on merits and in accordance with law, as per G.O.Ms.No.202, Finance



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(Salaries) Department dated 30.06.2016, in the light of the order passed by this Court in W.P.(MD).No.13429 of 2013 dated 28.05.2019, by giving due notice to the petitioner, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

12. With the above observations and directions, this Writ Petition is disposed of. No costs.

11.12.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
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Office of District Collector,
Udhagamandalam, Nilgiris District.

2. The Executive Engineer,
Executive Engineer Office,
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