IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.3069 of 2023
and C.M.P.No.28982 of 2023

The Management,
ESI Corporation, Sub Regional Office,
Panchdeep Bavan, 1897, Trichy Road,
Ramanathapuram, Coimbatore – 641 045. .. Appellant

Vs.

1.B.Balamurugan

2.Krishnaveni Carbon Products Pvt. Ltd.,
63/3, Athipalayam Road,
Ramakrishnapuram, Chinnavedampatti,
Coimbatore – 641 006. .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 82(2) of the ESI Act, 1948, against the order and judgment passed in ESICMA.No.1 of 2022 dated 12.04.2023 on the file of Employees Insurance Court, Coimbatore, in allowing the petition filed by the respondent seeking reimbursement of medical claim and to set aside the same.

For Appellant	:	Mr.SP.Srinivasan
For R1	:	Ms.G.K.Dharshini for Mr.P.Krishnaswamy
For R2	:	Mr.M.Arun

J U D G M E N T

This appeal has been filed by the ESI Corporation aggrieved by the order passed by the Employees State Insurance Court (ESI Court), Coimbatore, in ESICMA.No.1 of 2022 dated 12.04.2023, directing the appellant to pay an amount of Rs.3,90,184/- with interest at the rate of 9% per annum.

2.Heard the learned counsel for the appellant, learned counsel for 1st respondent and the learned counsel for the 2nd respondent.

3.The 1st respondent is an employee under the 2nd respondent and he is an ESI subscriber. His mother Sarojini suffered a fracture in the right leg followed by Cardiac Arrest and Brain Stroke. This incident took place on 19.06.2020. Considering the emergency situation, the mother of the 1st respondent was treated at Hindustan Hospital, Coimbatore. The mother of the 1st respondent was also treated in two other hospitals namely PSG Hospital, Coimbatore and at GKNM Hospital, Coimbatore. The total medical expenses that was incurred by the 1st respondent was to the tune of Rs.5,67,881/-.

4.The 1st respondent submitted a request for reimbursement of medical expenses by letter dated 01.10.2020. The appellant calculated the total amount of compensation at Rs.1,72,697/- as per the CGHS rates. In view of the same, there was a shortfall of Rs.3,90,184/-. The 1st respondent filed a petition before the Employees State Insurance Court (ESI Court) for a direction to the appellant to reimburse a sum of Rs.3,90,184/- with 12% interest from the date of the petition.

5.The 2nd respondent, who is the employer of the 1st respondent admitted that the 1st respondent is covered under the ESI Act and he has been contributing for the same.

6.The appellant who was the 2nd respondent before the Employees State Insurance Court (ESI Court), took a stand that as per Regulation 96-B of the ESI Act, the amount sanctioned can only be at CGHS rates. That apart, the mother of the 1st respondent underwent treatment at Private Hospital without getting any reference letter from the ESI Hospitals and that a full-fledged ESI Hospital is also functioning at Coimbatore. If that facility was resorted to, the mother of the 1st respondent could have got the treatment without spending any amount. Therefore, the appellant took a stand that they cannot be burdened with the extra financial liability and that whatever has to be reimbursed to the

1st respondent has been done as per the CGHS rates.

7.Section 82(2) of the Employees' State Insurance Act, 1948, states that an appeal will lie to the High Court from an order of the Employees Insurance Court (ESI Court), if the case involves a substantial question of law. This Court has to necessarily see if any substantial question of law is involved in the appeal.

8.On carefully reading the order passed by the Employees State Insurance Court (ESI Court), it is seen that the Employees State Insurance Court (ESI Court) has taken note of the extraordinary situation that was prevailing at the relevant point of time, viz., the pandemic period. The mother of the 1st respondent was in an emergency condition and at that point of time, it was not very easy to get admitted into any Hospital, since many were infected with COVID virus. The fatality was also in the increase during the relevant point of time. Therefore, the situation warranted steps to be taken away from what is provided under the regulations. Under normal situation, it is the bounder duty of the claimant to get a reference letter from the ESI Hospital before getting treatment before any other Private Hospital which does not have the ESI cover. In fact, this position has been reiterated by this Court in C.M.A.(MD).No.1121 of 2015 by judgment dated 10.11.2017. This Court held that the reimbursement can be sought for only within the four corners of the statutory scheme and not beyond it.

9.Extraordinary situation requires extraordinary decisions to be taken. This incident had taken place during June, 2020, which was the peak pandemic period. Everyone was confused and were running helter-skelter without knowing in which Hospital to get admitted for getting regular treatment during emergency, since most of the Hospitals were filled with COVID patients. At that point of time, the mother of the 1st respondent fractured her right leg which was also followed by a Cardiac Arrest and a Brain Stroke. Therefore, the mother of the 1st respondent taking treatment in a Private Hospital without getting the reference letter, cannot be taken to be a major violation considering the grave situation that prevailed then. Ultimately, the treatment has to be given at the golden hour and if it is delayed in the process of getting a formal reference letter, it will lead to serious consequences.

10.The Tribunal has properly appreciated this situation that was faced by the 1st respondent. Therefore, considering the documents that were available and which were marked, the Employees State Insurance Court (ESI Court) came to a conclusion that the amount of Rs.3,90,184/- must be reimbursed with interest. This finding of the Employees State Insurance Court (ESI Court) does not suffer from any perversity or illegality requiring the interference of this Court. The order of the Employees State Insurance Court (ESI Court) was based on the peculiar facts of this case and the peculiar situation that was prevailing at the relevant point of time. Therefore, this order cannot be a precedent for any claims made without the compliance of the regulations. The mandate that is required under Section 96-A and 96-B of the regulations will apply with all force in a normal situation. These regulations should not stand in the way of a situation that was extraordinary during June 2020. In other words, this is a one-off case which can never be cited as a precedent in any other case.

11.The order of the Employees State Insurance Court (ESI Court) was on the peculiar facts of the case and this Court does not find any substantial question of law involved in this appeal. This Court has upheld the order of the Employees State Insurance Court (ESI Court) considering the peculiar facts and circumstances in this case. Therefore, this Court holds that the Employees State Insurance Corporation cannot be saddled with the payment of interest. Hence, 9% interest that was imposed by the Employees State Insurance Court (ESI Court) is interfered with and the same is set aside.

12.Accordingly, this appeal stands dismissed and the 1st respondent is permitted to withdraw the sum of Rs.3,90,184/-. Whatever balance amount remains towards interest shall be permitted to be withdrawn by the appellant Corporation. Consequently, the connected Miscellaneous Petition is closed. No costs.

21.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

N.ANAND VENKATESH, J.

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To

1.The Presiding Officer,

Employees State Insurance Court,
Coimbatore.

2. The Section Officer,
VR Section,
Madras High Court,
Chennai.

C.M.A.No.3069 of 2023

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