BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16797 of 2021

1. N.S.Balasubramanian

2. B.Primala

... Petitioners

Vs

1. The Senior Divisional Manager,
United India Insurance Co. Ltd.,
Divisional Office Vi, 5th Floor, P.L.A
Rathina Towers, 212 Anna Salai, Chennai - 600 006.

2. The Director (NHIS),
Office of the Commissioner of Treasuries and Accounts,
Amma Complex, 3rd Floor, 571 Nandanam, Anna Salai,
Chennai.

3. The Joint Direction (NHIS),
Office of the Commissioner of Treasuries and Accounts,
Amma Complex, 3rd Floor, 571 Nandanam, Anna Salai,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st respondent to reimburse a sum of Rs.1,73,560 (Rupees One Lakh Seventy Three Thousand Five Hundred and Sixty only) towards the claim of the 1st petitioner and a sum of Rs.62,460 (Rupees sixty two thousand four hundred and sixty only) towards the claim of 2nd petitioner and in total a sum of Rs.2,36,020 (Rupees Two Lakhs Thirty Six Thousand and Twenty only) amount spent by the petitioners towards medical treatment within the time fixed by this Court.

For Petitioners : Ms. Sowmya for Mr.S.Ramesh

For Respondents : Mr.C.Satheesh (R2,R3)
Government Advocate

Mr.A.Shajahan (R1)
Standing Counsel

ORDER

This writ petition has been filed seeking a direction to the 1st respondent to reimburse a sum of Rs.1,73,560/- (Rupees One Lakh Seventy Three Thousand Five Hundred and Sixty only) towards the claim of the 1st petitioner and a sum of Rs.62,460/- (Rupees sixty two thousand four hundred and sixty only) towards the claim of 2nd petitioner and in total a sum of Rs.2,36,020/- (Rupees Two Lakhs Thirty Six Thousand and Twenty only) amount spent by the petitioners towards medical treatment.

2..Both the writ petitioners herein are senior citizens. Both the petitioners suffered COVID -19 and they were admitted on 27.06.2020 in NTC Hospital, Madurai for treatment. Both of them were quarantined and after taking treatment for a period of 11 days, they were discharged on 02.07.2020.

Towards the medical expenditure incurred, the first petitioner has paid a sum of Rs.1,73,560/- and the 2nd petitioner has paid a sum of Rs.62,400/- to the second petitioner. Following which, representation was given on 10.08.2020 to the second respondent claiming the medical expenditure of Rs.2,36,020/- from the respondents. However, the same was not considered. Hence, this writ petition came to be filed.

3.When the matter came up for hearing, the learned Government Advocate appearing for the first respondent submitted that as per the eligibility criteria, already an amount of Rs.77,000/- has been credited into the account of the first petitioner on 29.11.2021 and an amount of Rs.47,000/-has been deposited into the account of second petitioner on 17.102023, towards the medical expenditure incurred by them. Further, he submitted that since the treatment took by the petitioners was non-critical one, the petitioners are not entitled for the entire claim.

4.Per contra, the learned counsel for the petitioners vehemently relying upon the order of this court in W.P(MD) No.20360 of 2021, dated 06.01.2022, submitted that the medical condition suffered under Covid-19 can never be treated as non-critical condition. Since the petitioners senior citizens, they are entitled for the entire claim as claimed by them.

5.Relying upon the counter affidavit submitted by the 2nd respondent, the learned Government Advocate appearing for the first respondent submitted that, as per G.O.Ms.No.280, dated 24.06.2020 and G.O.Ms.No.281, dated 24.06.2020, in the New Health Insurance Scheme it is clearly stated that the Government employees/ pensioners and Family Pensioners can avail Cashless treatment for Covid-19 positive care treatment and in respect of critical care Covid-19 treatment, United India Insurance Company Limited shall make payment to all Covid positive cases that receive critical care as per the package rates for existing procedures covered under the New Health Insurance Scheme, subject to a ceiling of Rs.4 lakhs and in respect of non-critical Covid care, the Government has fixed the ceiling rate for treatment cost of non-critical Covid cases im empaneled hospitals.

6.Despite the petition is pending for more than three years and after giving sufficient opportunities, the learned Standing counsel appearing for the second respondent has not filed counter.

7.Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 2 & 3 and the learned Standing Counsel appearing for the first respondent. Perused the materials available on record.

8.It is needless to say, the first petitioner is 82 years old and the second petitioner is 77 years old. They are senior citizens. From the details of the treatment, which they had undergone during the period from 27.06.2020 to 07.07.2020, it could be understood that they were admitted in NTC Hospital Madurai under critical condition, where they were admitted into ICU with Sepsis mode and thereafter, discharged from the hospital on 07.07.2020.

9.This Court in ***P.Lakshmanan Vs State of Tamil Nadu in W.P(MD) No.20360 of 2021,*** by its order, dated 06.01.2022 has dealt with a similar case of medical reimbursement claim for Covid-19 infection. The relevant portion is extracted hereunder:

> *"12.Covid-19, a new form of virus, which this century is facing as pandemic for the past two years. There is no prescribed medicine or treatment for curing covid-19. The research as of*

now shows that the virus enters the lungs of the body, multiples in number and thereby affects the entire respiratory system at any point of time, leading to asphyxia and several other disorders, which require immediate attention and immediate health care. The entire world has seen the huge number of persons contracted with Covid-19 and even now the number is huge. Most of the hospitals were flooded with covid-19 patients, requiring immediate treatment. Even there were scenes, patients waiting in front of the hospitals for want of beds for being admitted. We have also come across the deaths due to shortage of beds, shortage of oxygen and due to other reasons being reported daily in medias.

13.The petitioner has enrolled in the New Health Insurance Scheme for Employees and has been paying subscription every months. The petitioner experienced the covid-19 symptoms, immediately admitted in a nearby Hospital, diagnosed with Covid-19 and was provided treatment.

14.When such being the nature of the illness, it is not acceptable to state that Covid-19 cannot be termed as critical care. Therefore, rejecting the claim on the ground of non-critical care cannot be sustained. Further, a Covid-19 contracted person, who is battling for life, shall not be in a position to search for a network hospital / empaneled hospital leisurely for taking treatment. Therefore, the reason of non-network hospital cannot be accepted."

10.Fully fortified with the aforesaid order of this Court, I am of the considered view that since the Government as per G.O.Ms.No.280 and

G.O.Ms.No.281, dated 24.06.2020 has already provided cashless treatment in respect of critical care patients, the first respondent ought to have reimbursed the entire claim amount of Rs.2,36,020/-, in view of the fact that total maximum ceiling amount is only Rs.4 lakhs and the petitioners claim is well within the ceiling of Rs.4 lakhs.

11.In view of the same, the first respondent is directed to consider the representation of the petitioners and disburse the remaining amount of claim (out of the total claim of Rs.2,36,020/-) within a period of eight weeks from the date of receipt of copy of this order.

25.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes

PNM

To
1. The Senior Divisional Manager,
United India Insurance Co. Ltd.,
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Chennai.

L.VICTORIA GOWRI, J.

PNM

ORDER IN
W.P.(MD).No.16797 of 2021

25.07.2024