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W.P No. 11802 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 11802 of 2022

P.Thamotharan

..Petitioner

Vs

1. Employees' State Insurance Corporation,
Rep. By its Deputy Director (Benefit)
Sub-Regional Office (Coimbatore),
1897, Trichy Road, Ramanathapuram,
Coimbatore -641045.

2.The State Medical Commissioner,
Employees' State Insurance Corporation,
Regional Office, No. 143, Sterling Road,
Nungambakkam, Chennai-600034.

3. The Director General,
Employees' State Insurance Corporation,
CIG Marg, New Delhi-110002.

..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for records of the respondents pertaining to the order dated 09.06.2021 and 09.07.2021 and quash the same and consequently direct the respondents to pay Rs.10,21,812/- towards full amount of medical reimbursement to the petitioner with 18% interest per annum from 04.09.2018 and pass such further or other orders.

For Petitioner : Ms. P. Jayalakshmi

For E.Maragatha Sundari

For Respondents : Ms.G.Narmadha



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ORDER

The captioned writ petition has been filed seeking the issuance of a Writ of Certiorari, to quash the communication dated 09.07.2021 issued by the 2nd respondent, whereby the claim of the petitioner for reimbursement of medical expenses incurred towards the treatment of a head injury sustained in a road accident was rejected.

2. The petitioner, while employed as a Fitter in M/s. KPR Mill Ltd., Kittampatti, Karumathampatti (Post), Coimbatore District, was enrolled under the Employees' State Insurance (ESI) Scheme with effect from 21.01.2017, bearing Insurance No. 5606500985.

3. On 01.08.2018, while travelling on a two-wheeler, the petitioner met with a road accident and sustained severe head injuries. He was admitted to Dr. Muthu's Hospital, Singanallur, Coimbatore by an unknown person and remained under medical supervision. The petitioner underwent surgeries on 08.08.2018 and 14.08.2018, and was discharged on 03.09.2018.

4. Subsequently, the petitioner submitted an application dated 19.11.2018 to the 3rd respondent seeking reimbursement of medical expenses incurred

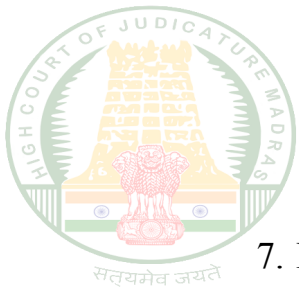


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towards his treatment. However, by the impugned communication dated 09.07.2021, the said claim was rejected.

5. Ms. P. Jayalakshmi, learned counsel for the petitioner, submitted that although the hospital in which the petitioner underwent treatment was not an empanelled ESI hospital, the petitioner is nonetheless entitled to reimbursement of medical expenses, considering the emergency nature of the case and the life-threatening head injuries sustained.

6. It was further contended that the ESI Hospitals did not possess the required facilities for Neurosurgery/CTVS Specialties, as is evident from the certificate issued by the Government Medical College and ESI Hospital, Coimbatore. Learned counsel also argued that the denial of medical reimbursement on the technical ground that the treatment was availed in a non-empanelled hospital is unjustified. In support of her submissions, reliance was placed on the judgment of the Hon'ble Supreme Court in ***Shiva Kant Jha v. Union of India (Writ Petition (Civil) No. 694 of 2015, dated 13.04.2018)***, wherein it was held that reimbursement cannot be denied merely because treatment was taken in a non-empanelled hospital, particularly in emergency situations.

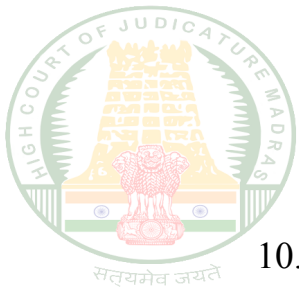


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7. Ms. G. Narmadha, learned counsel for the respondents, submitted that the petitioner was not eligible for medical reimbursement since the treatment was taken within two years of his employment. She relied on Section 57 of the Employees' State Insurance Act, 1948 ("the Act") read with Regulation 96(A) of the Employees' State Insurance (General) Regulations, 1950 ("the Regulations"), which stipulates certain conditions regarding eligibility.

8. It was further contended that the hospital in which the petitioner received treatment is not empanelled under the ESI Scheme. Therefore, under the provisions of the Act and the Regulations, the petitioner is not entitled to reimbursement. The learned counsel pointed out that although the petitioner suffered injuries on 01.08.2018 and underwent surgery on 08.08.2018, indicating that the case was not one of emergency, the treatment being availed from a non-empanelled hospital disentitles him to claim reimbursement.

9. The learned counsel further argued that the decision of the Hon'ble Supreme Court in *Shiva Kant Jha (supra)* is not applicable to the present case, as it pertains to Central Government employees covered under the Central Government Health Scheme (CGHS) and not to employees governed by the ESI Act, 1948.



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10. The submissions of the learned counsel for both parties and materials available on record are carefully considered.

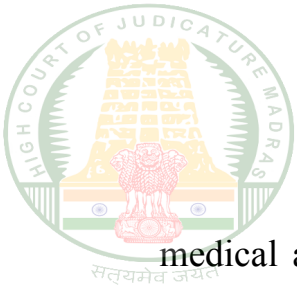
11. It is not in dispute that the petitioner was employed on 21.01.2017, enrolled under the ESI Scheme on the same day, and sustained serious head injuries in a road accident on 01.08.2018, necessitating immediate medical attention. The central issue for consideration is whether the petitioner, who availed treatment in a non-empanelled hospital, is entitled to reimbursement of medical expenses.

12. The Government Medical College and ESI Hospital, Coimbatore has categorically certified that Neurosurgery and CTVS specialties are not available in their institution. The certificate dated 21.09.2018 records the following medical findings:

“B/L Temporal contusion. Right 6th, 7th, 8th, 9th rib fractures with hemothorax, poly trauma – prolonged mechanical ventilation treatment done at private hospital.

Neuro surgery/CTVS Special is not available in GMC & ESI Hospital.”

13. The above certificate clearly establishes that the petitioner could not have received appropriate treatment in the ESI Hospital, as the required medical facilities were unavailable there. Moreover, the petitioner required immediate



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medical attention, having sustained severe head injuries, and was admitted to the hospital by an unknown person while he was unconscious. Therefore, the petitioner cannot be expected to have taken treatment in an empanelled hospital, as it was a case of medical exigency.

14. Section 57 of the Employees' State Insurance Act, 1948, stipulates that an insured person or his family shall be entitled to receive medical benefits only of such nature and to such extent as may be provided by the State Government or by the Employees' State Insurance Corporation. It further clarifies that neither the insured person nor his family has a right to claim medical treatment from any institution other than the dispensary, hospital, clinic, or other medical establishment allotted to them by the State Government or the Corporation, or as may otherwise be provided by the relevant regulations.



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15. A plain reading of the above provision makes it evident that reimbursement of medical expenses can ordinarily be claimed only when the treatment has been taken in a hospital or medical institution duly recognized or authorized by the State Government or the Corporation. In the present case, it is an admitted fact that the petitioner underwent treatment in a non-empanelled hospital, which was not one of the institutions authorized by the Corporation.

16. Furthermore, Regulation 96(A) of the Employees' State Insurance (General) Regulations, 1950, provides that a claim for reimbursement of medical expenses incurred by an insured person may be entertained, subject to such terms and conditions as the Corporation may specify through a general or special order. This implies that while the Corporation has the discretion to consider reimbursement claims even in exceptional circumstances, such reimbursement is contingent upon the fulfilment of the specific conditions prescribed by the Corporation.

17. In exercise of these powers, the Corporation issued a communication dated 07.11.2016, which reads as follows:



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“ In ESIC Operational Manual 2015 for SST Services, it was decided that "in respect of Children of Insured Persons (IPs) congenital diseases and genetic diseases will be eligible for coverage up to the ceiling mentioned earlier only in case the child is born after the IP had become eligible for SST. Due to this clause hardship is faced by ESI beneficiaries for getting treatment. Therefore, following has now been decided:-

"The IP should have been in continuous employment for the last two years as on the date of diagnosis for SST (other than the cases of employment injury) and at least 156 days contribution was paid by the IP during the immediately preceding four contribution periods with eligibility for sickness benefit in at least two benefit periods."

"After completion of the above period the IP and family will be eligible for SST Including the children of IP with congenital diseases and genetic disorder."

18 A careful reading of the said communication reveals that, according to its terms, only employees who have been in continuous employment for two years and have made sufficient contributions are eligible to avail themselves of Super Speciality Treatment (SST). This eligibility extends to their family members, including children suffering from congenital or genetic conditions.



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19. The Employees' State Insurance Act, 1948 is a social welfare legislation enacted with the primary objective of providing comprehensive protection and support to employees in the event of contingencies arising from sickness, maternity, and employment-related injuries. The Act recognizes that employees, being the backbone of industrial and commercial enterprises, are often exposed to risks that may temporarily or permanently impair their ability to earn a livelihood.

20. The overarching purpose of the Act is therefore to create a robust safety net for employees, ensuring that no employee is left without adequate medical care or financial support during periods of vulnerability caused by health-related issues or occupational hazards. The legislation embodies the principles of social justice and welfare, reinforcing the duty of both the State and the employer to safeguard and promote the health, well-being, and economic security of the workforce.

21. In the present context, the circular relied upon by the respondents, which seeks to restrict reimbursement of medical expenses to employees who



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have completed two years of continuous employment, is clearly inconsistent with the object and spirit of the ESI Act. The Act mandates that medical protection and benefits commence from the very date of enrollment in the insurance scheme, without any undue delay. Consequently, the said restriction is arbitrary, discriminatory, and unenforceable, and cannot be invoked to deny the petitioner's legitimate claim for reimbursement, particularly in cases of emergency or exigency where immediate medical treatment is required.

22. More particularly, in the present case, the petitioner has been enrolled under the ESI Scheme from the very date of his appointment as a fitter and has consistently made contributions towards the insurance policy. The provisions of the Employees' State Insurance Act, 1948, are intended to provide medical protection and related benefits from the commencement of employment, recognizing that insured persons contribute to the scheme from day one.



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23. To restrict the entitlement to reimbursement of medical expenses only after the completion of two years of continuous employment would be contrary to the object and purpose of the Act, which is to create a comprehensive social security net for employees from the outset of their employment. Such a restriction would defeat the very intent of the legislation, as it would unjustly deny medical benefits to a contributor who has fulfilled his obligations under the scheme, particularly in cases where urgent or emergency medical treatment is required.

24. Therefore, having made contributions from the date of employment, the petitioner cannot be lawfully denied reimbursement of medical expenses merely on the ground that two years of employment have not yet elapsed. Any interpretation or circular seeking to impose such a restriction would be arbitrary, discriminatory, and inconsistent with the welfare objectives of the Act, and is thus legally unsustainable.

25. Further, the Hon'ble Supreme Court in *Shiva Kant Jha* (supra) held that medical reimbursement cannot be denied solely on the ground that treatment was taken in a non-empanelled hospital, particularly in cases of emergency. The Court emphasized that once the fact of genuine treatment is established, reimbursement cannot be refused on technical or procedural



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grounds. Though the cited decision pertains to Central Government employees, the ratio decidendi can be applied by analogy to employees covered under the ESI Act, which is a beneficial social welfare legislation.

26. An exception can therefore be carved out in cases of medical exigencies, where the circumstances necessitate treatment in a non-empanelled hospital, as in the present case. It is unreasonable to expect an unknown person or an injured employee in an unconscious state to make inquiries regarding whether a hospital is empanelled or not. To do so would place an employee requiring immediate medical attention in an unnecessarily complicated and potentially life-threatening situation.

26. It is also pertinent to note that the communication dated 07.11.2016 pertains only to Super Speciality Treatment (SST) and not to general or emergency medical treatment. The Corporation cannot draw an artificial distinction between the two for the purpose of denying reimbursement, as doing so would defeat the very purpose of the welfare legislation.



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27. In view of the foregoing discussion and the materials placed on record, this Court is of the view that the rejection of the petitioner's claim for medical reimbursement is unsustainable. Accordingly, the writ petition is allowed with the following directions:

- i. The 2nd respondent is directed to reconsider the petitioner's claim only for computing the actual admissible medical expenses incurred towards the treatment of his head injuries, and reimburse the amount computed strictly in accordance with law and by taking into account the observations made in the preceding paragraphs.
- ii. The said exercise shall be completed within two (2) months from the date of uploading of this order on the official website of this Court.
- iii. There shall be no order as to costs.

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Index : Yes/No

Internet : Yes/No

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HEMANT CHANDANGOUDAR, J.

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