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W.P.No.26177 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26177 of 2014

G.Bhanumathi

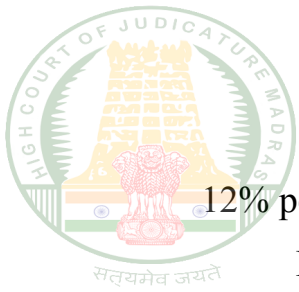
...Petitioner

Versus

- 1.The Principal Secretary,
Labour and Employment (OP-2-1) Department,
Fort St.George, Chennai – 600 009.
- 2.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai – 600 009.
- 3.The Principal Secretary,
Salary & Finance Department,
Fort St.George, Chennai – 600 009.
- 4.The Accountant General (A & E),
Chennai – 600 018.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent in G.O.(Rt.)No.384, Labour and Employment (OP2-1) Department dated 31.12.2013 and to quash the same in so far as it restricts the claim for medical reimbursement and consequently, to direct the respondents to pay the petitioner the balance of Rs.1,26,570/- towards the actual medical expenses of Rs.1,66,551/- incurred with interest thereon at



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12% per annum from 04.07.2009 till the date of payment.

For Petitioner : Mr.B.Thilak Narayanan
for Mr.T.M.Hariharan
For Respondents – 1 to 3 : Mr.K.Tippusulthan,
Special Government Pleader
For Respondent – 4 : Mr.V.Murali

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ORDER

In the present writ petition, the petitioner has challenged the G.O.(Rt.)No.384, Labour and Employment (OP2-1) Department dated 31.12.2013 passed by the 1st respondent. By the impugned order, the claim of the petitioner for reimbursement of medical expenses incurred for the treatment of her husband (deceased) has been rejected.

2. The brief facts of the case are that the petitioner's husband G.Bhagirath was working as an Under Secretary to Government in the 1st respondent Department. Due to chest pain, he was admitted at Sri Ramachandra Medical Centre, Porur for treatment on 03.07.2009 where angiogram was performed on him which revealed the blocks in his blood vessels. Hence, he was advised stent operation and Bye-Pass surgery.

3. Thus, stent operation was performed on the petitioner's husband on



03.07.2009 and he was therefore kept under observation in ICU prior to the Bye-Pass surgery. However, even before the Bye-Pass surgery could be performed, the petitioner's husband died on 04.07.2009. Thereafter, the Hospital authorities informed the petitioner that the Insurance Coverage is withdrawn as her husband had died even before the Bye-Pass surgery.

4. Hence, the petitioner was asked to pay a sum of Rs.1,66,551/- towards the medical treatment of her husband. The said amount was also paid by the petitioner.

5. The petitioner thus sent a representation dated 21.10.2009 to the Star Health & Allied Insurance Company Limited, for reimbursement of Rs.1,66,551/- paid by her towards the medical treatment of her husband. However, the General Manager of said Insurance Company vide Letter bearing Ref: File No. R-2648 dated 09.11.2009, rejected the petitioner's claim.

6. Thereafter, the petitioner filed a writ petition in W.P.No.23762 of 2009 before this Court seeking to quash the Letter dated 09.11.2009 of Star



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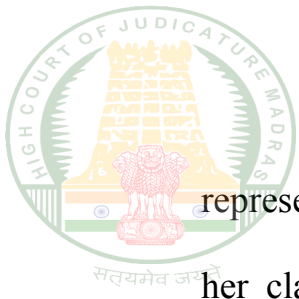
Health & Allied Insurance Company Limited and to direct the General Manager of Star Health & Allied Insurance Company Limited to settle her claim of Rs.1,66,551/- or direct the respondents 2 to 4 therein to pay a sum of Rs.1,66,551/- being the amount spent towards medical treatment of her deceased husband.

7. The Madurai Bench of this Court in ***Star Health & Allied Insurance Vs. A.Chokkar & Anr.*** reported in ***(2010) 2 L.W. 90*** held that the claimants are not remediless. It held that they can claim reimbursement from the Government under the Tamil Nadu Legislative Assembly (Medical Attendance and Treatment) Rules, 1964.

8. This Court vide its order dated 30.03.2010, disposed of W.P.No.23762 of 2009 with the following observation:

“8. In view of the said submission, the writ petition is disposed of granting liberty to the petitioner to approach the fifth respondent, within a period of two weeks from the date of receipt of a copy of this order and the fifth respondent is directed to consider the request of the petitioner and pass necessary orders, in accordance with the Division Bench Judgment, within a period of four weeks thereafter. No costs.”

9. Pursuant to the above order of this Court, the petitioner made a



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representation dated 14.04.2010 to the 1st respondent herein, seeking to settle her claim of Rs.1,66,551/-. However, the 1st respondent vide impugned order dated 31.12.2013, allowed the petitioner's claim for a limited sum of Rs.39,981/-. Hence, the petitioner has knocked the doors of this Court with the present writ petition.

10. The learned counsel for the petitioner submitted that the 1st respondent has passed the impugned order dated 31.12.2013 and restricted the amount to the probable expenses that would have been incurred, had the petitioner's husband taken the same treatment at Rajiv Gandhi Government Hospital, Chennai as a paying patient and in terms of G.O.Ms.No.1023 / Health & Family Welfare Department dated 17.06.1980. He further submitted that the actual medical expenses incurred by the petitioner for treatment of her husband is Rs.1,66,551/-. However, the 1st respondent has only sanctioned a meager amount of **Rs.39,981/-** towards reimbursement of medical expenses.

11. Hence, the learned counsel prayed that this writ petition may be



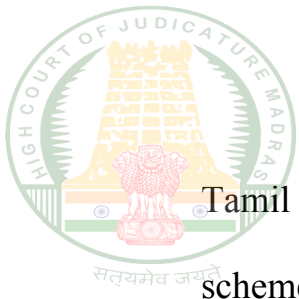
allowed and appropriate direction may be issued to the respondents to pay the petitioner with balance amount of Rs.1,26,570/- along 12% per annum from 04.07.2009 till the date of payment.

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12. The learned Special Government Pleader for the respondents 1 to 3 submitted that the 1st respondent has sanctioned a sum of Rs.39,981/- towards the reimbursement of medical expenses incurred by the petitioner for the treatment taken by her husband at Sri Ramachandra Hospital, Porur, Chennai, strictly in accordance with G.O.Ms.No.1023 / Health & Family Welfare Department dated 17.06.1980. As per the said G.O., it is submitted that the petitioner was entitled to reimbursement of Admissible Medicine Charges & Hospital Charges alone and was not entitled to other charges. Therefore, this writ petition may be dismissed.

13. Heard the learned counsel on either side and perused the materials placed before this Court.

14. In the present case, the petitioner's husband was insured under



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Tamil New Health Insurance Scheme Rules, 2007 and the insurer of said scheme is Star Health & Allied Insurance Company Limited. He was covered under the said scheme for the aforesaid surgery. The Insurance Company also gave an approval and sanctioned a sum of Rs.1,10,000/- for the surgery. However, the petitioner's husband died on 04.07.2009.

15. It is to be noted that in the Death Summary of petitioner's husband, Sri Ramachandra Medical Centre has stated that the petitioner's husband was admitted in the emergency room casualty with complaints of on and off chest pain with profused sweating and dyspnea on exertion which is class II-III in nature compressive type of pain, associated with upper backache and for which pain, the patient been admitted in the cardiac ICU for further evaluation and treatment plan.

16. In this background, the medical team decided to conduct the stent operation and a Bye-Pass surgery. However, even before the Bye-Pass surgery could be performed, the petitioner's husband tragically died on **04.07.2009** and therefore, the Insurance Coverage was withdrawn by the Star Health & Allied Insurance Company Limited.



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17. In several cases of similar nature, this Court has come to the rescue of a person like petitioner. In ***N.Raja Vs. The Government of Tamil Nadu & Ors.*** reported in ***2016(3) CTC 394 (Mad)***, this Court has held that in the emergency, a person cannot be asked to search a network Hospital listed out in the Government Order.

18. In the present case, admittedly, Sri Ramachandra Medical Centre is a Hospital which was a listed Hospital in the Government Order. Merely because the petitioner's husband died before treatment and the petitioner was unable to get any reimbursement from Star Health & Allied Insurance Company Limited in terms of Tamil Nadu New Health Insurance Scheme Rules, 2007, *ipso facto* would not mean that as a dependent of a deceased Government Employee, the petitioner would not be entitled to get reimbursement of medical expenses from the Government. To deny reimbursement of expenses would be unfair, arbitrary and inequitable.

19. Thus, the impugned Government Order in G.O.(Rt.)No.384,



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Labour and Employment (OP2-1) Department dated 31.12.2013 passed by

the 1st respondent has to be quashed. The 1st respondent is therefore directed

to pay the petitioner the balance medical expenses of Rs.1,26,570/- (Rupees

One Lakh Twenty Six Thousand Five Hundred and Seventy only)

(Rs.1,66,551 – Rs.39,981) together with interest at 9% per annum from

04.07.2009 till the date of payment of Rs.1,26,570/-, within a period of

thirty days from the date of receipt of a copy of this order.

20. This Writ Petition is disposed of with the above direction. No costs.

04.02.2025

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

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Labour and Employment (OP-2-1) Department,
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C.SARAVANAN, J.



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