



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
216

CWP-7306-2016 (O&M)
Date of decision: 11.11.2025

V.K. Sharma (Retd.)

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Wazir Singh, Advocate
for the petitioner.

Mr. Hitesh Pandit, Advocate
for the respondents.

HARPREET SINGH BRAR J. (Oral)

1. The present Civil Writ Petition under Article 226 of the Constitution of India has been filed praying for the issuance of a writ in the nature of *certiorari*, for quashing the impugned order dated 19.08.2015 (Annexure P-4) and order dated 21.07.2015 (Annexure P-6) passed by respondent No.1, whereby the claim of the petitioner for medical reimbursement was rejected. A further writ in the nature of *mandamus* is sought, directing the respondents to make the payment of reimbursement of medical bills and other expenses incurred on account of the treatment of petitioner's daughter, as per the submitted medical bills and discharge summary.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner, who is a retired Section Officer, is seeking medical



reimbursement for the life-saving renal transplant and subsequent treatment provided to his dependent daughter as she suffered from a severe and chronic kidney ailment. He further contends that the petitioner initially attempted to secure her treatment at AIIMS Hospital, a government-approved facility, but was unable to do so due to the unavailability of a bed. He, thereafter, approached Vedanta Hospital, Gurgaon but the estimated cost of the procedure proved too expensive and un-affordable to the petitioner. Due to the medical emergency and on account of the critical nature of his daughter's condition, the petitioner was compelled, as a matter of last resort, to seek the urgent transplant procedure at Apollo Hospital, New Delhi, an unapproved private institution. Learned counsel for the petitioner further submits that the initial partial sanction of Rs.4,14,607/- itself established the genuineness and essentiality of the treatment and the subsequent denial for the remaining amount, merely because the Apollo Hospital was unapproved or the subsequent essential follow-up treatment was categorized as OPD, amounts to denial of the right to health under Article 21 of the Constitution of India. He further contends that where life-saving treatment is taken in an emergency from an unapproved hospital, the employee is entitled to full reimbursement as technical grounds such as hospital non-empanelment or the nature of chronic follow-up treatment or OPD cannot be used to defeat a beneficial welfare measure. The action of the respondents in denying the full



medical reimbursement to the petitioner is arbitrary and illegal since the treatment involved was a life-saving renal transplant.

3. *Per contra*, learned counsel for the respondents submits that the procedure was a planned surgery for a chronic condition and thus, was not a spontaneous emergency. He further submits that the partial payment of Rs.4,14,607/-, which was the maximum allowable amount as per the PGI rates, has already been made to the petitioner. He further contends that the Reimbursement Policy dated 06.05.2005 (Annexure R-3), clearly mandates that reimbursement for treatment in a non-approved private hospital shall be made only at the rate equal to the PGI, Chandigarh rates. Therefore, by releasing the payment of Rs.4,14,60/- calculated as per PGI, Chandigarh rates, the respondents have discharged their full financial liability as per the policy instructions. Furthermore, the outstanding claim of Rs.32,997/- relates to OPD treatment, the reimbursement for which is expressly prohibited by the policy and cannot be sanctioned, regardless of the PGI, Chandigarh rates.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. The core issue before this Court is whether the respondents were justified in denying the balance medical reimbursement claim on the technical grounds that the hospital was unapproved and the follow-up treatment was categorized as OPD, despite the life-saving nature of



the procedure and the chronic disease suffered by the petitioner's daughter.

6. The claim for medical reimbursement ought not to be dismissed merely because the claimant underwent treatment in a non-empanelled. In such cases, the test of essentiality and emergency comes into play, which dictates that if the medical procedure was undergone by the claimant in an emergency, on the advice of a doctor based on his medical record, in order to save his life, the reimbursement for the same must be made. Not only is the preservation of human life instinctive, but it also forms a part of Article 21 of the Constitution of India, and therefore, it shall always retain the highest priority.

7. Moreover, the State bears an obligation to ensure the availability of timely medical care to those in need. As such, it cannot expect the citizens to refrain from availing timely care, merely for the reason of non-empanelment of the hospital. Such conduct on the part of the State does not satisfy the criteria of fairness and reasonableness and therefore, amounts to a violation of the fundamental rights enshrined in Article 21 of the Constitution of India. Reliance in this regard can be placed on the judgments rendered by a two Judge bench of the Hon'ble Supreme Court in ***Surjit Singh vs. State of Punjab and others(1996) 2 SCC 336***, whereby, speaking through Justice M.M. Punchhi, the following was opined:

“8. The policy, providing recognition for treatment of open heart surgery in the Escorts, specifically came to be examined by a Division Bench of the Punjab and Haryana



High Court at Chandigarh in C.W.P. No. 13493 of 1992 titled as Sadhu R. Pall v. State of Punjab through Secretary, Health and Family Welfare Punjab, Civil Secretariat, Chandigarh and others, 1994(1) SCT 552 (P&H). decided on 6.10.1993, wherein the claim of the then writ petitioner to medical reimbursement was accepted when in order to save his life he had got himself operated upon in the Escorts, and the plea of the State that he could be paid rates as prevalent in the AIIMS was rejected. Special Leave Petition No. 22024 of 1995 against the said decision was dismissed by this Court on 2.2.1994. The other judgments of the High Court following the decision in Sadhu R. Pall's case are :

(1) C.W.P. No. 18562 of 1992 decided on 10.5.95 titled K.L. Kohli v. State of Punjab and others, 1995(4) SCT 280 (P&H);

(2) C.W.P. No. 260 of 1995, decided on 30.5.1995 titled Ravi Mohan Duggal v. State of Punjab and others (DB)

(3) C.W.P. No. 5669 of 1994 decided on 4.9.94 titled Prem Singh Gill v. State of Punjab and others;

(4) 1995(4) SCT 816 (P&H) : 1995 (III) Punjab Law Report 529 titled Tarlok Chander v. State of Punjab etc. (SB); and

(5) 1996(2) SCT 148 (P&H) : 1995 (III), Punjab Law Reporter 682 titled Mrs. Surya Pandit v. State of Punjab and others (SB)

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10. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India , fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self defence in criminal law...

11. The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which,



bare-facedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the Government hospital of AIIMS and could go elsewhere to an alternate hospital as per policy. When the State itself has brought the Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary...”

8. The respondents' own action in sanctioning the initial amount validates the genuineness and essentiality of the major procedure i.e. renal transplant. The subsequent denial based on the OPD nature of the follow-up treatment, especially for a chronic and life-threatening condition like Chronic Kidney Disease (CKD), goes against the purpose of the medical reimbursement scheme, which exists to protect the life and health under Article 21 of the Constitution of India.

9. Moreover, the legal position on this matter is now well-settled. The Division Bench of this Court in **LPA No.174 of 2022**, titled as ***State of Haryana and another vs. Manoj Jain and others***, decided on **27.01.2025**, while dealing with an identical issue concerning CKD treatment taken in OPD from an unapproved hospital, upheld the allowance of the claim. The Division Bench of this Court unequivocally rejected the argument that reimbursement could be denied solely on the ground of OPD treatment for a chronic condition. For clarity and precedent, Paragraph 12 of the said judgment is reproduced hereunder:

"12. 'Chronic' means a condition that does not get completely better and lasts over a long time. A patient with CKD is also at an increased risk of other ailments like heart attack or stroke. It is not disputed by the appellants



that the wife of respondent No.1-writ petitioner had taken treatment from the aforesaid hospitals. As the wife of respondent No.1-writ petitioner was suffering from CKD, the treatment given by the concerned Doctor(s) in the OPD, was totally dependent upon the expertise of the said Doctor(s) and therefore, the denial of the claim of the medical reimbursement of the wife of respondent No.1-writ petitioner on the ground that it was taken in OPD, is not based on a reasonable classification. We further find that the disease being chronic in nature, the treatment even if taken in OPD, cannot be termed to be not falling in category of 'emergency treatment', particularly when the disease relating to renal requires a continuous treatment. The judgments of the Hon'ble Apex Court in Ram Lubhaya Bagga and Mahesh Kumar (supra) is of no help to the appellant in view of its subsequent judgment in Shiva Kant Jha (supra)."

10. Thus, the ratio of law laid down by the Division Bench in ***Manoj Jain's case (supra)*** is directly applicable to the facts of the present case. The treatment undertaken by the petitioner's daughter was of an emergent and life saving nature necessitated by her chronic kidney disease and the urgent requirement of a renal transplant. There was no fault or negligence on the part of the petitioner as he had initially admitted his daughter for treatment in a government approved hospital but due to the unavailability of a bed and on account of her critical health, he was left with no other option but to shift his daughter to Apollo Hospital, New Delhi, where the renal transplant was undertaken as a last resort to save her life. The subsequent technical classification



of the essential follow-up care as ‘OPD’ cannot be permitted to defeat the petitioner’s legitimate claim for reimbursement. The preservation of human life is a fundamental right and the medical reimbursement scheme being a welfare measure must be interpreted in a broad and purposive manner as laid down by the Hon’ble Supreme Court in *Shiva Kant Jha v. Union of India, AIR 2018 Supreme Court 1975*.

11. In view of the foregoing reasons, the test of essentiality and emergency stands fully satisfied. Accordingly, the writ petition is allowed and the impugned orders dated 19.08.2015 (Annexure P-4) and 21.07.2015 (Annexure P-6) are hereby quashed. The respondent – Uttar Haryana Bijli Vitran Nigam Limited is directed to reimburse the petitioner for the entire medical expenses incurred for his daughter’s renal transplant procedure and related follow-up treatment, after adjusting the amount of Rs.4,14,607/- already paid, within a period of six weeks from the date of receipt of a certified copy of this order, failing which the amount shall carry interest at the rate of 9% per annum until the payment is made.

(HARPREET SINGH BRAR)
JUDGE

11.11.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No