

(2008) 01 GUJ CK 0010

In the Gujarat High Court

Case No : Special Civil Application No. 10582 of 2007

Maganlal Madhavdas Patel

APPELLANT

Vs

The Managing Director and Others

RESPONDENT

Date of Decision : 10-01-2008

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2008) 1 GLH 472

Hon'ble Judges : Jayant Patel, J

Bench : Single Bench

Advocate : N.M. Kapadia, for the Appellant; Hardik C. Rawal, for Respondent 3 and Government Pleader for Respondent 4, for the Respondent

Judgement

Jayant Patel, J.—Rule. Mr. Rawal appearing for respondents waives notice of Rule and Mr. Dabhi waives notice of Rule for respondent No. 4.

2. The short facts of the case appears to be that the petitioner was earlier admitted in Kadi Civil Hospital on 13.12.2004 and it was detected that the Anterior Wall was with MI. Thereafter, on 18.12.2004, all of a sudden there was a chest pain to the petitioner and the family members and the relatives of the petitioner got the petitioner investigated through one Dr. Yagneshbhai who has opined for reputed hospital at Ahmedabad and relatives of the petitioner shifted the petitioner to Apollo Hospital at Ahmedabad. On the very day, angiography was undertaken and as there was blockage in the artery, angioplasty was also undertaken and he was discharged thereafter on 20.12.2004. The petitioner paid the bill of Rs. 65,201/- to the Apollo Hospital, Ahmedabad, and also incurred other medical expenses. The petitioner submitted the bill in all for Rs. 66,902.56 ps. The said bill was not sanctioned. The petitioner had also preferred earlier a petition before this Court being Special Civil Application No. 17667/06 and this Court (Coram: H.K. Rathod, J.) vide order dated 28.09.2006, directed the petitioner to make the representation. Thereafter, the petitioner did make representation. However subsequently, vide communication dated 09.03.2007,

the request of the petitioner was not accepted for sanctioning of the bill and it is under these circumstances, the present petition.

3. Heard Mr. Kapadia for the petitioner, Mr. Rawal for the Corporation and Mr. Dabhi, learned AGP for State.

4. It appears that the averments made in para 2(iii) of the petition if read with the hospital certificate, copy whereof is produced at page 20, it is clear that the petitioner had the history of Anterior Wall MI and for which, he was also admitted at Kadi Hospital. It is on account of emergent circumstance due to chest pain on 18.12.2004, he was shifted to the Apollo Hospital and the Angiography as well as the Angioplasty was undertaken on the same day. Therefore, if the heart treatment is undertaken on account of the emergent circumstances, it cannot be said that the respondent would be justified in negating the claim, merely because the treatment was not undertaken at the Government Hospital. The reference may be made to the decision of the Apex Court in the case of Surjit Singh Vs. State of Punjab and Others, and another decision in the case of State of Punjab and Others Vs. Ram Lubhaya Bagga Etc. Etc.,

5. The additional aspect that deserves to be recorded is that vide Circular dated 20.12.2005, based on the Government Resolution dated 09.09.2005, the Corporation has decided to grant medical reimbursement if the treatment is undertaken for the heart by its staff in the specified hospitals. In the list of the specified hospitals, at Item No. 13, Apollo Group of Hospitals are included and it is the same hospital where the petitioner had undertaken the treatment.

6. Mr. Rawal, learned Counsel appearing for the Corporation submitted that the circular is of 20.12.2005 based on the Government Circular dated 09.09.2005 and therefore, when the treatment is undertaken on 18.12.2004, it may not apply to the facts of the present case. He also submitted that the Corporation has negated the claim of the other employees in past since it was under the policy of the Corporation to grant no medical reimbursement if treatment is undertaken at the hospitals other than Government hospital.

7. In my view, non-grant of the medical reimbursement in case of emergency is not held to be valid as per the decision of the Apex Court in the case of State of Punjab v. Ram Lubhaya (Supra) and therefore, merely because the circular was not there or there was no policy to grant reimbursement would not be sufficient ground to deny the claim for medical reimbursement in cases where the treatment was required to be undertaken in emergent circumstances.

8. Further, it appears from the circular dated 20.12.2005 that the Corporation has practically adopted the policy as was accepted and approved by the State Government. Even if the matter is considered on the basis of the policy prevailing prior to 20.12.2005, the resolution/policy of the Government as prevailing was that if the treatment is undertaken for heart, cancer and kidney deceases, the amount admissible for Angiography was Rs. 8,000/- and for Angioplasty was Rs. 50,000/- and for C.A.B.G., it was Rs. 70,000/-. The aforesaid aspect is apparent

from the circular produced at page 42 (Annexure-F) pursuant to the Government Resolution dated 01.05.1997. Therefore, if the policy of the Government was to permit medical reimbursement in the case of urgent heart treatment, it was required for the Corporation to consider the same and proceed the claim of the petitioner. If the policy as prevailing is considered, the petitioner in any case would be entitled to the amount of Rs. 50,000/- since it is an admitted position that he has undergone the treatment of Angioplasty at Apollo Hospital at Ahmedabad. It further appears from the bill submitted read with the application of the petitioner that the expenses towards the medicines are Rs. 2,446.86 ps., which is in any case be admissible to the petitioner towards the expenses of the medicines. Therefore, considering the facts and circumstances, it appears that the it was required for the Corporation to sanction the medical reimbursement of Rs. 50,000/- towards Angioplasty undertaken and of Rs. 2446/- towards medical expenses, total Rs. 52,446/-.

9. The contention that earlier, the Corporation has negated such claim is as vague as anything and no details are submitted. Even if such claims are negated, the fact remains that none of such employees have come forward by preferring a petition before this Court. Further, the circumstances under which the treatment was undertaken may differ from facts to facts. In the above referred decision of the Apex Court in the case of State of Punjab v. Ram Lubhaya (Supra), the Apex Court did consider the matter keeping in view the provisions of Article 21 of the Constitution. Therefore, such contention would hardly be valid for negating the claim of the petitioner, if otherwise the petitioner is eligible for medical reimbursement.

10. In the result, the respondent Corporation is directed to sanction the medical reimbursement of the petitioner of Rs. 52,446/- towards the bill in question and disburse the payment within a period of three months from the receipt of the order of this Court.

11. Petition is allowed to the aforesaid extent. Rule made absolute accordingly. No order as to costs.