
(2013) 07 P&H CK 0472

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1192 of 1989 (O and M)

Shri D.D. Guglani

APPELLANT

Vs

Haryana State Electricity Board

RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Citation : (2013) 3 SCT 631

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Abhimanyu Singh, for Mr. Raj Mohan Singh, for the Appellant;
Dinesh Arora, for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeal had been admitted on 31.08.1989 without framing any substantial question of law. I hereby frame the following substantial question of law and proceed to take up the case for consideration.

Whether the Court below was justified in denying medical reimbursement for treatment for kidney ailment only by virtue of the fact that he had taken treatment at the hospital at Delhi and at PGI, Chandigarh and not in government approved hospital in Haryana?

On 27.05.2013, when the case was called for hearing, both the counsel sought for an adjournment. The case has stood on for consideration right from the year 1989 without being disposed of and the second appeal itself has been listed for hearing by special orders of the Chief Justice for disposal in accordance with law. I, therefore, deny the plea for adjournment and reserved the case for judgment.

2. I have gone through the file. The plaintiff's contention was that the treatment caused at the hospital at Delhi which was actually approved hospital by the Central Government and that further treatment at PGI, Chandigarh was undertaken only when the doctor who treated the plaintiff counseled that there were no facilities in any hospital in the State of Haryana at the relevant time for

hemo-dialysis for kidney ailment. The appellate Court had relied on the Haryana Government circular that directed the government employee to take treatment only in Government approved hospitals and not in hospitals outside. The appellate Court, while reserving the judgment of the trial Court that provided for medical reimbursement, had observed that the civil court is a court of law and it cannot be swayed by compassion. It must be remembered that the law is not sapped dry of all human compassion. Rules and statutory regulations must be so read that would sub-serve the cause of justice and if need be, tempered with human compassion. The government instructions that an employee shall not take treatment other than the approved hospital is a point well taken. In this case, the doctor, who had given treatment to the petitioner was stated to be dead at the time when the trial had taken place. There was therefore only an oral assertion of the plaintiff that the doctor had told him that there was no facility for hemo-dialysis. There was not as if the plaintiff had taken treatment in some hospital for mere fancy. He was in a serious terminal condition when he secured treatment at PGI and at the Central Government approved hospital at Delhi. I would take the evidence of the plaintiff itself as sufficient that he had taken treatment at the above two hospitals only because similar facilities were not available in any approved hospital in the State of Haryana. The treatment caused at the Central Government approved hospital or at PGI cannot be said to be unrealistically high in comparison to the medical costs at Haryana. There was no justification for the appellate Court to reverse the finding of the trial Court by wooden application of rules without minding the fact that the best the government could have sought for information regarding the treatment whether costs at the State hospital in Haryana was in someway lower than the cost incurred at PGI or at the hospital at Delhi. With no such specific evidence available, I would hold that the petitioner would be entitled to full reimbursement of the cost incurred by him. I restore the trial Court's findings and decree the suit as prayed for. The substantial question of law raised is answered as above. The suit is decreed and the second appeal is allowed with costs throughout.