

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 29.08.2013

OA No. 800/2012

Mr. C.B. Sharma, counsel for applicant.
Mr. Y.K. Sharma, counsel for respondents.

Heard learned counsel for the parties. Put up the matter on 04.09.2013 for further hearing.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

4/9/2013.

Mr. C.B. Sharma, counsel for applicant.
Mr. Amit Kumar Proxy for counsel for respondents.

~~Case referred on the request of
Kumawat for further hearing
Date 4/9/2013~~

Anil Kumar
Court Officer

09.09.2013

OA No. 800/2012

Mr. C.B. Sharma, Counsel for applicant.
Mr. Y.K. Sharma, Counsel for respondents.

Heard.
O.A. is disposed of by a separate
order on the separate Sheets for the
reasons recorded therein.

Anil Kumar

[Anil Kumar]
Member (A) //

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 800/2012

DATE OF ORDER: 09.09.2013

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Smt. Prem Lata W/o late Shri V.D. Sharma, aged about 67 years, R/o Gali No. 4, Adarsh Colony, Mala Road, Kota Junction, Kota.

...Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Indira Market, Jabalpur – 482001.
2. The Chief Medical Director, West Central Zone, West Central Railway, Indira Market, Jabalpur – 482001.
3. The Chief Medical Superintendent, Office of Divisional Railway Manager, West Central Railway, Kota Division, Kota.

...Respondents

Mr. Y.K. Sharma, counsel for respondents.

ORDER (ORAL)

Brief facts of the case, as stated by the learned counsel for the applicant, are that the applicant is wife of late Shri V.D. Sharma, who was a substantive employee of the respondents Railway. He retired on 31.07.2000. He was provided medical card for treatment in Railway Hospitals.

2. Learned counsel for the applicant further submitted that due to illness, late husband of the applicant got examined by the Railway Doctors at Kota on 18.09.2010 and was referred to

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Sudha Hospital, Kota. He was admitted in Sudha Hospital, Kota on 18.09.2010 itself. Sudha Hospital, Kota referred him to SMS Hospital, Jaipur on 20.09.2010. The SMS Hospital authority, due to emergency, referred him to All India Institute of Medical Sciences (AIIMS), New Delhi on 21.09.2011.

3. Learned counsel for the applicant also submitted that the applicant immediately proceeded for New Delhi but could not reach AIIMS due to heavy rains and Common Wealth Games and, therefore, in emergency, got admitted her late husband in Fortis Hospital, NOIDA on 22.09.2010. He remained indoor patient from 22.09.2010 to 27.09.2010 and expired on 27.09.2010. An expenditure of Rs. 5,28,772/- was incurred on the treatment of late husband of the applicant and an expenditure of Rs. 5,358/- towards ambulance charge from Jaipur to Delhi was also incurred. Fortis Hospital, NOIDA issued an emergency certificate (Annexure A/4).

4. Learned counsel for the applicant also stated that the applicant submitted a medical claim of Rs. 5,34,130/- to the respondent no. 3. The respondents examined the medical claim and decided to pay Rs. 1,75,000/- against the total medical claim of Rs. 5,34,130/-.

5. Learned counsel for the applicant requested that the balance amount of Rs. 3,59,130/- should also be paid to the applicant.

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6. Learned counsel for the applicant drew my attention to Office Memorandum dated 17th August, 2010 (Annexure A/10) issued by the Government of India, Ministry of Health and Family Welfare, Department of Health and Family Welfare, New Delhi wherein "Package Rates" have been defined in para 3.1, and further para (b) of para 3.1 of this OM provides as under: -

"(b) Cost of Implants / stents / grafts is reimbursable in addition to package rates as per CGHS ceiling rates for Implants / stents / grafts or as per actual, in case there is no CGHS prescribed ceiling rates."

Learned counsel for the applicant submitted that as per order issued by the Railway Board and also as per CGHS Rules, the case of the applicant requires re-consideration as the applicant incurred an expenditure of Rs. 5,34,130/- on the treatment of her late husband and after the death of the husband, the applicant is facing a financial crisis. Therefore, he prayed that the respondents be directed to release balance payment of Rs. 3,59,130/- towards remaining medical reimbursement.

7. On the contrary, learned counsel for the respondents submitted that the applicant is not entitled for any reimbursement of medical claim because of the fact that even after referring of husband of the applicant to AIIMS, New Delhi by SMS Hospital, Jaipur, the applicant got admitted him to Fortis Hospital, NOIDA where her husband expired on 27.09.2010. However, looking to the critical condition and seriousness of health emergency, the case was approved for reimbursement of medical claim as per package rate of CGHS, Delhi and the approved rate for super speciality hospitals for the treatment of

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aneurysm coiling i.e. Rs. 1,75,000/-. As such, the applicant is not entitled for medical claim beyond the CGHS approved package rate.

8. Learned counsel for the respondents further submitted that the applicant failed to submit this Original Application within the period of limitation because the letter dated 27.03.2012 regarding sanction for Rs. 1,75,000/- was received by the applicant well in time. However, the present Original Application has been filed after delay.

9. Learned counsel for the respondents also drew my attention to the Office Memorandum dated 17th August, 2010 (Annexure A/10) wherein the rate of aneurysm coiling have been mentioned at serial no. 940. According to this rate list, rates for Super Speciality Hospitals for this treatment has been given as Rs. 1,75,000/-. He submitted that the applicant has been paid this amount and, therefore, she is not entitled for any further reimbursement.

10. Heard learned counsel for the parties and perused the documents available on record.

11. With regard to the submissions of the learned counsel for the respondents that this Original Application has been filed after considerable delay, I do not agree with this averment because the order, which has been challenged by the applicant in this OA, is dated 27.03.2012 (Annexure A/1), while the Original Application was filed on 03.12.2012, which is less than one year

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from the cause of action. Therefore, in my opinion, this Original Application is within limitation.

12. It is not disputed that late husband of the applicant was referred by the SMS Hospital, Jaipur to AIIMS, New Delhi for further treatment but the late husband of the applicant was admitted at Fortis Hospital, NOIDA. Even then, the respondents considering the case of emergency and looking to the critical condition and seriousness of health of late husband of the applicant, the medical claim of Rs. 1,75,000/- as per CGHS rate applicable at Super Speciality Hospitals at Delhi has been sanctioned to the applicant.

13. However, learned counsel for the applicant submitted that there are two distinct provision in the Office Memorandum dated 17th August, 2010 (Annexure A/10), which are quoted below: -

"3.1 "Package Rate" shall mean and include lump sum cost of inpatient treatment / day care / diagnostic procedure for which a CGHS beneficiary has been permitted by the competent authority or for treatment under emergency from the time of admission to the time of discharge including (but not limited to) - (i) Registration charge, (ii) Admission charges, (iii) Accommodation charges including patients diet, (iv) Operation charges, (v) Injection charges, (vi) Dressing charges, (vii) Doctor / consultant visit charges, (viii) ICU / ICCU charges, (ix) Monitoring charges, (x) Transfusion charges, (xi) Anesthesia charges, (xii) Operation theatre charges, (xiii) Procedural charges / surgeon's fee, (xiv) Cost of surgical disposables and all sundries used during hospitalization, (xv) Cost of medicines, (xvi) Related routine and essential investigations, (xvii) Physiotherapy charges etc. (xviii) Nursing care and charges for its services.

(b) Cost of Implants / stents / grafts is reimbursable in addition to package rates as per CGHS ceiling rates for Implants / stents / grafts or as per actual, in case there is no CGHS prescribed ceiling rates."

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According to the learned counsel for the applicant, the applicant has been sanctioned Rs. 1,75,000/- as per 'package rate', but, in addition to this, she is also entitled to cost of aneurysm coiling as per provision of para (b) of para 3.1 of Office Memorandum dated 17th August, 2010 (Annexure A/10).

14. On the other hand, learned counsel for the respondents argued that the applicant has been paid the cost of aneurysm coiling as per rates for Super Speciality Hospitals in Delhi as prescribed vide OM dated 17th August, 2010 (Annexure A/10). Therefore, she is not entitled for any other medical reimbursement.

15. From the perusal of OM dated 17th August, 2010 (Annexure A/10), it appears that 'package rates' have been provided for certain items, which have been mentioned in para 3.1 of the said OM, whereas the cost of Implants / stents / grafts is reimbursable in addition to package rates as per CGHS ceiling rates for Implants / stents / grafts.

16. From the perusal of the bill issued by the Fortis Hospital, NOIDA, it appears that the hospital has charged the amount for providing six Coils GDC @ Rs. 23,528/- each, and one Coils GDC @ Rs. 43,437/-. Thus, the total cost of seven Coils GDC comes to Rs. 1,84,605/-.

17. From the perusal of the rates prescribed for aneurysm coiling, it is not clear whether it is the rate which includes the charges, which have been mentioned in the 'package rates' in

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para 3.1 of OM dated 17th August, 2010 e.g. registration charge, admission charges, accommodation charges, operation charges, injection charges, dressing charges, doctor/consultant visit charges, ICU / ICCU charges, monitoring charges, anesthesia charges, operation theatre charges, procedural charges / surgeon's fee, cost of surgical disposables and all sundries used during hospitalization, cost of medicines, etc.

18. If the charges of items mentioned in para 3.1 of OM dated 17th August, 2010 as 'package rates' are not part of the package of aneurysm coiling as Rs. 1,75,000/- then the respondents shall re-examine the case of the applicant for further reimbursement of medical claim, if applicable. Such exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order by passing a reasoned and speaking order according to the provision of law.

19. If the applicant is aggrieved by the decision taken by the respondents then she is at liberty to file a fresh / substantive Original Application in accordance with the provision of law.

20. With these observations and directions, the Original Application is disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

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