

# SUPREME COURT OF INDIA

Devindar Singh Shergil

Vs.

State of Punjab

(A Anand and B Hansaria JJ.)

13.12.1996

## ORDER

1. Application for impleadment is allowed.

2. Leave granted.

3. The appellant, a retired government official, went to the United Kingdom for kidney operation without getting prior approval of the Punjab Government, on being informed by the PGI, Chandigarh that no accommodation was available at the relevant time. The necessity for immediately leaving for U.K. arose because of the malignant growth in the kidney. On return from U.K. after undergoing the operation, the appellant filed a claim for reimbursement to the extent of 6673 pounds (equivalent to Indian Rs 3,73,174) being the amount spent by him for his treatment in U.K. The claim of the appellant was examined by the Medical Board but it was rejected. The Government sanctioned a sum of Rs 20,000 only towards the medical expenditure calculating it on the basis of the rates prevalent in the Postgraduate Institute of Medical Sciences, Chandigarh. The writ petition filed by the appellant for claiming full reimbursement was dismissed by the High Court on 20-9-1995 on the ground that the case "involved disputed questions of fact". By special leave, this appeal has been filed.

4. On 22-2-1996, this Court issued notice in the SLP in the following terms:

"In the peculiar facts and circumstances of this case, issue notice to the respondents confined to the question as to why the petitioner be not reimbursed for the medical expenses to the extent of the expenditure which may have been involved for his treatment/operation if carried out in any of the recognised institutions/hospitals in India.

Issue notice IA No. 1 of 1996 also."

5. Both the parties filed various documents in support of their respective claims. However, we need not go into the details as contained in those documents including the counter-affidavit and the rejoinder-affidavit as there is great variance between the same. That the appellant, if treated in India, would have been entitled to be reimbursed for the amount spent on medical consumables,

pharmaceutical items, besides the charges of the operation is not disputed. The appellant has, during the pendency of the appeal in this Court, produced the xerox copy of the bill from the Dendin Hospital in U.K. where he underwent the operation. Those bills include charges for accommodation, procedure fees, expenses for medical consumables and pharmaceutical items etc. On being asked to furnish details separately, the appellant has filed an additional affidavit in which it is stated that 1334 have been spent towards the medical consumables and other pharmaceutical items as reflected in the bills from Dendin Hospital. By conversion of this amount at the rate of Rs 55.03 per pound, which was the conversion rate prevalent in April 1992, the amount in respect of medical consumables and pharmaceutical items comes to more than Rs 73,370 (rounded up as Rs 73,000 only). According to the information furnished by the respondent on the basis of the rates of All-India Institute of Medical Sciences, the charges for the operation, if carried out at the Institute, would have been Rs 22,000.

6. The appellant, therefore, is entitled at least to these amounts, i.e., Rs 73,000 + Rs 22,000 totalling Rs 95,000. The appellant has already been paid a sum of Rs 20,000 by the Government of Punjab. The appellant is therefore entitled to receive the balance amount of Rs 75,000. This amount shall be paid to him within a period of four weeks from the date of receipt of copy of this order. Failure to pay this amount, i.e., Rs 75,000 within the time prescribed hereinabove would render the State Government also to pay interest at the rate of 15% on the amount from the date of this order till payment is made. The appeal is disposed of in the above terms. No costs.