

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P.No.14690 of 2010

Date of decision : 30.11.2011

Smt. Jiwani

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Vivek Khatri, Advocate
for the petitioner.

Mr. Harish Rathee, Sr.DAG, Haryana
for the respondents.

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MAHESH GROVER, J.

The petitioner lost her husband in an accident which occurred while he was performing his duties. The deceased husband of the petitioner was working as T/Mate driver on an earth moving machine and while discharging his duty the J.C.B. Machine is said to have fallen off from the over-bridge resulting in serious injuries to the husband of the petitioner who was removed to one private hospital i.e. Metro Hospital, Hisar. The accident took place on 14.7.2009 and he remained hospitalised upto 21.7.2009 when he breathed his last. In the process an expenditure of Rs.1,57,000/- was spent on medical treatment. A claim for reimbursement was made by the petitioner which was partially satisfied by the respondents by giving Rs.53,720/-

but declined the rest of the amount on the premise that the treatment was not taken in a condition which suggested emergency. The amount disbursed to the petitioner was in accordance with the rates prescribed for government hospital/PGI/AIIMS.

On due consideration of the matter, I am of the opinion that the petitioner has been unfairly treated by the respondents. There is on record documents Annexures P-4 and P-5 which suggest that the petitioner after accident had to be rushed in an emergency and was treated appropriately. The report of the Civil Surgeon, Hisar Annexure P-5 also reveals that he was treated in emergency.

In view of the aforesaid, the Court is of the opinion that the reasoning adopted by the respondents is absolutely perverse. There is no denial to the fact that the husband of the petitioner had met with an accident while performing his duties and he lost his life within one week. The word 'accident' would itself suggest treatment in emergency, of course it would depend upon the nature of injuries. But here in the instant case the Civil Surgeon, Hisar has clearly opined that the husband of the petitioner was treated in emergency, and it is not disputed that he died within one week after the accident due to the injuries which he had suffered. The emergent state in which the deceased was placed cannot be disputed and consequently the Court is of the opinion that the respondents have sought to perversely subvert the intended benefits of a policy to deny the petitioner of a rightful claim.

For the aforesaid reason, the petition is accepted. The stand of the respondents is held to be arbitrary and the petitioner is held

entitled to the entire amount that she has spent on the treatment of her husband. The remaining amount spent by the petitioner shall be reimbursed to her along with interest @ 12% per annum from the date when the claim was submitted by the petitioner till the date of its realisation.

30.11.2011

(MAHESH GROVER)
JUDGE

dss