

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

BY COURT'S ORDER

68.

OA 1022/2023

Ex Hony Nb Sub Ram Kumar Singh ..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr. Ramniwas Bansal, Advocate  
For Respondents : Mr. Arvind Kumar, Advocate with  
Col A L Nikhil, Director (Med), CO ECHS  
and Col Anirudh Shekhawat, Director  
C & L, CO ECHS

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HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
14.11.2024

The applicant vide the present OA makes the following prayers :-

- “(a) To quash the order dated 18.08.2021 and 10.12.2022 (impugned orders), wherein sanction for re-imburement of medical claim of the applicant (An ECHS beneficiary) and his dependent son has been rejected by the respondent authority under ECHS scheme and,*  
*(b) To direct the respondent to re-imburement medical treatment bills of Rs. 12,67,710/- (Twelve lakh sixty-seven thousand and seven hundred ten only), incurred by applicant on his liver transplantation and associated medical procedures of his dependent son, donor of liver to him in the instant case, along with 12% interest per annum thereupon, or,*  
*(c) To pass such appropriate orders/directions as this Hon'ble Tribunal may deem just, fit and proper in the facts and circumstances of the case and in the interest of justice and*  
*(d) To award cost of the instant original application in favour of the applicant.”*

2. The respondents had not accorded requisite sanction for the conducting of the liver transplant to be undergone by the applicant despite the recommendation made by the Regional Centre ECHS-II Delhi Cantt dated 13.08.2021 for the same to the effect :-

15	<i>Justification with brief summary for recommending the case as an emergency by JD(HS)</i>	- <i>As per docus recd, the a/m patient was admitted in Fortis Hosp, Sector-62, Noida(UP) on 07 Aug 2021 as a case of general condition is deteriorating fast and needs urgent Liver transplant to avoid life threatening complication/Decompensation and as a life saving procedure. His son Mr Ritesh Kumar Singh is the donor. Both donor and recipient are worked up for Living Donor Liver Transplant and are found to be fit to proceed for the same. A large lobulated heterogeneously enhancing mass lesion with increased FDG uptake seen in left lobe of liver parenchyma measuring approx 4.6 x 4.9 cm, SUV max 7.5. An estimate of expenditure regarding this procedure amounting to Rs 14,00,000/- (Rupees fourteen lakh only) as per Fortis Hosp. Noida is att. The case is justified &amp; recommended for necessary sanction for the competent auth.</i>
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3. Placed on record is the letter no. B/49761/AG/ECHS/Treatment/2021 dated 13.08.2021 of the Joint Director (Med) for MD ECHS stating therein to the effect :-

**"2. Prior sanction of MD ECHS is Not Recommended."**

4. The applicant has however, submitted to the effect that it was essential for him to undergo the liver transplant in order to save his life.

5. Vide order dated 24.10.2024, in view of averments made in the counter affidavit dated 23.10.2024 filed on behalf of the respondents as well as the documents filed on 23.10.2024

referred to hereinabove in Para 2 as also the Annexure R-2 filed by the respondents to their counter affidavit wherein it had been stated by the Regional Centre ECHS-II Delhi Cantt vide Para 15 which is also adverted to hereinabove in Para 2, with the non-recommendation for the prior sanction of the MD ECHS,- the specific reasons for the non-recommendation of the case were directed to be produced by the respondents with the original records to explain the reasons for the non-recommendation. On 08.11.2024, the records of the ECHS file qua the applicant were produced and relevant documents were also produced.

6. Vide order dated 08.11.2024, in view of the records produced by the respondents, they were also directed to specify the MILAN and DCLC criteria as well as the ECHS rates for liver transplant undergone by the applicant. The records that the respondents have produced today are categorically to the effect that the reasons for the non-recommendation for the liver transplant by the respondents was the size of the Tumor which was more than 4.5 cms and as per the letter dated 18.12.2022 of the Joint Director (Med) for MD ECHS as addressed to the Regional Centre ECHS letter no. B/49774/AG/ECHS/Waiver/2022, and thus the same was not justified for liver transplantation.

7. *Inter alia* on behalf of the respondents there is a reliance sought to be placed on literature available on the internet to contend to the effect that the conducting of a liver transplant

where the size of the tumor was more than 4.5 cms would not be justified.

8. It is essential, however to observe that as per the document dated 13.08.2021 produced as Annexure R-2 by the respondents themselves, the condition of the patient that is the applicant herein was found to be deteriorating fast and he needed an urgent liver transplant to avoid a life threatening complication and decompensation as a life saving procedure. As per this recommendation Annexure R-2 of the Director Regional Centre, Delhi Cantt-10 both the donor, that is Mr. Ritesh Kumar Singh, the son of the applicant and the recipient that is, the applicant herein were worked up for the Living Donor Liver Transplant and had been found to be fit to proceed for the same.

9. The said liver transplant was conducted on 03.09.2021 successfully at the Fortis Hospital, Noida whereafter the applicant was transferred to the Fortis Hospital, Shalimar Bagh, New Delhi and the life saving treatment/procedure as contended by the applicant. The applicant thus now seeks the re-imburement of the medical claim in relation to which the waiver sanction had not been granted by the respondents.

10. During the course of the submissions made in the hearing today on behalf of the respondents, it is submitted that they are willing to make the payment of the liver transplant surgery undergone by the applicant as per the ECHS rate after deduction of the insurance amount paid to the applicant.

11. As per the guidelines in ceiling rates of liver transplant surgery in respect of ECHS beneficiaries letter no. B/49773/AG/ECHS/Rates/Policy dated 28.03.2013, the ECHS rates prescribed at serial no. (h)-(i) and (ii) read to the effect :-

*“(h) Submission of Application. ECHS beneficiaries will submit their request for permission for Liver Transplant to their respective Polyclinics and through the Regional Centres concerned, the case will be forwarded to Central Org, ECHS for submission before the Standing Committed for consideration and approval. Polyclinics and Regional Centres will forward the application to the next higher echelon after checking that the documentation is complete in all respect.*

*(i) The package for Liver Transplantation surgery involving Live Liver donor is Rs. 11,50,00/- (Rupees Eleven Lakh Fifty Thousand Only) + Rs. 2,50,000/- (Two Lakh Fifty Thousand only) for Pre-transplant evaluation of donor and recipient.*

*(ii) The package rate for Liver Transplant Surgery involving a deceased donor is R. 11,00,000/- (Rupees Eleven Lakh only). This includes, the cost of consumable during the organ retrieval and the cost of preservative solution etc.”*

12. As per averments made in Para 4.10 of the OA, the applicant has submitted to the effect that the total expenditure on the treatment at Fortis Hospital, Noida amounted to Rs. 19,67,710/- and part of this amount that is Rs. 5,00,000/- was paid by Star Health and Allied Insurance Company Ltd to the Fortis Hospital, Noida Branch towards these expenses and that thus the total amount paid by the applicant was Rs. 12,67,710/-.

13. On behalf of the respondents it has been submitted that the respondents are willing to make the payment of the sum of Rs. 12,67,710/- that the applicant had incurred *de hors* the amount of Rs. 5,00,000/- paid by the Star Health and Allied Insurance Company Ltd.

14. A submission is made on behalf of the applicant that in addition to the said amount of Rs. 12,67,710/- as prayed by the applicant vide prayer clause 8(b), the applicant be also awarded interest @12% p.a. of the said amount. We are not inclined to grant the interest on the said amount of Rs. 12,67,710/- which is the amount of expenditure that the applicant has incurred *de hors* the payment made of the sum of Rs.5,00,000/- by the Star Health and Allied Insurance Company Ltd to the Fortis Hospital, Noida.

15. However, the OA 1022/2023 is disposed of with directions to the respondents to make the payment of the sum of Rs. 12,67,710/- to the applicant within a period of two months from the date of receipt of the copy of this order to the applicant and in the event of the non-compliance of the directions hereinabove, the respondents would be liable to pay interest @8% p.a till the date of payment made to the applicant.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

Yogita