

Madras High Court

B.Varalakshmi vs) The Secretary To Government Of ... on 15 June, 2021

W.P.(MD) No.7997 of

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.7997 of 2021
(Through Video Conference)

B.Varalakshmi

Vs.

...Petitioner

- 1) The Secretary to Government of India,
Department of Health and Family Welfare,
Ministry of Health and Family Welfare,
Room No.156, A- Wing,
Niman Bhawan,
New Delhi 110 011.
- 2) The Secretary to Government of Tamil Nadu,
Department of Health and Family Welfare,
Ministry of Health and Family Welfare,
St.George Fort, Chennai 600 009
- 3) The District Collector,
Trichy District, Trichy.
- 4) The Joint Director,
Health Services,
No.17, V.O.C.Road,
Near Central Bus Stand,
Tiruchirappalli 620 001

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- 5) The New India Assurance Co.Ltd.,
Rep. by its Divisional Manager,
No.42-43, Bharathidasan Salai,
Sangillyandapuram,
Tiruchirappalli 620 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of

India for issuance of Writ of Mandamus, directing the respondents to provide petitioner the Insurance Coverage of Rs.50,00,000/- covered under the Pradhan Mantri Garib Package Insurance Scheme for Health Workers Fighting COVID-19 on account of death of petitioner husband / Private Medical Practitioner who had undertaken private practice during the pandemic period of COVID-19 and lost his life to COVID-19 infection by considering petitioner's representations dated 11.09.2020 and 16.09.2020.

For Petitioner : Mr.R.Maheswaran

For R-1 : Mrs.L.Victoria Gowri,
Assistant Solicitor General

For RR 2 to 4 : Mr.M.Lingadurai,
Government Advocate(Civil)

For R5 : Mr.N.Dilipkumar,
Standing Counsel

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents to provide insurance coverage under the Pradhan Mantri Garib Package Insurance Scheme for Health _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 Workers Fighting COVID-19 for the death of the husband of the petitioner, who was undertaking private practice and was treating patients affected due to COVID-19 and who ultimately lost his life due to the same Virus.

2. The petitioner is the wife of the deceased Baskar, who is a registered Medical Practitioner. He was rendering his service as a Civil Surgeon under the second respondent and he retired from Government service in the year 2016. After retirement, the husband of the petitioner was doing private practice.

3. The 'COVID-19 [Corona Virus Disease of 2019] Pandemic' got into our Country in the beginning of the year 2020 and by March 2020, many started testing 'positive' for COVID-19. The pandemic situation forced the Central Government and State Governments to declare a 'nation-wide lock down' in order to prevent the spread and reduce the death rate. The State of Tamil Nadu was also severely affected due to COVID-19 and the Doctors and other Frontline Workers were tirelessly performing their duty inspite of being exposed to the deadly Virus. _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021

4. The Central Government, by taking into consideration the selfless contributions made by the doctors both in the Government service as well as in the private practice, announced the Pradhan Mantri Garib Package Insurance Scheme for Health Workers Fighting COVID-19. The said Scheme provided a coverage of Rs.50,00,000/- (Rupees Fifty Lakhs) for both Public Health-care Providers as well as the Doctors and staffs belonging to Private Hospitals, if they die due to COVID-19.

5. The husband of the petitioner, who was also treating COVID-19 patients, started feeling the symptoms of the Virus and on 03.08.2020, he felt uneasiness and suffered with breathing problems. He was immediately rushed to a Private Hospital at Trichirappalli and a 'C.T. Chest COVID Screening Test' was performed and it was deduced that the husband of the petitioner was afflicted with COVID-19. Unfortunately, the private hospital was not able to take care of the husband of the petitioner and after a long struggle, he was taken to the Mahatma Gandhi Memorial Government Hospital at Tiruchirappalli for treatment. Alas, the husband of the petitioner also become a prey to the deadly Virus and he _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 was declared dead on 03.08.2020 at about 10:30 p.m. The final rites were performed on 04.08.2020.

6. The petitioner, who was completely dependent upon the income of her husband, approached the concerned Authorities seeking for the insurance coverage provided by the above said Scheme. The petitioner started making representations to the respondents in this regard. Ultimately, a representation was made to the fourth respondent on 16.09.2020 along with a claim form. The fourth respondent through letter dated 28.09.2020 directed the petitioner to produce certain documents. One of the document that was insisted by the fourth respondent was the R.T.P.C.R. (Reverse Transcription Polymerase Chain Reaction) Test result. Unfortunately, the petitioner was not in possession of this document since her husband was directly subjected to 'CT-Chest COVID Screening Test' by the private hospital. Therefore, the petitioner submitted all the relevant documents to the fourth respondent except the R.T.P.C.R. Test result.

7. The grievance of the petitioner is that the fourth respondent has not processed the claim form submitted by the petitioner only on the _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 ground that the R.T.P.C.R. Test result was not submitted by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

8. Heard Mr.R.Maheswaran, learned counsel for the petitioner, Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India for the first respondent, Mr.M.Lingadurai, learned Government Advocate (Civil) for the respondents 2 to 4 and Mr.N.Dilipkumar, learned Standing Counsel for the fifth respondent.

9. The learned Assistant Solicitor General appearing on behalf of the first respondent submitted that the fourth respondent has to forward the claim to the second respondent and the second respondent, in turn must recommend the claim and forward it to the first respondent. The first respondent, on receipt of the same, will take a decision and once the claim is sanctioned, necessary directions will be issued to the fifth respondent Insurance Company, which is the Nodal Agency and the payment will be made to the concerned claimant. The learned Assistant Solicitor General, further submitted that the case has not progressed to _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 the level of the first respondent and as and when the same is forwarded, the first respondent will immediately take a decision in accordance with the Scheme.

10. The entire World and particularly India, is facing an unprecedented situation due to the untimely attack of the COVID-19. It is the Doctors and the Frontline Workers who inspite of knowing about the risk involved through exposure to this Virus are selflessly and tirelessly working to save the lives of millions of citizens of this country. If not for the selfless services rendered by the Doctors, a major population of this country would have been wiped out due to the deadly COVID-19. Therefore, the least that should be done for a Doctor, who has lost his life due to COVID-19, which had spread to him while he was on duty, is to acknowledge the selfless service of the Doctor and provide with the necessary compensation to his family under the laudable scheme that has been introduced by the first respondent namely the Pradhan Mantri Garib Package Insurance Scheme for Health Workers Fighting COVID-19.

_____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021

11. The petitioner has already submitted the claim form and provided all the necessary documents except the R.T.P.C.R. Test result as requested by the fourth respondent. The scientific studies conducted over a period of time have come to a conclusion that one requires R.T.P.C.R. to detect COVID -19 and a CT Scan to detect if progressive pneumonia is present. A CT scan is useful when the infection has spread to the lungs and detection by nose or oral swabs is not possible. R.T.P.C.R. Test is incapable of detecting the infection if it has reached the lungs and is causing further decay. In the case of the husband of the petitioner, he started feeling uneasiness and was facing breathing problems and therefore, the private hospital had to necessarily subject him to the 'CT Chest COVID Screening Test' to immediately find out the level of viral infection. The symptoms were so serious that the private hospital felt that time cannot be wasted by merely taking an R.T.P.C.R. Test and these are decisions taken by professionals considering the gravity of the situation.

12. It is very clear from the 'CT-Chest COVID Screening Test' that the husband of the petitioner was afflicted with COVID-19. When such a clinching document is available, there is no requirement for insisting for _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 the RTPCR Test result. In cases of this nature, the Authorities must not stick to technicalities and the claim must be considered with more humanness with the available documents which clearly substantiates the fact that the husband of the petitioner was suffering from COVID-19.

13. The learned counsel for the petitioner submitted that the petitioner has handed over all the documents to the fourth respondent except the R.T.P.C.R. Test result. In view of this specific submission made by the learned counsel for the petitioner, there shall be a direction to the fourth respondent to process the claim made by the petitioner without insisting for the R.T.P.C.R. Test result and if it otherwise satisfies the requirements, the fourth respondent is directed to process the claim form and forward the same to the second respondent within a period of two(02) weeks from the date of receipt of a copy of this order. The second respondent, on receipt of the records from the fourth respondent, shall in turn forward the same to the first respondent within a period of four(04) weeks thereafter.

14. The first respondent on receipt of the claim with all the _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 necessary documents from the

second respondent shall consider the claim made by the petitioner under the Pradhan Mantri Garib Package Insurance Scheme for Health Workers Fighting COVID-19 and take a decision on providing the insurance coverage within a period of four(04) weeks thereafter. Immediately, on taking such a decision, necessary instructions shall be given to the fifth respondent, which is the Nodal Agency to make the payment of the insurance coverage amount to the petitioner.

15. This Writ Petition is disposed of with the above directions. No costs.

15.06.2021 Note: Registry to upload Order Copy on 16.06.2021 Index : Yes / No Internet : Yes sts
NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

_____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021

1) The Secretary to Government of India, Department of Health and Family Welfare, Ministry of Health and Family Welfare, Room No.156, A- Wing, Niman Bhawan, New Delhi 110 011.

2) The Secretary to Government of Tamil Nadu, Department of Health and Family Welfare, Ministry of Health and Family Welfare, St.George Fort, Chennai 600 009

3) The District Collector, Trichy District, Trichy.

4) The Joint Director, Health Services, No.17, V.O.C.Road, Near Central Bus Stand, Tiruchirappalli 620 001 _____ <https://www.mhc.tn.gov.in/judis/> W.P.(MD) No.7997 of 2021 N.ANAND VENKATESH, J., sts Order made in W.P.(MD) No.7997 of 2021 Dated:

15.06.2021 _____ <https://www.mhc.tn.gov.in/judis/>