IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1030 OF 2009

Jaising B. Satam ***...Petitioner***

: Versus :

1. Indian Commercial Co. Ltd. ***...Respondents***
2. Mr. H.K. Killachand (Director)
3. V.V. Sahastarbudhe (Director)
4. Mrs. Madhvi Kilachand (Director)
5. Satyam N. Mehta (Director)

India Commercial Co. Ltd.

Mr. Arshad Shaikh, Senior Advocate *i/b. Mr. T.R. Yadav, for the Petitioner.*

Ms. Tanaya Patankar *for the Respondents.*

CORAM: SANDEEP V. MARNE, J.

Judgment Resd On : 10 July 2026.

Judgment Pron. On : 21 July 2026.

JUDGMENT.:

1) By this Petition, the Petitioner has challenged the judgment and order dated 22 February 2008 passed by the Learned Member,

Industrial Court, Mumbai dismissing Complaint (ULP) No. 422 of 2003. The Complaint was filed by the Petitioner seeking reimbursement of medical expenses of Rs.3,38,545/- incurred towards treatment of his wife.

2) Respondent No. 1 is engaged in the business, *inter-alia* of import and export of chemicals and other related materials. Petitioner was in the employment of the first Respondent from March 1968 till he superannuated on 31 December 2002. According to the Petitioner, there was a scheme for reimbursement of hospitalisation expenses for dependents of the workmen. Petitioner's wife had taken ill and was required to be hospitalised at Bhatia Hospital from 28 October 2002 till 3 November 2002. She was again required to be hospitalised at Shusrusha Hospital on 7 January 2003 and was shifted to Bombay Hospital, where she was discharged on 4 February 2003. Petitioner incurred hospitalisation expenses of Rs.24,194/- at Bhatia Hospital, Rs.83,984/- at Shusrusha Hospital and Rs.2,30,000/- at the Bombay Hospital. Petitioner submitted a claim for reimbursement of expenditure incurred for hospitalisation of his wife vide letter dated 26 March 2003. Since no response was received, Petitioner submitted reminder dated 24 April 2003. Petitioner thereafter approached the Industrial Court, Mumbai by filing Complaint (ULP) No. 422 of 2003. The Complaint was resisted by the Respondents by filing Written Statement. Petitioner examined himself as a witness. Respondents led evidence of Mr. Satyen Mehta. After considering the pleadings, documentary and oral evidence, the Industrial Court proceeded to dismiss the complaint vide judgment and order dated 22 February 2008. Petitioner has filed the present petition

challenging the judgment and order dated 22 February 2008 passed by the Industrial Court. By order dated 11 August 2009, the Petition has been admitted. The Petition is called out for final hearing.

3) Mr. Shaikh, the learned Senior Advocate appearing for the Petitioner submits that a Scheme was introduced on 1 April 1981 for reimbursement of expenses for domiciliary treatment of workers and their dependents, by the employer. That the said Scheme was further extended vide Memo dated 1 April 1985 to cover expenses incurred for hospitalisation. He therefore submits that sufficient material was produced before the Industrial Court for covering the hospitalisation expenses. He also invites my attention to admission given by the employer's witness, Mr. Satyen Mehta. That the benefit of the hospitalisation scheme was applicable to employee, his wife and child. He submits that the Industrial Court has ignored this voluminous material and has erroneously arrived at a conclusion that the Scheme applies only to domiciliary treatment and not to hospitalisation expenses. He submits that the impugned order passed by the Competent Authority thus suffers from gross perversity and is liable to be set aside.

4) Ms. Patankar, the learned counsel appearing for the Respondents opposes the Petition submitting that two of the alleged hospitalizations from 7 January 2003 to 4 February 2003 at Shusrusha Hospital and Bombay Hospitals are after the retirement of the Petitioner who superannuated on 31 December 2002. That therefore there is no question of the employer reimbursing the expenditure incurred in respect of the said hospitalizations. Even *qua* the first hospitalization at

Bhatia Hospital from 28 October 2002 to 3 November 2002, she submits that the Petitioner has settled all his claims by accepting the *ex-gratia* payment of Rs.16,000/-. That having expressly settled the disputes by accepting the amount of Rs.16,000/-, Petitioner cannot turn around and prosecute the present petition.

5) Ms. Patankar further submits that the Industrial Court has correctly appreciated the position that the hospitalization reimbursement scheme was applicable only to the workmen and the same did not apply to their dependents. The claim for reimbursement of hospitalization expenses of spouse of the Petitioner is rightly rejected by the Industrial Court. She prays for dismissal of the Petition.

6) Rival contentions urged on behalf of the parties now fall for my consideration.

7) Petitioner filed Complaint (ULP) No. 422 of 2003 seeking reimbursement of medical expenses of Rs.3,38,545/- incurred towards treatment of his wife at Bhatia Hospital, Shusrusha Hospital and Bombay Hospital. However, from details of the hospitalisation, it is clear that the last two hospitlisations have taken place after retirement of the Petitioner. The Petitioner has superannuated on 31 December 2002. The first hospitalisation at Bhatia Hospital from 28 October 2002 to 3 November 2002 was when he was in service. However, the last two hospitalisations were when his wife was admitted to Shusrusha Hospital on 7 January 2003 and was thereafter shifted to Bombay Hospital and was discharged on 4 February 2003. This hospitalisation is after the

superannuation of the Petitioner. No material is placed on record to indicate that dependents of retired workmen of Respondent No.1 were entitled for reimbursement of medical expenses. Therefore, there is no warrant for interference in the order of the Industrial Court *qua* hospitalisations at Shusrusha Hospital and Bombay Hospital.

8) In respect of the hospitalisation at Bhatia Hospital from 28 October 2002 to 3 November 2002, Petitioner apparently incurred expenditure of Rs.24,194/-. Petitioner has relied on settlement applicable for the period from 1 July 1989 to 31 March 1992. Clauses-10 and 12 of the said Settlement were as under:

> **Clause No. 10:- Reimbursement of medical expenses:**
>
> That effective from 1st April, 1989 the Company shall reimburse to the workmen domiciliary medical expenses on following basis after completion of one year's continuous service.

Basic salary range	Reimbursement of Medical expenses
Rs.1/- to Rs.500/-	Rs.1600/-
Rs.501/- to Rs.1000/-	Rs.2050/-
Rs.1001/- to Rs.1500/-	Rs.2200/-
Rs.1501/- to Rs.2000/-	Rs.2500/-
Rs.2001/- to Rs.2500/-	Rs.2800/-
Rs.2501/- to Rs.3000/-	Rs.3550/-
Rs.3001/- onwards.	Rs.3700/-

> **Clause No. 12:- Hospitalisation Scheme**
>
> That the workmen shall continue to be allowed reimbursement of hospitalisation on following basis.

Period of Service	Benefit amount of claims made
1 to 5 years	25% of total claim
5 to 10 years	50% of total claim
10 to 15 years	75% of total claim
15 and above	full

9) Thus, Clause-10 applied in respect of domiciliary medical expenses of the workman to the extent indicated in Clause-10 which was dependent on the basic salary. Clause-12 on the other hand, provided for reimbursement of hospitalisation expenses, this time linked to the period of service rendered by the workman. The Industrial Court has held that both clause-10, as well as clause-12 are applicable only to the expenses incurred for treatment of the workman himself. To get over this problem, Mr. Shaikh has relied on stipulations of Employees Medical Benefit Schemes which was produced at Exh-U-10 before the Industrial Court. The Scheme had come into effect on 1 April 1981 and did provide for reimbursement of medical expenses incurred by the employees of the Company for themselves and their dependents in respect of the domiciliary treatment. Para-2 of the Scheme reads thus:

> 2. The Objects of the Scheme is to provide reimbursement of Medical expenses incurred by the employees of the Company for themselves and their dependants in respect of Domicilliary Treatment

10) Mr. Shaikh has further relied on Memo dated 1 April 1985, which reads thus:

> The management is pleased to sanction a further Medical Benefit "under hospitalization". This benefit will be given only to those

employees who have completed one year of service with the Company as on 1st April 1985. The basis for this benefit, is as under:

1 to 5 years.	.....	25% of the total claim
5 to 10 years.	.....	50% of the total claim
10.. to 15 years.	.....	75% of the total claim
15 years and above	.....	100% of the total claim

The expenses under the above scheme will also cover the expenses one month prior to and a month thereafter to the period for which the patient is hospitalized.

11) Thus, after introduction of Employees Medical Benefit Scheme dated 1 April 1981, the ambit thereof was apparently extended to hospitalisation vide Memo dated 1 April 1985. Thus, when provisions of Scheme dated 1 April 1981 are read together with Memo dated 1 April 1985, the inescapable conclusion that emerges is that the Respondent-Company provided for reimbursement of expenditure incurred in treatment of the dependents for both domiciliary treatment as well as for hospitalisation. Under Clause-5.1 of the Scheme dated 1 April 1981, wife and two children below the age of 21 years was considered dependent. In my view therefore the scheme of 1 April 1981 when read in conjunction with the Memo of 1 April 1985 clearly provided for reimbursement of medical expenses of both domiciliary, as well as hospitalisation.

12) Ms. Patankar has submitted that the Scheme of 1 April 1985 stood superseded by the Settlement dated 22 February 1991 which provided for reimbursement of expenses only for the workmen and not to their dependents. I would have accepted these arguments since the

settlement is applicable for the period from 1 July 1989 though executed on 22 February 1991. However, the witness of the Respondent has given vital admissions in his cross-examination:

> Witness is shown page no.21 i.e. Exh. U-10 of list Exh. U-6 all the employees have applied for their medical dues as per clause 6 of Exh. U-10. Witness is shown page no. 22 Exh. U-10 it is true that the benefits were applicable to the employee his wife and child as mentioned in the chart. Similar circular Exh. U-10 were issued at pge no. 23 to 25 these are company circular. Witness is shown page no. 69 of Exh. U-6 it is true that the documents of page 69 which is company's claim form. Under the head form for claiming hospitalization expenses. It is true that the form reflects the name of the dependents and relation with the employee and also includes treatment and expenses.

13) Thus, Respondent's witness has given clear admission of grant of medical reimbursement to the dependents of the employees even in respect of the hospitalisation expenses.

14) It also appears quite illogical that reimbursement would be granted for domiciliary treatment but not for hospitalisation. Ordinarily, the hospitalisation involves a more serious ailment than the one which requires mere domiciliary treatment. The Industrial Court ought to have appreciated this while erroneously rejecting the scheme of the Petitioner.

15) The Industrial Court has taken into consideration the Scheme of 1 April 1981 but has limited its application only to domiciliary treatment and not for hospitalisation charges. There appears to be no express intent to withdraw the scheme of reimbursement of the expenses incurred for domiciliary or hospitalisation treatment for

dependents at the time of execution of the Settlement dated 22 February 1991. Also, there are express admissions given by Petitioner's own witness about grant of reimbursement in respect of hospitalisation to the employees when treatment was availed by the dependents. In view of the above discussion, Petitioner is entitled to secure reimbursement of expenses incurred for hospitalisation dated 28 October 2002 to 3 November 2002 when he was in service. The reimbursement was sought for the said amount was Rs. 24,194/-. Since Petitioner has rendered more than 15 years of service, he is entitled to full reimbursement of the medical expenditure.

16) Reliance by Ms. Patankar on Settlement dated 20 November 2002 is of no avail. The settlement has been executed in respect of Complaint (ULP) No. 713 of 2002 and not in respect of Complaint (ULP) No. 422 of 2003. As a matter of fact, by the time the Settlement was signed on 20 November 2002, the claim for reimbursement was not even made. The first period of hospitalisation itself ended shortly before the said settlement i.e. on 3 November 2002. Therefore, there was no occasion for the Petitioner to consider waiving off the claim in respect of reimbursement as on 20 November 2002. Therefore, it cannot be contended that the Petitioner had given up the claim for reimbursement by signing the Memorandum of Settlement dated 20 November 2002.

17) Petitioner is thus entitled to claim reimbursement of expenses incurred for only first hospitalisation from 28 October 2002 to 3 November 2002. The second and the third hospitalisation took place after retirement of the Petitioner and therefore the claim in respect

thereof cannot be sanctioned. Therefore, it would be appropriate to award claim of Rs. 24,194/- along with interest at the rate of 8% p.a.

18) The Petition accordingly succeeds in part, and I proceed to pass the following order:

(i) Judgment and order dated 22 February 2008 passed by the learned Member, Industrial Court, Mumbai in Complaint (ULP) No. 422 of 2003 is set aside.

(ii) Respondent shall pay to the Petitioner, amount of Rs.24,194/- within a period of 2 months alongwith simple interest @ 8% p.a. w.e.f 31 December 2002 till the date of payment.

19) With the above directions, the petition is **allowed**. Rule is made absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

20) After the judgment is pronounced, Ms. Patankar prays for stay of operative part of the judgment for a period of 4 weeks. The request is opposed by the learned counsel appearing for the Petitioner. Considering the fact that the Petitioner is already granted time of 2 months to comply with the order, in my view, it has sufficient time to test the order before the higher Court. The request for stay is accordingly rejected.

[SANDEEP V. MARNE, J.]

NEETA SHAILESH SAWANT
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