

GAHC010275222024



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6906/2024

UDIPTA MECH
S/O- BIPUL MECH,
R/O- BINA KUMARI MOHAN APARTMENT, 16TH NO. TINIALI,
KAMALABARI ROAD, DULIAJAN , DIBRUGARH, PIN-786602

VERSUS

THE UNION OF INDIA
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF
PETROLEUM AND NATURAL GAS, DR. RAJENDRA PRASAD ROAD, NEW
DELHI-01

2:OIL INDIA LIMITED
HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 786602
REPRESENTED BY THE CHAIRMAN CUM MANAGING DIRECTOR

CORPORATE OFFICE AT PLOT NO-19
NEAR FILM CITY
SECTOR 16 A
NOIDA
201301
UTTAR PRADESH

3:THE RESIDENT CHIEF ENGINEER
OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 786602

4:THE CHIEF GENERAL MANAGER
HR ESTABLISHMENT

OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 786602

5:THE CHIEF GENERAL MANAGER
MEDICAL SERVICES
(HOD)
OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 786602

6:THE SENIOR MANGER
HR ESTABLISHMENT

OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 786602

7:THE OIL MEDICAL BOARD
HR ESTABLISHMENT

OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 786602

8:DR. TINKU MONI BORAH
SUPERINTENDING MEDICAL OFFICER (ENT)
ID-203517
OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH

ASSAM- 786602

9:DR. DIPANKAR BARUA
DOCTOR/PHYSICIAN
ID-202861
OIL INDIA LIMITED

HAVING ITS REGISTERED OFFICE AT DULIAJAN
IN THE DISTRICT OF DIBRUGARH
ASSAM- 78660

Advocate for the Petitioner : MR. K P PATHAK, AMICUS CURIAE, UDIPTA MECH,
PETITIONER IN PERSON

Advocate for the Respondent : SC, OIL, MS G SWAMI(R-8,9),MR. K KALITA(R-8,9),MR. A
SARMA (R-8,9),MR. R K D CHOUDHURY,SC,DSGL.

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

23.05.2025

1. Heard the petitioner-in-person Mr. Udipta Mech. Also heard Mr. P. K. Tiwari, learned Senior Counsel assisted by Mr. K. Kalita, learned counsel for the respondent OIL. Also heard Mr. K. P. Pathak, learned Amicus Curiae.
2. The petitioner-in-person has filed this writ petition, amongst other with a prayer to direct the respondent employer to allow the petitioner with ongoing medical treatment at London for his scheduled follow-up check-up and to reimburse the total medical expenses and incidental expenses incurred including travel expenses for his treatment to London, which he had carried out in the month of August, 2024 on his own expenses.
3. From the material and projection, it is seen that the employer of the petitioner by its approval dated 12.12.2023 (Annexure-32) referred the petitioner-in-person

for treatment at Indraprastha Apollo Hospital, with credit billing facility for treatment of Lf SMHL with Tinnitus. The Doctors at Apollo Hospital advised the following in its advise dated 14.12.2023:-

“Adv

- Not responding to treatment advised by us.
- Advise to go higher centre for further evaluation and needful.
- Referred to specialized Tinnitus Clinic abroad for
(Neuro modulolious therapy)

4. Subsequently, the petitioner-in-person sought permission for medical treatment abroad, however, by communications dated 04.03.2024 (Annexure-35) and 23.03.2024 (Annexure-36) refused to grant permission citing certain rules. The legality and validity of the same shall be dealt at the later stage of the proceeding.
5. Thereafter, the petitioner-in-person sought prior permission for private visits abroad for the purpose of medical treatment, which was granted by a communication dated 06.06.2024. Thereafter, the petitioner-in-person was treated at London and it is stated that his decease was cured, however, he needs to visit London for further follow-up action and accordingly, the petitioner-in-person has insisted for an interim prayer in the shape of a direction to the employer to permit him to go abroad for such follow-up action.
6. On the other hand, it is the case of the employer that, subsequently, they asked for verification from the Doctor who referred the petitioner-in-person to treatment abroad. The said doctor by its communication dated 15.07.2024 (Annexure R18) clarified to the employer that such treatment is also available in India and that advance treatment for tinnitus masking and tinnitus therapist are available at their centre and that such referral for higher centre abroad was given

on repeated request of the patient.

7. On the other hand, it is the contention of the petitioner-in-person that such treatment is still not available in India and he has acquired this decease due to work hazard and negligence of his employer. Such contentions as regards negligence of the employer as well as entitlement of the petitioner for his treatment abroad and for reimbursement of the expenses already incurred can duly be taken note at the later stage of the proceeding. However, this Court cannot ignore the requirement of follow up action of the treatment of the petitioner-in-person who is a young engineer aged about 28 years and admittedly, he is facing serious difficulties and it involves his vital and essential part of the body i.e. ear.

8. **Therefore, this Court is of the considered opinion that ends of the justice would be made if the petitioner-in-person is permitted to visit the ENT Department of All India Institute of Medical Science, New Delhi, which is the best Institution in India inasmuch as an opinion as to whether the treatment taken out by the petitioner in person abroad was available in India at the relevant point of time and whether the follow up action i.e. required after such treatment can be carried out at All India Institute of Medical Science, New Delhi, shall tremendously assist this Court to arrive at a just decision inasmuch as the aforesaid reference may be determinative factors for further adjudication of the present writ petition. In the aforesaid backdrop, the court has requested Mr. R. K. Dev Choudhury, learned Assistant Solicitor General of India to assist this Court and obtain instructions as regards constitution of a Medical Board by the Department of ENT or by the Head of the Department of ENT, All India Institute of Medical Sciences, New Delhi on a date convenient to the Department of ENT for**

examination of the petitioner-in-person with all his previous medical report etc. and to give an opinion as recorded hereinabove.

9. Mr. Dev Choudhury, learned Assistant Solicitor General of India submits that he may be granted a weeks time to complete his instruction and apprise this Court.
- 10. This Court shall expect and appreciate a positive response from the All India Institute of Medical Science, New Delhi. Accordingly, list this matter again on 30.05.2025.**

JUDGE

Comparing Assistant