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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17242-2021 (O&M)
Reserved on: 24.03.2026
Pronounced on: 13.05.2026
Uploaded on: 13.05.2026

Vidya Parkash Gupta ….Petitioner

Versus

The Hon'ble Punjab & Haryana High Court, and another
….Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vaneet Soni, Advocate,
for the petitioner.

Mr. Munish Kapila, Advocate,
for respondent No.1.

Mr. Sahil R. Bakshi, AAG, Punjab.

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KULDEEP TIWARI, J.

1) The petitioner, by way of instant writ petition, as cast under Article 226/227 of the Constitution of India, prays for issuance of a Mandamus upon the respondents to release the remaining/balance amount of Rs.1,86,668/-, out of total expenditure of Rs.4,43,796/-, incurred by him on the treatment of his wife.

2) Shorn of the unnecessary detailed background, the facts germane for adjudication of the issue arises for consideration of this Court, are that the petitioner retired as Superintendent Grade-1, from the establishment of this High Court, on 31.01.1997. His wife, who was already suffering from multifarious health issues, fell in the bathroom on 22.08.2020, resulting in a thigh injury, and severe pain. Accordingly, the petitioner immediately took her to the General Hospital, Sector-6,

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Panchkula, where she was administered first aid. Thereafter, an ex-ray was conducted, which suggested that she suffered an 'Inter-trochanteric (Left Femure), fracture, and required a surgical intervention. Since the General Hospital was not equipped with the facilities to undertake the required complex surgery, she was referred to a higher centre, vide referral/medical card (Annexure P-1). Whereafter, the petitioner, alongwith his son, took his wife to the Post Graduate Institute of Medical Education & Research, Chandigarh, for the required surgery. However, since the entire nation was reeling under the first wave of the pandemic (Covid-19), which confined the functioning of every hospital, she was not attended to by the doctors, for almost two hours. So much so, all the general surgeries were also suspended, during that period. In such a situation, and as his wife was screaming in pain, the petitioner was left with no other option but to take her to a hospital, where she could be operated upon, forthwith. Therefore, he took her to a private hospital at Sector-26, Panchkula, namely, Ojas Super Specialty Hospital, where she was operated upon, and remained admitted for 13 days, i.e. from 22.08.2020 to 03.09.2020, and the total expenses incurred on the treatment were worked out to Rs.4,43,796/-. Consequently, the petitioner submitted a detailed representation delineating his ordeal, appended therewith entire medical record, including bills, prescription etc., with the respondent authorities, for reimbursement. Whereupon, his case was processed by respondent No.1, in terms of the Punjab Services Medical Attendants Rules, 1940 (for short, 'the Rules of 1940'), and letter dated 13.2.1995, vide which, it has been clarified that reimbursement of treatment undertaken in private hospitals is allowed as per the rates fixed by Director, Health and Family Welfare, Punjab, Chandigarh. Accordingly, only an amount of Rs.2,57,128/- was ordered to

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be released, thereby deducting Rs.1,86,668/-. That is how, the petitioner is before this Court.

3) Learned counsel for the petitioner, while narrating the factual backdrop, as referred to above, submitted that wife of the petitioner was admitted in the private hospital in an emergent situation, and not by choice. He further submitted that owing to the pandemic (Covid-19), the PGIMER was functioning in a restricted manner, and was not undertaking general surgeries, therefore, the petitioner was constrained to rush his wife to any hospital, where the required treatment could be administered. He asserted that a Government employee, during his lifetime, is entitled to reimbursement on account of medical expenditure and no fetters can be placed upon such right.

4) He contended that the issue arises for consideration in the instant writ petition has already been examined by the Hon'ble Supreme Court in ***Shiva Kant Jha Vs. Union of India (Writ Petition (Civil) No.694 of 2015,*** decided on 13.04.2018, wherein, it was categorically held that medical reimbursement is an enforceable legal right of an employee, flowing from Service Rules and the Constitutional Principles. Likewise, he also placed reliance on the decision dated 25.09.2023, rendered by a Coordinate Bench of this Court in ***CWP-13165-2017 (Subhash Sharma Vs. State of Haryana and others),*** to assert that complete medical reimbursement was ordered in favour of the petitioner therein.

5) *Per contra*, learned counsel appearing for the High Court, while vehemently opposing the claim of the petitioner, asserted that, a policy to regulate the claims of medical reimbursement has already been formulated by the Government of Punjab. And, as per the Policy, the petitioner is entitled to reimbursement only at the rates prescribed by the

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Director, Health and Family Welfare, Punjab. Further, the petitioner failed to bring on record any evidence, including OPD card/slip, which could even remotely substantiate his bald plea that he had taken his wife to the PGIMER, at any point of time. He further argued that the High Court sanctions reimbursement of medical bills of employees/pensioners and their dependents, strictly in sync with the Rules of 1940. He put much thrust in contending that in terms of para No.1 of the Punjab Government letter dated 13.02.1995, reimbursement of treatment undertaken in private hospitals is allowed, as per the rates fixed by Director, Health and Family Welfare, Punjab Chandigarh, for similar treatment/package on actual expenditure, whichever is less. Accordingly, claim of the petitioner was referred to the Director, Health and Family Welfare, Punjab, who, verified the same to the extent of Rs.2,57,128/- out of Rs.4,43,796/- as per AIIMS, New Delhi/Government rates. Resultantly, the respondent-High Court accorded sanction for reimbursement of Rs.2,57,128/-, vide communication dated 07.07.2021. He concluded by submitting that as per report dated 24.09.2021, received from the Exclusive Cell of the High Court, no separate notification/instructions for full reimbursement, in case of any surgery from a private hospital, during the pandemic (Covid-19), were received. Therefore, in the absence of any such notification, the case of the petitioner was processed in adherence to the policy in vogue.

6) In addition to the submissions advanced on behalf of the High Court, learned State counsel also specifically placed reliance upon clause (b) of the notification dated 13.02.1995 (supra), which deals with treatment in Private Hospitals in the country. Further, he submitted that, in fact, legality of the Policy in question was put to challenge before the Hon'ble Supreme Court in ***State of Punjab Vs. Ram Lubhaya Bagga, 1998 (1) SCT***

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716, wherein, it has been held that the Policy is not hit by Article 21 and 47 of the Constitution of India, and thus, it is *intra vires*. So much so, it is well within the domain of the State to amend it, from time to time, under the changing circumstances, which cannot be challenged. It was further observed that no right can be absolute in a Welfare State, and every fundamental right is to be within permissible reasonable restriction. Therefore, the restriction imposed in the instant case was also within the permissible parameters. Lastly, he contended that all admissible dues have already been released in favour of the petitioner, as per the rates prescribed by the AIIMS, New Delhi.

7) This Court has heard the rival submissions advanced on behalf of the parties, and gone through the record.

8) It is a matter of record that, in terms of the Policy dated 13.02.1995, the employees and pensioners can get treatment in any private institute/hospital of their choice, within the country, subject to furnishing of an unambiguous undertaking that he/she will accept reimbursement of expenses incurred by him/her on the treatment to the level of expenditure, as per rates fixed by the Director, Health and Family Welfare, Punjab, for a similar treatment package or actual expenditure, whichever is less. For ready reference, the relevant part of the Policy is extracted hereinbelow:-

> **"*(b)Treatment in Private Hospitals in the country*.** *It has been decided that employees and pensioners should be given freedom to get treatment in any private institute/hospital (of their own choice), in the country provided that he/she gives an undertaking out of his/her free will and in unambiguous terms that he/she will accept reimbursement of expenses incurred by him/her treatment to the level of expenditure as per rates fixed by the Director, Health and Family Welfare, Punjab for a similar treatment*

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> *package or actual expenditure whichever is less. The rate of for a particular treatment would be included in the advice issued by the District/State Medical Board. A committee of technical experts shall be constituted by the Director, Health and Family Welfare, Punjab to finalize the rates of various treatment packages and the same rate list shall be made available in the offices of the Civil Surgeons of the State.*
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> *However, this permission would be granted by the Director, Health and Family Welfare, Punjab on the advice of State Medical Board in case of the treatment in private Hospitals outside the State and the District Medical Board in case of treatment in private hospitals within the State."*

9) There is no dispute with regard to the terms and conditions set out in the Policy, per which, medical reimbursement is made only at the rates fixed by the AIIMS, New Delhi. However, the Policy, in a way, restricts rights of an employee, who is faced with the exceptional circumstances, where he or his dependents are required to undergo immediate medical surgeries.

10) To adjudicate the matter at hand conclusively, this Court is required to determine, as to whether the petitioner shifted his wife to a private hospital by choice or for luxury, or under compelling circumstances?

11) In an endeavour to find answer to the abovesaid issue, it would be imperative to recapitulate the relevant facts, which have a decisive bearing.

12) The petitioner, at the first instance, took his wife to General Hospital, Sector-6, Panchkula, where, she was diagnosed with an Inter-trochanteric (left Femure), fracture. However, due to unavailability of the necessary infrastructure to undertake the required surgery, she was referred to a higher centre. Thereafter, as pleaded by the petitioner, she was rushed

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to PGIMER, Chandigarh, but was not attended to, for quite a long time, as it was functioning with restrictions due to the Covid-19. It needs no corroboration that on the fateful day, i.e. 22.08.2022, the entire nation was engulfed in the clutches of an unprecedented situation created by the deadly corona virus. As a result, a nationwide lockdown was imposed, confining the citizens to their homes, with a restriction to move out only in exceptional circumstances. Further, everybody has witnessed the situation where the healthcare system was under tremendous pressure, as hospitals/medical authorities were even struggling to provide timely treatment to the patients requiring urgent and critical care, particularly those, who were on the verge to succumb to the life-threatening virus and other fatal ailments. Therefore, the presumption that permeates record is that wife of the petitioner was not provided adequate care in her initial crucial hours, inasmuch as, she only suffered a fracture, which left the petitioner with no other alternative except to shift her to any hospital, where immediate surgery could be ensured.

13) In the wake of the position sketched out above, this Court has come to the conclusion that the petitioner had shifted his wife to a private hospital under exceptional circumstances and not by choice or for luxury. Hence, the issue is answered in favour of the petitioner.

14) Reverting to the submissions of the learned counsel for the respondents, which predominantly predicate upon the Policy (supra), this Court is of the affirmed view that the same needs to be read in its right earnest, so as to achieve the desired object. The primary object of the Policy is to regulate the claim of medical reimbursement of its employees, and not to curtail their pre-existing rights. Surprisingly, the Policy does not address the exceptional circumstances, the petitioner was faced with. So much so,

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the stand set out by the respondents is based only upon technicalities, notwithstanding, the *bonafide* and genuine claim of the petitioner. If the Policy is silent on such aspects, it is expected from the Courts to interpret the same purposively, so as to fill the lacunae to prevent unjust denial of legitimate rights.

15) At this juncture, this Court is reminded to refer to a legal aphorism '***Ubi Jus Ibi Remedium';*** where there is a right, there is a remedy. This principle signifies that if a citizen's legal right is breached, the law must provide remedy. A legal wrong cannot exist without there being a legal remedy. This principle emphatically denotes that no wrong should go without redress, and only by this way, the Courts can establish faith in the rule of law.

16) In ***Shiva Kant Jha (supra)***, the Hon'ble Supreme Court has held that a right of medical claim cannot be denied merely because the name of the hospital is not included in the list of empanelled hospitals. The real test must be the factum of treatment. The relevant observations made in the decision read as under:-

> *"13) It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Specialty Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the*

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Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14) This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals."

17) While following the ratio laid down in ***Shiv Kant Jha (supra)***, a Coordinate Bench of this Court in ***Subhash Sharma (supra)***, has granted

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the relief of complete medical reimbursement incurred on the treatment, to the petitioner therein, who underwent a liver transplant surgery. The respondent-State allowed the medical claim as per the instructions/policy dated 06.05.2005, and he was granted medical reimbursement only to the extent of Rs.10,00,000/-, whereas, the actual expenses on account of treatment were Rs.24,00,000/:-

> *"It is a conceded position that though, initially the medical claim of the petitioner for reimbursement was not entertained by the respondents but thereafter, upon reconsideration, the respondents have allowed the medical claim of the petitioner under the instructions dated 06.05.2005issued by the Government of Haryana. Under the said instructions, out of the total claim of Rs.24. lacs, a sum of Rs.10 lacs has been reimbursed to the petitioner as a full and final payment on the basis of fact that had the petitioner undertaken the said treatment from PGIMER, Chandigarh, he would have incurred an amount of Rs.10 lacs on the treatment in question hence, as per the instructions dated 06.05.2005, in case treatment has been undertaken from an unapproved hospital in emergent situation, reimbursement can only be made as per the PGIMER, Chandigarh rates and not beyond that.*
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> *xx xx xx xx*
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> *Respondents are directed to reconsider the claim of the petitioner for remaining amount of Rs.14 lacs keeping in view the observations of this Court in the order and for whatever amount the petitioner is entitled for qua medical facilities and procedure for the liver transplantation, the same be reimbursed to him. With regard to the payment for room rent rates etc., the same will be given as per the PGIMER, Chandigarh rates only."*

18) Similarly, in ***Kamla Devi Vs. State of Haryana and others, 2024, NCPHHC 8924***, a Coordinate Bench of this Court has held:-

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> *"11. Learned counsel for the respondents submits that the claim of the petitioner has been considered as if, the surgery is presumed to have been undertaken at PGIMER, Chandigarh.*
>
> *12. Said argument is also fallacious. Once the liver transplant surgery was not available at PGIMER, Chandigarh, the question of presuming the same to be undertaken at PGIMER, Chandigarh so as to decide the claim of the petitioner for medical reimbursement is totally artificial and has no basis and hence, reimbursement of medical claim on the basis of the PGIMER rates cannot be accepted in the facts and circumstances of the present case."*

19) While dealing with a somewhat similar issue, a Division Bench of this Court in ***Shakuntla Vs. State of Haryana, 2004 (1) SLR 563,*** held that in case, where a treatment is taken in emergency from a hospital other than the approved hospitals, the State cannot deny the medical reimbursement:-

> *7. The petitioner is an employee of Government of Haryana and that the child is her dependent, as such, for the treatment of the child, she is entitled to reimbursement of the medical expenditure in pursuant to the Punjab Service (Medical Attendant) Rules, 1940, which are applicable to the State of Haryana. So far as the availability of the medical facilities at the institutes like AIIMS, New Delhi, normally the operation waiting period is so much that the emergency patients most of the times cannot be entertained and they are referred to other hospitals. It may be noticed that it is only in dire emergency that a person reaches the hospital where immediate treatment can be given. In a case where the life of a human being is at stake, it is too technical to require such a person to hunt for a list of the approved hospitals and then decide which hospital to go to. Sometimes the said hospital may not be able to accommodate the patient. Such situation has been dealt with by the apex Court in* ***Surjit Singh v. State of Punjab, 1996(1) RSJ 845****. It may be noticed that Government of Haryana has already included Sir Ganga Ram Hospital in the list of approved hospitals and that*

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the said notification/instructions have been issued on October 31, 2002. De hors of this, in the case of saving a human life at a given point of time, it is not expected of an attendant to look into the list and then hunt for the hospital which is contained therein. Such procedures should not be expected to be followed in an emergency by the attendant of the patient. If such regulations are applied so strictly, the end result may be disastrous and in that situation the patient may die. If the death occurs, in that eventuality the responsibility of the State cannot be washed out. No doubt, in normal circumstances the procedures prescribed should be followed but the procedure should not be made so cumbersome that one may get frustrated in adhering to such procedures. Emergency knows no law and no procedures. The emergency act when required to be committed should not be weighed in terms of money especially when human life is at stake."

20) On the similar lines, in ***Hari Chand Vs. State of Punjab and others, 2016 (1) PLR 712,*** a Coordinate Bench of this Court has held that if a treatment is not available in the empanelled hospital of the State Government, even then, the policy in this regard has to be read clearly in favour of the petitioner therein:-

"*11. The question presently arising is that Live Liver Transplant facility was not available at AIIMS, New Delhi when the treatment was taken. If it is not available at AIIMS, New Delhi then the policy dated February 13, 1995 has to be read clearly in favour of the petitioner to bring his entire balance claim to his pocket since there is no fixed point of assessment incurred towards medical expenses. Therefore, the treatment at Indraprastha Apollo Hospital, New Delhi was in the nature of a medical emergency and the expense package in the final bill lies no matter what in the province of life and death. In other words, the situation arising was do or die, take it or leave it. The choice between the two poles can be easily imagined and needs no forensic reasoning. There is also no bar contained in the 1940 Rules or in the instructions issued from time to time, including*

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the one under consideration, which could result in disallowing the claim altogether. It is, therefore, not open to the State to penny-pinch and decline the request for the remaining half of the expenses incurred in the treatment which was not available in Punjab or at premier medical institute at AIIMS, New Delhi. This was a Hobson's choice."

21) Likewise, in ***Shri D.D. Guglani Vs. Haryana State Electricity Board through its Executive Engineer, Suburban Division, HSEB,*** a Coordinate Bench of this Court has unequivocally interpreted that statutory regulations must be so read that would sub-serve the cause of justice and if need be, tempered with human compassion:-

"*3. I have gone through the file. The plaintiff's contention was that the treatment caused at the hospital at Delhi which was actually approved hospital by the Central Government and that further treatment at PGI, Chandigarh was undertaken only when the doctor who treated the plaintiff counselled that there were no facilities in any hospital in the State of Haryana at the relevant time for hemo-dialysis for kidney ailment. The appellate Court had relied on the Haryana Government circular that directed the Government employee to take treatment only in Government approved hospitals and not in hospitals outside. The appellate Court, while reserving the judgment of the trial Court that provided for medical reimbursement, had observed that the civil court is a court of law and it cannot be swayed by compassion. It must be remembered that the law is not sapped dry of all human compassion. Rules and statutory regulations must be so read that would sub-serve the cause of justice and if need be, tempered with human compassion. The Government instructions that an employee shall not take treatment other than the approved hospital is a point well taken. In this case, the doctor, who had given treatment to the petitioner was stated to be dead at the time when the trial had taken place. There was therefore only an oral assertion of the plaintiff that the doctor had told him that there was no facility for hemo-dialysis. There was not as if the plaintiff had taker*

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> *treatment in some hospital for mere fancy. He was in a serious terminal condition where he secured treatment at PGI and at the Central Government approved hospital at Delhi. would take the evidence of the plaintiff itself as sufficient that he had taken treatment at the above two hospitals only because similar facilities were not available in any approved hospital in the State of Haryana. The treatment caused at the Central Government approved hospital or at PGI cannot be said to be unrealistically high in comparison to the medical costs at Haryana. There was no justification for the appellate Court to reverse the finding of the trial Court by wooden application of rules without minding the fact that the best the Government could have sought for information regarding the treatment whether costs at the State hospital in Haryana was in someway lower than the cost Incurred at PGI or at the hospital at Delhi. With no such specific evidence available, I would hold that the petitioner would be entitled to full reimbursement of the cost incurred by him. I restore the trial Court's findings and decree the suit as prayed for. The substantial question of law raised is answered as above. The suit is decreed and the second appeal is allowed with costs throughout."*

22) Further, even this Court too had the occasion to examine the issue akin to the one involved in the instant case, in ***CWP-26319-2016 (Parminder Singh Vs. State of Punjab and another).*** Accordingly, while referring to the catena of judgments rendered on the subject issue, this Court allowed the entire claim of medical reimbursement of the petitioner therein. The relevant observations, in this regard, read as thus:-

> *"On the anvil of the abovesaid legal position, this Court is satisfied to observe that the Policy in question ought to have been interpreted purposively, so as to ensure achievement of the desired intent. Concededly, the petitioner remained under treatment at PGIMER from 2011 to 2015, but he did not get any cadaver donor for kidney and liver transplantation. In such circumstances, a person cannot be left in a lurch to wait for an*

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indefinite period for a cadaver donor in theempanelled hospitals of the State, or the hospitals where the corresponding rates of AIIMS, New Delhi, are applicable. In a situation like the present one, the patient, who is at the brink of his life, must be granted the freedom to enroll himself with any hospital within the country, which can offer him treatment, at the earliest. Conversely, the Policy does give the freedom to the employees to choose a hospital for getting treatment, but it imposes a restriction of reimbursement of medical claim, strictly, as per the rates fixed by the AIIMS, New Delhi. In the matter at hand, it is worth reiteration that the petitioner had undergone a liver and kidney transplant surgery at Apollo Hospital, Banglore, not by choice but out of compulsion, as no other hospital ever responded to his registration/enrollment for a cadaver donor. In such circumstances, the first and foremost factor for a patient and his family is to get a cadaver donor from any of the hospitals throughout the county. And, whenever such a donor is available, the surgery must be undertaken without losing much time, to save the patient from the clutches of the life threatening disease."

23) In conspectus of the position sketched out above, this Court has no hesitation to draw a conclusion that the impugned action of the respondent authorities, in denying the entire medical claim, is preposterous. Resultantly, the instant writ petition is **allowed**. The respondent authorities are directed to release the balance amount, in terms of the claim raised by the petitioner, within 08 weeks from the receipt of a certified copy of this order.

(KULDEEP TIWARI)
JUDGE

13.05.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No