

**Daljit Singh**

**vs**

**The State of Punjab and Ors**

Punjab-Haryana High Court

15 May 1997

Citations: 1997 (116) PunLR 600

## JUDGMENT

Jawahar Lal Gupta, J.

1. The petitioner who has already retired as a lecturer from the Government Senior Secondary School, Ludhiana had undergone the Coronary Bypass Surgery at the Escorts Hospital on May 21, 1991. He had paid a total amount of Rs. 1,24,900/-. He requested the department to reimburse the expenses. Having failed to get his money, the petitioner has filed the present writ petition with a prayer for the issue of a mandamus directing the respondents to release the payment "with 18% compound interest".

2. The respondents have not filed any written statement. They have not controverted the factual position. The only contention raised on behalf of the respondents is that the petitioner should be paid the expenses that he would have incurred if he had been admitted to the All India Institute of Medical Sciences.

Counsel for the parties have been heard.

3. Admittedly, the petitioner had undergone the Surgery in May 1991. A period of six years has elapsed since then. It is not the case of the respondents that the petitioner had not suffered a heart-attack or that he had not paid the amount for which bills etc. were submitted by him. In Fact, no written statement has been filed to justify the inaction of the respondents.

4. Self preservation is a necessary concomitant to the right to life as enshrined in Article 21 of the Constitution. In *State of Punjab v. Mohinder Singh Chawla*, JT 1997(1) SC 416, it has been held that health is integral to the right to live. The right of a citizen to undergo treatment including coronary By pass Surgery at private hospitals has been recognised by various decisions of this Court. Reference in this behalf may be made to the decision of a Division Bench of this Court in *Ram Lubhaya Bagga v. State of Punjab*. CWP No. 13872 of 1996 decided on March 21, 1997.

5. In view of the above, the writ petition is allowed. The respondents are directed to release the amount of Rs. 1,24,900/- within one week from the date of receipt of a copy of this order. In case, the amount is not released as aforesaid, the petitioner shall be entitled to interest @ 18% from the date of default till the date of actual payment.

6. Counsel for the petitioner submits that the respondents have illegally with-held the amount since the year 1991. The petitioner should, thus, be awarded interest for the delay in payment.

7. The grievance is not totally baseless. The petitioner had admittedly submitted the bill in the year 1991. The respondents have neither disputed the amount of money nor the genuineness of the claim. In fact, they have not even cared to file a reply in spite of the fact that the writ petition has remained pending for the last more than three years. Still further, the right to health being integral to the right to life as guaranteed under Article 21 of the Constitution, it cannot be said that the citizen is not entitled to claim reimbursement of medical expenses. It is not a mere right conferred by executive instructions. It is in fact a part of the rights under Article 21. However, the petitioner's claim for payment of interest cannot be sustained in view of the decision of their Lordships of the Supreme Court in *Om Parkash Garg v. State of Punjab*, JT 1996(10) SC 36. It has been held that the citizen is not entitled to claim interest for "the delay in the payment of the medical reimbursement."

8. Mr. Bains points out that their Lordships have declined the prayer for interest only on the ground that some time is needed for verification of the bill. It is so. However, it has also been observed that the citizen's "right only is to get reimbursement and it does not follow that for the delay in the payment of medical reimbursement, he should also be entitled to interest thereon." In view of this binding precedent, I am unable to uphold the petitioner's claim.

9. Mr. Bains also contends that the decision of the Apex Court in *Om Parkash Gargi's* case (supra) should have only prospective operation. It can't affect the rights which had already accrued to a citizen. Counsel also refers to the provisions of Section 3 of the Interest Act, 1978 in support of his claim.

10. A High Court cannot say that the decision of the Supreme Court is not applicable because a provision of the Statute or an earlier decision has not been considered. I am bound by the judgment. Respectfully following it, I decline the petitioner's claim for the payment of interest. However, he will be entitled to his costs which are assessed at Rs. 2000/-.