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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE V.G. ARUN

TUESDAY, THE 20<sup>TH</sup> DAY OF DECEMBER 2022 / 29TH AGRAHAYANA,

1944

WP(C) NO. 29049 OF 2021

**PETITIONER/S:**

STAR HEALTH AND ALLIED INSURANCE COMPANY LTD.  
BRANCH OFFICE NO.10/124 E.P.M. TAJ ROAD, 1ST  
FLOOR, ALSA MALL, S.M.STREET, CALICUT,  
REPRESENTED BY THE JOINT VICE PRESIDENT STAR  
HEALTH AND ALLIED INSURANCE COMPANY LTD., ZONAL  
OFFICE, FOURTH FLOOR, CARMEL TOWERS, COTTON  
HILL P.O., VAZHUTHACAUD, THIRUVANANTHAPURAM -  
695 036.

BY ADVS.  
R.S.KALKURA  
M.S.KALESH  
HARISH GOPINATH

**RESPONDENT/S:**

- 1 AVINASH T.  
AGED 31 YEARS  
APAREESH HOUSE, CHELANNOOR, KOZHIKODE - 673317.
- 2 PERMANENT LOK ADALAT, KOZHIKODE FOR PUBLIC  
UTILITY SERVICES  
METRO BUILDING, CHEROOTTY ROAD, KOZHIKODE - 673  
001, REPRESENTED BY ITS SECRETARY.  
BY ADV NIRMAL.S

**OTHER PRESENT:**

GP JUSTINE JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
05.08.2022, THE COURT ON 20.12.2022 DELIVERED THE FOLLOWING:

**JUDGMENT**

Dated this the 20<sup>th</sup> day of December, 2022

The petitioner Company is engaged in the business of Health and Allied Insurance. The first respondent had taken a Corona Rakshak Insurance Policy from the petitioner with a coverage of Rs.1,00,000/- for the period 25.07.2020 to 06.05.2021. As per the terms of the policy, lump sum benefit equivalent to 100% of the sum assured was payable to the policy holder on positive diagnosis of COVID requiring hospitalisation for a minimum continuous period of 72 hours.

2. The first respondent tested positive for COVID-19 on 29.09.2020 from the Government Medical College hospital, Kozhikode and was referred to a COVID First Line Treatment Centre (IFLTC). He was admitted at the CFLT Centre from 29.09.2020 to 08.10.2020. After his discharge,

the first respondent claimed the insurance amount. The claim was repudiated on the ground that the insurance amount was payable only in case of hospitalisation and the first respondent had only been under institutional quarantine is frivolous. Aggrieved by the rejection of his claim, the first respondent preferred Ext.P2 original petition before the permanent Lok Adalat, Kozhikode. The petitioner defended the repudiation, contending that the CFLTC to which the first respondent was sent from the Government Medical College Hospital was an institutional quarantine facility and not a hospital. It was also contended that the medical records produced by the first respondent did not reveal that he had symptoms of COVID and was treated for COVID-19 at the CFLTC.

2. After detailed consideration, the Permanent Lok Adalat rejected the petitioner's contentions and allowed the first respondent's claim. Aggrieved, this writ petition is filed.

3. Heard Advs.R.S.Kalkura for the

petitioner and Nirmal S. for the first respondent.

4. Although elaborate contentions were urged by the Counsel on either side, the short question arising for consideration is whether a COVID First Line Treatment Centre can be termed as hospital for the purpose of considering the first respondent's insurance claim. For deciding this question, it is essential to refer Clause 3.6, 3.7 and 3.8 of Ext.P1 policy. As per Clause 3.6, Hospital means any institution established for in-patient care and day care treatment of disease/ injuries and which has been registered as a hospital with the local authorities under the Clinical Establishments (Registration and Regulation) Act, 2010 or under the enactments specified under Schedule of Section 56(1) of the said Act, OR complies with all minimum criteria as under:

*"i. has qualified nursing staff under its employment round the clock*

*ii. has at least ten inpatient beds, in*

*those towns having a population of less ten lakhs and fifteen inpatient beds in all other places*

*iii. has qualified medical practitioner (s) in charge round the clock*

*iv. has a fully equipped operation theatre of its own where surgical procedures are carried out.*

*v. maintains daily records of patients and shall make these accessible to the Company's authorized personnel*

*vi. For the purpose of this policy any other set-up designated by the government as hospital for the treatment of COVID-19 shall also be considered as hospital."*

It is clarified in Clause 3.6.iv that, for the purpose of the policy any other set up designated by the Government as hospital for the treatment of COVID-19 shall also be considered as hospital. As per Clause 3.7, admission in a hospital designated for COVID treatment for a period of 72 consecutive 'in-patient care' hours will qualify a policy holder for the insurance coverage. Clause 3.8 makes it clear that 'in-patient care' means treatment for which the insured person has to stay in hospital continuously for more than 72

hours for treatment of COVID.

5. In order to understand whether CFLTCs are designated by the Government for COVID-19 treatment, one need only read the COVID-19 advisory for patient admission to CFLTCs issued by the Government as per order No.31/F2/2020/Health dated 24.07.2020. Therein, it is specifically stated that the Centre identified as COVID Health Care Centre should treat all mild and moderate symptomatic persons under surveillance and should be utilised for treating positive cases, when need arises. It is to be noted that CFLTCs are Primary Level Health Care Centres set up for providing care to less serious cases and referral of serious cases to COVID hospitals, so as to avoid crowding in COVID Hospitals and avoid wastage of resources. It can therefore be unhesitatingly held that CFLTCs are designated as hospitals for the treatment of COVID-19.

5. As regards the contention that the petitioner did not have any symptoms of COVID-19

and was not treated for such illness at the CFLTCs, the permanent Lok Adalat relied on the medical records to find that the first respondent had taken treatment as outpatient at the Medical College, Kozhikode for fever, cough and mialgia. The doctor who had referred the first respondent to the CFLTC had prescribed medicines and in the discharge card of the first respondent, it was specifically observed that he was having fever at the time of admission. The permanent Lok Adalat having arrived at the such finding based on documentary evidence, I find no reason to come to a different conclusion.

For the aforementioned reasons, the writ petition is dismissed.

Sd/-

**V. G. ARUN**  
**JUDGE**

Scl/

**APPENDIX OF WP (C) 29049/2021**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE POLICY SCHEDULE AND THE TERMS AND CONDITIONS OF THE CORONA RAKSHA INSURANCE POLICY.
- Exhibit P2 TRUE COPY OF THE O.P.NO.14 OF 2021 SUBMITTED BY THE 1ST RESPONDENT BEFORE THE 2ND RESPONDENT.
- Exhibit P3 TRUE COPY OF DISCHARGE SUMMARY / REFERENCE CARD ISSUED BY CFLT CENTRE KAKKODI DATED 08.10.2020 IN THE NAME OF THE 1ST RESPONDENT.
- Exhibit P4 TRUE COPY OF THE GUIDELINES WITH REGARD TO CFLTC COVID TREATMENT.
- Exhibit P5 TRUE COPY OF THE LETTER REPUDIATION DATED 01.01.2021 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.
- Exhibit P6 TRUE COPY OF THE COUNTER STATEMENT SUBMITTED BY THE PETITIONER IN OP NO.14 OF 2021 BEFORE THE PERMANENT LOK ADALATH, KOZHIKODE.
- Exhibit P7 TRUE COPY OF THE ORDER DATED 13.10.2021 PASSED BY THE SECOND RESPONDENT IN OP 14/2021.