

ITEM NO.1

COURT NO.5

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 534/2020

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY PRIVATE LTD.Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(MR. N. VIJAYARAGHAVAN, A.C.

IA No. 52588/2020 - EX-PARTE AD-INTERIM RELIEF

IA No. 96447/2022 - INTERVENTION APPLICATION)

Date : 28-07-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE M.M. SUNDRESH

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE M.M. SUNDRESH

Mr. N. Vijayaraghavan, AC

Mr. Vipin Nair, AOR

For Petitioner(s)

Mr. Siddharth, AOR

Ms. Mamta Meghwal, Adv.

Mr. Amit Kumar Agrawal, Adv.

For Respondent(s)

Mr. Jayant K. Sud, Ld. ASG

Ms. Garima Prasad, Sr. Adv./AAG

Mr. Navanjay Mahapatra, Adv.

Mr. Bhuvan Mishra, Adv.

Mr. Neeraj Kr. Sharma, Adv.

Mr. Anuj Srinivas Udupa, Adv.

Mr. Arun Kumar Yadav, Adv.

Mr. N. Visakamurthy, Adv.

Mr. Gurmeet Singh Makker, AOR

Mr. Sughosh Subramanyam, Adv.

Mr. Randeep Sachdeva, Adv.

Mr. Kartik Jasra, Adv.

Mr. Mukesh Kumar Verma, Adv.

Ms. Manjula Chaurasia, Adv.

Ms. Priyanka Sharma, Adv.

Mr. Prahil Sharma, Adv.

Mr. Harsh Singhal, Adv.

Mr. Harender Singh, Adv.

Mr. Ambuj Saraswat, Adv.

Mr. Manish Kumar Tiwari, Adv.
Mr. Amrish Kumar, AOR
Mr. B.V. Balram Das, AOR
Mr. Raj Bahadur, AOR
Mr. A.K. Sharma, AOR

Mr. Jayant K Sud, Ld. ASG
Ms. Archana Pathak Dave, AOR
Mr. Randeep Sachdeva, Adv.
Mr. Kartik Jasva, Adv.
Ms. Vanya Gupta, Adv.

Mr. Mukul Kumar, AOR

Mr. Harish Pandey, AOR

Mr. Mahfooz Ahsan Nazki, AOR
Mr. Polanki Gowtham, Adv.
Mr. Shaik Mohamad Haneef, Adv.
Mr. T. Vijaya Bhaskar Reddy, Adv.
Mr. K.V. Girish Chowdary, Adv.
Ms. Rajeswari Mukherjee, Adv.

Mr. Abhinav Singh, Adv.
Mr. Nirvikar Singh, Adv.
Mr. Manish Kumar, AOR

Mr. Arjun Garg, AOR
Mr. Aakash Nandolia, Adv.
Mr. Shobhit Jain, Adv.
Ms. Sagun Srivastava, Adv.

Ms. Prachi Mishra, AAG (Chhattisgarh)
Mr. Mahesh Kumar, Adv.
Mr. Zakir Husain, Adv.
Ms. Devika Khanna, Adv.
Mrs. V.D. Khanna, Adv.
Mr. Chaitanya, Adv.
Mr. Dipesh Singhal, Adv.
M/s Vmz Chambers, AOR

Dr. Abhishek Atrey, AOR
Mr. Ravindra A. Lokhande, Adv.
Mr. Nring Chamwibo Zeliang, Adv.

Ms. Deepanwita Priyanka, AOR

Dr. Monika Gusain, AOR
 Mr. Manpreet Bhalla, Adv.
 Mr. Avi Dhankhar, Adv.

Ms. Ranjeeta Rohatgi, AOR
 Mr. Sourabh Tandon, Adv.

Mr. Abhimanyu Tewari, AOR
 Ms. Eliza Bar, Adv.

Ms. Mahika Verma, Adv.
 Mr. Kartauya Batra, Adv.
 Mr. Raj Kamal, AOR

Mr. V.N. Raghupathy, AOR

Mr. G. Prakash, AOR

Mr. Pashupathi Nath Razdan, AOR
 Mr. Prakhar Srivastav, Adv.

Mr. Rahul Chitnis, Adv.
 Mr. Sachin Patil, AOR
 Mr. Aaditya A. Pande, Adv.
 Mr. Geo Joseph, Adv.
 Ms. Shwetal Shepal, Adv.

Mr. Pukhrambam Ramesh Kumar, AOR
 Mr. Karun Sharma, Adv.
 Ms. Anupama Ngangom, Adv.
 Mr. Wahengbam Immanuel Meitei, Adv.

Mr. Avijit Mani Tripathi, AOR
 Ms. T.K. Nayak, Adv.
 Ms. Marbiang K., Adv.
 Mr. P.S. Negi, Adv.
 Mr. Upendra Mishra, Adv.
 Mr. K.V. Kharlyngdoh, Adv.
 Mr. S.R. Kochhar, Adv.

Mr. Siddhesh Kotwal, Adv.
 Ms. Ana Upadhyay, Adv.
 Ms. Manya Hasija, Adv.
 Mr. Akash Singh, Adv.
 Mr. Nihar Dharmadikari, Adv.
 Mr. Nirnimesh Dubey, Adv.

Ms. K. Enatoli Sema, AOR
 Mr. Amit Kumar Singh, Adv.
 Ms. Chubalemla Chang, Adv.

Mr. Som Raj Choudhury, AOR
 Ms. Shrutee Aradhana, Adv.

Mr. Sameer Abhyankar, AOR
Mr. Abhinav Mishra, Adv.
Ms. Nishi Sangtani, Adv.
Ms. Vani Vandana Chhetri, Adv.
Ms. Yeshi Rinchhen, Adv.

Dr. Joseph Aristotle S., AOR
Ms. Nupur Sharma, Adv.
Mr. Shobhit Dwivedi, Adv.
Mr. Sanjeev Kumar Mahara, Adv.

Mr. S. Udaya Kumar Sagar, AOR
Ms. Sweena Nair, Adv.
Mr. P. Mohith Rao, Adv.

Mr. Shuvodeep Roy, AOR
Mr. Kabir Shankar Bose, Adv.
Mr. Arnab Singh Deo, Adv.

Mr. Pradeep Misra, AOR
Mr. Suraj Singh, Adv.
Mr. Yashasvi Virendra, Adv.

Mr. Soumitra G. Chaudhuri, Adv.
Mr. Chanchal Kumar Ganguli, AOR

Ms. G. Indira, AOR

Mr. Chirag M. Shroff, AOR
Mr. Amandeep Mehta, Adv.

Mr. Aravindh S., AOR
Mr. A Lakshmi Narayanan, Adv.

Mr. Ashish Tiwari , AOR

Mr. Vishal Meghwal, Adv.
Mr. Milind Kumar, AOR

Ms. Kavita Jha, AOR
Mr. Aditeya Bali, Adv.

Mr. Nishe Rajen Shonker, Adv.
Ms. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.

Intervener

Mr. Purvish Jitendra Malkan, AOR
Ms. Dharita Purvish Malkan, Adv.
Ms. Deepa Gorasia, Adv.

Mr. Alok Kumar, Adv.
Ms. Nandini Chhabra, Adv.

Mr. Hitesh Kumar Sharma, Adv.
Mr. Akhileshwar Jha, Adv.
Dr. Vivek Sharma, Adv.
Ms. Shweta, Adv.
Ms. Niharika Dewivedi, Adv.
Mr. E.Vinay Kumar, Adv.

Dr.(Mrs.)Vipin Gupta, AOR

Mr. Shivaji M. Jadhav, AOR
Ms. Qurratulain, Adv.
Ms. Astha Deep, Adv.
Mr. B. Kishore Sah, Adv.
Mr. Adarsh Pandey, Adv.
Ms. Shivani Rautela, Adv.

Ms. Qurratulain, AOR
Ms. Shivani R., Adv.
Mr. Adarsh Pandey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA NO. 96447/2022-INTERVENTION

The application filed by Bar Association of
MACT, Mumbai for intervention is dismissed.

We have been taken through the report dated
26/27.07.2022 of learned ASG. We had directed vide
order dated 31.03.2022 that if any State Public
Corporation is desirous of insuring its vehicles, the
insurance companies will not decline to give insurance
on the ground that exemption has been provided under
Section 146 and work out the appropriate framework.

We are informed that in pursuance to the directions only five States have filed their responses in this regard. The State Corporations that have created a fund have been enlisted in para 3 of the report. It is further stated that apart from these five, some reports have been received at the last minute, something we have been deprecating, from Delhi and Manipur last night and Assam, day before yesterday. We have clearly directed that time schedules have to be kept and learned ASG must be informed about the same. The mandate was given for compliance on or before 15.05.2022. We are left with no option but to burden the States with costs for compliance. Such of the States who have filed it after the cut off date but before today will pay a cost of Rs.10,000/- each while such of the States which have not complied will pay a cost of Rs.50,000/- each, to be recovered from the officers responsible for the delay along with compliance of recovery from that officer. The costs be deposited with the Mediation and Conciliation Project Committee within four weeks. The next step would be only to call the Chief Secretaries for non-compliance if it is not so complied with. A copy of this order be sent to the concerned Chief Secretaries.

DEVELOPMENT OF WEB APP.

Learned ASG has taken us through the progress

which has been made and submits that about four weeks time will be taken to get the Web App operational for Android phones but for Apple phones it is stated that security cheques being higher and thus, may take a little longer about eight weeks.

MORTH and NIC have prayed for directions from this Court in view of the steps taken by them in pursuance to the order dated 16.03.2021, i.e. :

“(I) Tamil Nadu and NCT of Delhi have already progressed from having email accounts for submission of accident reports by the police to the tribunal and the insurer, to operating an online platform/website for submission of accident report under Section 159. These online platform/websites shall be suitably be modified for submission of claimants’ application for compensation under Section 166 of the Act as well insurers’ response to the accident report or the claim petition as the case may be.”

It is stated that in terms of the direction (v) on 16.11.2021, this Court had directed to take suitable steps to amend and digitize the claim application forms as per the format reproduced in the report filed by learned ASG on 21.10.2021. Form XIII of the Central Motor Vehicles Rules, 1989 is thus directed to be uploaded digitally on the platform.

**COMPROMISABLE CASES DATA TO BE COLLATED BY
GENERAL INSURANCE COUNCIL(GIC)**

In this behalf our attention has been drawn to the

compliance affidavit filed on behalf of the GIC as well as the report filed by the learned ASG, annexing a chart. It is stated that there are many aspects which need to be attended but some progress has been made qua the compromisable cases which at the threshold can easily be dealt with, numbering 28,000 in different High Courts. It is stated to be a work in progress. We have been informed that different High Courts have also responded positively through the Registrars.

It is also stated that some further information has been sought for from the High Courts and the insurance companies and we expect both the insurance companies and the High Courts to promptly supply the data not later than one month from today.

Learned ASG points out that the second chart is of compromisable cases of insurance companies in the Tribunals and number for that is stated to be little over 1,27,000. Thus he submits that taking the two figures together about one lakh and fifty five thousand cases can be dealt with. In this behalf, we are informed that there is a proposed Lok Adalat to be held on 13.08.2022 and we would expect urgent steps on behalf of insurance companies and the High Courts to see that at least these cases are dealt with as they will be moving towards the larger issue.

Thus, we direct that all these cases to be placed before the Lok Adalat on 13.08.2022 for appropriate orders and pre-discussions to be held between the organizers of the Lok Adalats, the High Courts and the insurance companies to facilitate disposal of all these cases.

ISSUE OF DUAL TDS AND LARGE REFUNDS PENDING, DEDUCTED TOWARDS TDS

Learned ASG has taken us to the note provided by the Income Tax Department. What emerges is that the tax deposited by the deductor goes into the Consolidated Fund of India (CFI) and thus there is no separate data available in that behalf. Learned ASG further submits that with spread of the PAN cards now this issue will slowly disappear but for the past this issue still remains.

Mr. N. Vijayaraghavan, learned Amicus Curiae submits that there are conflicting views of the High Courts as to the applicability of the TDS and the manner thereof to compensation received in case of motor accidents. It is his suggestion that the issue needs a closure from this Court so that a consistent legal position prevails throughout the Court.

We call upon the learned ASG to look into the matter as also the Registry of this Court so that this issue can be settled. The matters can be listed

earlier or with this matter, subject to the orders obtained from Hon'ble the Chief Justice of India.

In view of the report of learned ASG qua the issue of Artificial Intelligence we would request the Artificial Intelligence Committee to look into the aspect of sharing of information with the learned ASG to facilitate this aspect and for any further directions which may be required.

On last aspect which emerges from the report of the learned ASG is that sensitization is required by holding work shops in all States to facilitate the working of the App. In this behalf, it is suggested that directions may be issued for the senior level DGPs. to conduct such sensitized work shops for which direction is sought.

We think it appropriate that the DGP of the State to look into this aspect and ensure that there are sufficient number of work shops held across different States so that the changes which have been brought about have an effect at the ground level. This would have to be done in association with NIC and MoRTH.

As we have already mentioned and at a cost of repetition, direct that insurance companies and the GIC should urgently share the relevant datas about pendency position in different judicial forums with the learned ASG so that the said aspect can be

processed. The information to be shared within four weeks from today.

One other issue flagged by Mr. N. Vijayaraghavan, learned Amicus Curiae is that some necessary statutory changes are brought about by Chapter 11 read with corresponding Central Motor Vehicles Rules, 1989. He submits that there are some proceedings pending before this Court, in SLP(Criminal) D.No. 34774/2019 possibly under incorrect representation as a direction to issue a circular was made by the Madras High Court while actually what the Madras High Court was doing was only to implement the judgment of this Court in *M.R. Krishna Murthy Vs. New India Assurance Co. Ltd. & Ors.* dated 05.03.2019, (2020) 15 SCC 493 : 2019 SCC OnLine SC 315. His suggestion is that some quietus one way or the other should be given to that matter.

On the aforesaid issue also, the necessary orders may be obtained by the Registry for placing the matter for consideration, more so, as now there is a statutory provision and if deemed appropriate by Hon'ble the Chief Justice the matter may be listed at an early date so that further progress can be made on this aspect.

However, we may clarify that since the statutory regime has come into force on 01.04.2022 to be applied PAN India, the question of issuance of any

circular and its implementation under an earlier judgment of the Court becomes an academic exercise as there can be no impediment in enforcing the statutory regime which exists. Necessary steps must be taken thus PAN India enforcing the statutory regime forthwith.

Learned counsels for the parties who wish to join electronically for the next date would be facilitated.

List on 19.10.2022.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)