

देवेन्द्र सिंह चौहान,
आई०पी०एस०



डीजी परिपत्र सं० - 23 /2022

पुलिस महानिदेशक,
उत्तर प्रदेश।

पुलिस मुख्यालय, गोमती नगर विस्तार,

लखनऊ-226010

दिनांक: अगस्त 26, 2022

1. अपर पुलिस महानिदेशक,
यातायात, उ०प्र०।
2. पुलिस आयुक्त,
लखनऊ/वाराणसी/कानपुर नगर/गौतमबुद्ध नगर, उ०प्र०।
3. समस्त पुलिस उप महानिरीक्षक/वरिष्ठ पुलिस अधीक्षक/
पुलिस अधीक्षक/प्रभारी जनपद, उ०प्र०।

विषय: रिट पिटीशन सिविल नं०- 534/2020 Bajaj Allianz General Insurance Company Private Ltd. Vs. Union of India & Others में पारित मा० उच्चतम न्यायालय के आदेश दिनांकित 16.03.2021, 16.11.2021 तथा 28.07.2022 के अनुपालन हेतु दिशा-निर्देश।

प्रिय महोदय/महोदया,

कृपया पत्र के साथ संलग्न रिट पिटीशन सिविल नं०-534/2020 Bajaj Allianz General Insurance Company Private Ltd. Vs. Union of India & Others में पारित मा० उच्चतम न्यायालय के आदेश दिनांकित 16.03.2021, 16.11.2021 तथा 28.07.2022 की छायाप्रति का संदर्भ ग्रहण करें।

2. उपरोक्त संदर्भित रिट याचिका के माध्यम से मोटर दुर्घटना के दावों का त्वरित भुगतान तथा मोटर एक्सीडेंट क्लेम ट्रिब्यूनल के समक्ष विचाराधीन प्रकरणों के त्वरित निस्तारण का विषय मा० सर्वोच्च न्यायालय के समक्ष विचार हेतु प्रस्तुत हुआ, जिस पर सर्वसंबंधित पक्षों की ओर से प्रस्तुत किये गये तर्कों पर विचारोपरान्त दुर्घटना दावा के भुगतान की व्यवस्था सुव्यवस्थित करने हेतु मा० सर्वोच्च न्यायालय द्वारा पारित आदेश दिनांकित 16.03.2021, 16.11.2021 तथा 28.07.2022 द्वारा दिशा-निर्देश निर्गत किये गये हैं।

आदेश दिनांकित 16.03.2021 द्वारा मा० उच्च न्यायालय द्वारा सड़क दुर्घटना होने की स्थिति में निम्नवत कार्यवाही के निर्देश दिये गये हैं—

"It is now agreed as per table I of the note submitted by learned ASG that the following agreed directions can be issued:

A. Accident Information Report-

The jurisdictional police station shall report the accident under Section 158(6) of the Act (Section 159 post 2019 amendment) (hereinafter "the report") to the tribunal and insurer within first 48 hours either over email or a dedicated website.

B. Detailed Accident Report-

Police shall collect the documents relevant to the accident and for computation of compensation and shall verify the information and documents. These documents

[Signature]

shall form part of the Report. It shall email the Report to the tribunal and the insurer within three months. Similarly the claimants may also be permitted to email the application for compensation with supporting documents, under Section 166 to the tribunal and the insurer within the same time.

- C. The tribunal shall issue summons along with the Report or the application for compensation, as the case may be, to the insurer by email.
- D. The insurer shall email their offer for settlement/response to the Report or the application for claim to the tribunal along with proof of service on the claimants.
- E. After passing the award, the tribunal shall email an authenticated copy of the award to the insurer.
- F. The insurer shall satisfy the award by depositing the awarded amount into a bank account maintained by the tribunal by RTGS or NEFT. For this purpose the tribunal shall maintain a bank account and record the relevant account details along with the directions for payment to the insurer in the award itself.
- G. Each tribunal shall create an email ID peculiar to its jurisdiction for receiving the emails from the police and the insurer as mentioned above. Similarly, all insurer throughout India shall also create an email ID peculiar to the jurisdiction of each claim tribunal. These email IDs would be prominently displayed at tribunal, the police stations and the office of the insurers for the benefit of the claimants. Similarly, these email IDs shall also be prominently displayed on the website maintained by the tribunal and the insurer.
- H. Insurers shall appoint nodal officers for each tribunal and provide their contact details, phone and mobile phone numbers, and email address to Director Generals of State Police and the tribunals.

We direct that the aforesaid directions will apply across the country so that a uniform practice is followed.

3. मा० सर्वोच्च न्यायालय द्वारा दिये गये उपरोक्त निर्देश के बिन्दु -A तथा B का अनुपालन करते हुये मोटर वाहन अधिनियम की धारा-58(6) के अन्तर्गत Accident Information Report घटना के 48 घंटे के अन्दर प्रेषित की जानी है तथा दुर्घटना के सम्बन्ध में विवरण तथा प्रपत्र एकत्र करते हुये Detailed Accident Report घटना के तीन माह के अन्दर पुलिस स्तर से बीमा कंपनी तथा मोटर एक्सीडेंट क्लेम ट्रिब्यूनल को प्रेषित की जानी है।

4. कालांतर दिनांक 16.11.2021 को पारित आदेश द्वारा मा० सर्वोच्च न्यायालय ने अपने पूर्व आदेश दिनांकित 16.03.2021 के अनुपालन की प्रगति आख्या (स्टेटस रिपोर्ट) प्रस्तुत करने हेतु समस्त राज्यों के पुलिस महानिदेशकों को Nodal Officers नियुक्त करने हेतु निम्नवत निर्देशित किया गया—

In view of the recalcitrant attitude of the States, we direct the Registrars General of the High Courts of these States to ensure implementation and submit a compliance report to Mr. Jayant K. Sud, learned Additional Solicitor General, who would thereafter inform us. It would also be appropriate that the Registrars General would call upon the DGPs. of each State to appoint a nodal officer for submitting the status reports as and when called upon to do so.

Suman

5. दिनांक 28.7.2022 को प्रश्रगत रिट याचिका में मा0 उच्च न्यायालय द्वारा सुनवाई के उपरान्त समस्त राज्यों के पुलिस महानिदेशकों को प्रस्तुत प्रकरण में प्रशिक्षण प्रदान करने हेतु सम्पूर्ण प्रदेश के पुलिस कार्मिकों हेतु NIC तथा MoRTH के सहयोग से कार्यशाला आयोजित करने हेतु निम्नवत निर्देशित किया गया है:—

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.

6. मा0 सर्वोच्च न्यायालय विभिन्न तिथियों में पारित उपरोक्त निर्देशों के अनुपालन हेतु अपर पुलिस महानिदेशक, यातायात को नोडल अधिकारी नियुक्त किया जाता है। नोडल अधिकारी, मा0 सर्वोच्च न्यायालय द्वारा निर्गत निर्देशों का अनुपालन सुनिश्चित करायेंगे, अनुपालन की स्थिति का अनुश्रवण सुनिश्चित करेंगे तथा मा0 उच्च न्यायालय के निर्देशानुसार स्टेटस रिपोर्ट प्रस्तुत करेंगे।

7. कमिश्नरेट एवं जनपद स्तर पर मा0 सर्वोच्च न्यायालय द्वारा दिये गये निर्देशों के अनुपालन में ससमय Accident Information Report तथा Detailed Accident Report बीमा कंपनी तथा Motor Insurance Claim Tribunal भेजना सुनिश्चित कराने का दायित्व पुलिस आयुक्त तथा जनपदीय वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक का होगा।

8. मा0 सर्वोच्च न्यायालय द्वारा दिये गये निर्देशों की जानकारी फील्ड के अधिकारियों को देने हेतु कमिश्नरेट तथा जनपद स्तर पर वर्कशाप एवं प्रशिक्षण कार्यक्रमों का आयोजन NIC तथा MoRTH के सहयोग से कराया जायेगा।

मै चाहूँगा कि मा0 उच्च न्यायालय के उपरोक्त संदर्भित निर्णयों का आप सभी भलीभाँति अध्ययन कर निर्गत निर्देशों का अनुपालन सुनिश्चित करायें। यदि किसी अधिकारी अथवा कर्मचारी द्वारा उपरोक्त निर्देशों के अनुपालन में शिथिलता बरती जाये तो उसके विरुद्ध नियमानुसार कार्यवाही संस्थित की जाए।

भवदीय,

Devenra

(देवेन्द्र सिंह चौहान)

26/8/22

प्रतिलिपि: निम्नलिखित को कृपया सूचनार्थ प्रेषित।

1. समस्त पुलिस महानिदेशक, उ0प्र0।
2. समस्त अपर पुलिस महानिदेशक, उ0प्र0।
3. समस्त जोनल अपर पुलिस महानिदेशक, उ0प्र0।
4. समस्त पुलिस महानिरीक्षक/उपमहानिरीक्षक, उ0प्र0।

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
R E C O R D O F P R O C E E D I N G S

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 Udapa, 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. Arnav 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)

ITEM NO.10

COURT NO.6

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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

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

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

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

Date : 16-11-2021 The matter was called on for hearing today.

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
Mr. Amit Kumar Agrawal, Adv.
Ms. Mamta Meghwal, Adv.

For Respondent(s) Mr. Jayant K. Sud, Ld. ASG
Ms. Garima Prashad, Sr. Adv.
Mr. M.K. Maroria, Adv.
Mr. Navanjay Mahapatra, Adv.
Mr. Bhuvan Mishra, Adv.
Mr. Sughosh Subramaniam, Adv.
Mr. Manish, Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Amrish Kumar, AOR

Sikkim

Mr. Vivek Kohli, Adv.Gen.
Mr. Sameer Abhyankar, AOR
Ms. Yeshi Rinchhen, Adv.
Mr. Abhinav Mishra, Adv.
Ms. Nishi Sangatani, Adv.

Chhattisgarh

Mr. Sourav Roy, Dy. Adv. Gen.
Mr. Mahesh Kumar, Adv.
Mr. Vishal Sharma, Adv.
Mr. Prabudh Singh, Adv.
Ms. Devika Khanna, Adv.
Mrs. V.D. Khanna, Adv.
M/s VMZ Chambers

Signature Not Verified
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Charaneet Singh
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17:06:09 IST
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Andhra Pradesh

Mr. Mahfooz Ahsan Nazki, AOR

Mr. Polanki Gowtham, Adv.
 Mr. Shaik Mohamad Haneef, Adv.
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 Mr. K.V. Girish Chowdary, Adv.

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Goa

Mr. Ravindra Lokhande, Adv.
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 Dr. Abhishek Atrey, AOR
 Ms. Ambika Atrey, Adv.

Ms. Deepanwita Priyanka, AOR

Haryana

Dr. Monika Gusain, AOR

Mr. Raj Kamal, AOR

Karnataka

Mr. V. N. Raghupathy, AOR
 Mr. Md. Apzal Ansari, Adv.

Kerala

Mr. G. Prakash, AOR
 Mr. Priyanka Prakash, Adv.
 Ms. Beena Prakash, Adv.
 Mr. Manan Sanghai, Adv.

Mr. Mukul Singh, Dy. Adv. Gen.
 Mr. Pashupathi Nath Razdan, AOR
 Mr. Yashraj Singh Bundela, Adv.
 Ms. Sneha Bairwa, Adv.

Maharashtra

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

Manipur

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

Meghalaya

Mr. Avijit Mani Tripathi, AOR
 Mr. Kynpham V. Kharlyngdoh, Adv.
 Mr. T.K. Nayak, Adv.
 Mr. Upendra Mishra, Adv.

Mizoram

Mr. Siddhesh Kotwal, Adv.
 Mr. Ana Upadhyay, Adv.
 Ms. Manya Hasija, Adv.
 Ms. Pragya Barsaiyan, Adv.
 Mr. Akash Singh, Adv.
 Mr. Nirnimesh Dube, AOR

Nagaland	Ms. K. Enatoli Sema, AOR Ms. Chubalemla Chang, Adv. Mr. Som Raj Choudhury, AOR
Rajasthan	Mr. Vishal Meghwal, Adv. Mr. Vishal Meghwal, Adv. Mr. Milind Kumar, AOR Mr. M. Yogesh Kanna, AOR
Telangana	Mr. S. Udaya Kumar Sagar, AOR Mr. Sweena Nair, Adv. Mr. P. Mohith Rao, Adv.
Tripura	Mr. Shuvodeep Roy, AOR Mr. Kabir Shankar Bose, Adv. Mr. Ishaan Borthakur, Adv.
Assam	Mr. Shuvodeep Roy, AOR Mr. Ishaan Borthakur, Adv.
Uttar Pradesh	Mr. Pradeep Misra, AOR Mr. Suraj Singh, Adv. Mr. Yashasvi Virendra, Adv. Mr. Bhuwan Chandra, Adv. Mr. Manoj Kumar Sharma, Adv.
Andaman & Nicobar Admn.	Ms. G. Indira, AOR
GNCTD	Mr. Chirag M. Shroff, AOR
Puducherry	Mr. Aravindh S., AOR
GIC	Ms. Archana Pathak Dave, AOR Mr. Avnish Dave, Adv. Mr. Parmod Kumar Vishnoi, Adv. Ms. Vanya Gupta, Adv.
West Bengal	Mr. Soumitra G. Chaudhuri, Adv. Mr. Chanchal K Ganguli, AOR
Tamil Nadu	Dr. Joseph Aristotle, AOR Ms. Preeti Singh, Adv. Ms. Ripul Swati Kumari, Adv. Mr. Sanjeev Kumar Mahara, Adv.

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

We have perused the report dated 21.10.2021 submitted by Mr. Jayant K. Sud, learned Additional Solicitor General in compliance of our order dated 03.08.2021 and he has made certain suggestions. He has also sought directions from this Court. We consider it appropriate to issue the following directions:

i) A format for payment advised for remittance of compensation has been devised and followed in the Madras High Court and the Rajasthan High Court and the same is extracted from the judgment of the Madras High Court in *Divisional Manager vs. Rajesh*, 2016 SCC Online Mad. 1913, dated 11.03.2021. We thus direct that the same format will be followed across the country;

ii) A linked issue pointed out by Mr. N. Vijayaraghavan, learned Amicus Curiae is that the amounts deposited in the Tribunals are being credited in savings account with the result that there is accrued interest which keeps lying unattended. The suggestion is that the amount should be credited to a current account. We, however, do not agree with this solution but are of the view that the amounts should continue to be

credited with the savings account to earn interest but we deem it appropriate to issue a general direction that wherever orders are passed for disbursement of compensation to the beneficiaries, any such interest would enure to the benefit of the beneficiaries and would follow the principal amount;

iii) In order to put the liability of the insurance company to an end, on deposit of the amount, the insurance company/depositor will communicate the factum of the deposit forthwith/expeditiously to the concerned Motor Vehicle Accident Claims Tribunal with a copy to the beneficiary;

(iv) As far as the aspect of the issuance of certificate on disability of victims is concerned, it is reiterated that the guidelines laid down by this Court in *Raj Kumar v. Ajay Kumar and Anr.*, (2011) 1 SCC 343 mandatorily must be followed by the MACTs, in respect of loss of income due to injury/disablement. The District Medical Board is also directed to follow the guidelines issued by the Ministry of Social Justice and Empowerment, Government of India vide Gazette Notification S. No. 61, dated 05.01.2018, for issuance of disability Certificate in order to bring Pan India uniformity. The consequence is that the MACT would ascertain that permanent disability certificate issued by the

District Medical Board or body authorized by it is in accordance with the Gazette Notification alone. Once the certificate is issued in this manner, the same can be marked for purposes of being taken into consideration as evidence without the necessity of summoning the concerned witness to give formal proof of the documents unless there is some reason for suspicion on the document;

(v) The aspect of disparity in the Tax Deduction at Source (TDS) certificate in Motor Accident Claims, wherein from 10% to 20% dependent on whether the claimants have a Pan Card or not can be redressed by a direction that the Legal Services Authority or any Agency/Mediation Group should assist the claimant for obtaining a Pan Card, where the claimant does not have one, in order to avoid 20% deduction of tax at source. The format of the applications for compensation and motor accidents claims is being modified by inserting the relevant column just after the requirement to set out whether the claimant is income tax assessee or not and whether the claimant has a Pan Card or not and in case has a Pan Card to provide the Pan No. and in case the application is so pending, to provide the application/Reference No. The formats of the applications across the country be suitably amended to facilitate this process.

Learned Additional Solicitor General appears to have addressed a communication in the larger context to the Finance Minister and we would expect the Finance Ministry to bestow urgent consideration on the same;

vi) On the issue of the direction passed on 16.03.2021 for circulation of those directions to the local Police stations, MACT Courts to improve the efficiency, learned Additional Solicitor General submits that on verification, it is found that only 13 States have complied with the same. There are 22 non-complying States and Union Territories in this behalf which are as under :

S. NO.	NATEM OF STATE
1.	State of Chhattisgarh
2.	State of Gujarat
3.	State of Maharashtra
4.	State of Meghalaya
5.	State of Tamil Nadu
6.	State of Telangana
7.	U.T. of Delhi
8.	State of Puducherry
9.	State of Uttar Pradesh
10.	State of Kerala
11.	State of Karnataka
12.	State of Andhra Pradesh
13.	State of Himachal Pradesh
14.	State of Bihar
15.	State of Jharkhand
16.	State of Madhya Pradesh
17.	State of Sikkim
18.	State of Uttarakhand

19.	U.T. of Daman and Diu and Dadra and Nagar Haveli
20.	U.T. of Jammu and Kashmir
21.	U.T. of Ladakh
22.	U.T. of Lakshadweep

In view of the recalcitrant attitude of the States, we direct the Registrars General of the High Courts of these States to ensure implementation and submit a compliance report to Mr. Jayant K. Sud, learned Additional Solicitor General, who would thereafter inform us. It would also be appropriate that the Registrars General would call upon the DGPs. of each State to appoint a nodal officer for submitting the status reports as and when called upon to do so.

The Registrars General would also interact with the Judicial Academy for conducting training and awareness sessions periodically not only for the Presiding Officers of the MACTs. but also Police Officers, nodal persons of insurer, Presiding Officers of Lok Adalat/ Online Mediation Group etc. to enhance the awareness in implementation of the directions;

(vii) On 03.08.2021, we were assured that all 26 insurance companies were on board to develop a common mobile App. Learned counsel had entered appearance for GIC and it appears that on enquiry by the learned

Additional Solicitor General, a response was received from the Secretary General of the GIC on 20.09.2021 now stating that the GIC was willing to develop a mobile App. if certain specific directions were given by this Court.

We do not appreciate this approach of the GIC and the insurance companies. The directions dated 16.03.2021 and 03.08.2021 are comprehensive enough. The insurance company cannot wriggle out of the earlier directions. Either they are able to develop it or we would call upon Government to develop an App. which would have to be imposed on the insurance companies. We thus direct the needful to be done within a period of 2 months from today and do not accede to the request of the learned counsel for giving some enlarged time for the said purpose, more so, on account of not having put forth the correct position before this Court;

(viii) In respect of direction (VI) passed earlier for the learned Additional Solicitor General to look into the feasibility of withdrawing exemptions given to the vehicles of the State Corporation(s) for insurance, or in the alternative to create a mechanism to ensure that a sufficient fund pool was available with these corporations for meeting their liabilities towards the claimants, learned Additional

Solicitor General submits that on examination, it has been found that it was not feasible to withdraw the exemptions. If that be the position, then the alternative must come into force to create a mechanism to ensure that a sufficient fund pool is available with these Corporations;

In respect of the aforesaid Mr. N. Vijayaraghavan, Amicus Curiae has drawn our attention to Section 146 of the Motor Vehicles Act, 1988, which reads as under :

"146. Necessity for insurance against third party risks.-(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force, in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter:

Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991).

Explanation- For the purposes of this sub-section, a person driving a motor vehicle merely as a paid employee, while there is in relation to the use of the vehicle no such policy in force as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) The provisions of sub-section(1) shall not apply to any vehicle owned by

the Central Government or a State Government and used for purposes not connected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section(1), any vehicle owned by any of the following authorities, namely:-

(a) the Central Government or a State Government, if the vehicle is used for purposes connected with any commercial enterprise;

(b) any local authority;

(c) any State Transport Undertaking:

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in such manner as may be prescribed by appropriate Government.

Explanation- For the purposes of this sub-section, "appropriate Government" means the Central Government or a State Government, as the case may be, and-

(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(iii) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that undertaking or authority."

A reading of the aforesaid provision makes it clear that any exemption from operation of sub-

Section (1) under sub-Section (3) of vehicles owned by any of the authorities specified therein is coupled with the proviso that no such order would be made in relation to any such authority unless a fund has been established and maintained by that authority in such a manner as may be prescribed by the appropriate Government.

The aforesaid being the position, we grant 3 months' time to the appropriate Government to create the funds to cover the requirement of disbursement of compensation and initially the fund should consist of at least as much is the liability which has arisen on account of determination for the last 3 financial years. In case, this is not so done, in view of the provision as it stands, we direct that the exemption benefit shall not be made available and the authorities will not be able to claim such exemption.

This direction becomes necessary as sub-Section (1) of Section 146 begins with the clause that no person shall be entitled to use the vehicle in the absence of the same and thus non-compliance would amount to putting the vehicle on stand, and

(ix) In respect of direction (VII) for settlement of motor accident claims through online Mediation, it has been proposed by learned Additional Solicitor General that consideration of this direction may be

deferred for the time being as the Central Mediation Act is in public domain which includes the process of online mediation and objections/suggestions are invited for the same. In fact, the illustration available from the State of Maharashtra itself shows that Motor Vehicles Act cases constitute 35% of the break up of pending cases in a representative civil cases in that State and that National Judicial Data Grid reveals that 25% of the motor accident claims are pending for 3 years or above before MACT. There is also further appeal to the High Court. The ADR methodology has been found to be extremely effective in these cases. Some suggested directions have been set out but since deferment is sought in this behalf we will consider the same on the next date.

We categorically hold that all directions passed today must be duly and properly implemented and post implementation, the learned Additional Solicitor General be informed.

List for further directions on 27.01.2022.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

ITEM NO.10

Court 9 (Video Conferencing)

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY
PRIVATE LTD.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 132263/2020 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 16-03-2021 The matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE R. SUBHASH REDDY

Mr. Narasimhan Vijayaraghavan, AC
Mr. Vipin Nair, AOR

For Petitioner(s)

Ms. Meenakshi Arora, Sr. Adv.
Mr. Siddharth, AOR
Mr. Amit Kumar Agrawal, Adv.
Ms. Mamta Meghwal, Adv.

For Respondent(s)

Mr. J.K. Sud, Ld. ASG
Ms. Garima Prashad, Adv.
Mr. Bhuvan Mishra, Adv.
Mr. Navanjay Mahapatra, Adv.
Ms. Sanya Sud, Adv.
Mr. Randeep Sachdeva, Adv.
Mr. Harish Nadda, Adv.
Mr. Raj Bahadur Yadav, Adv.
Mr. G.S. Makker, Adv.
Mr. B.V. Balram Das, Adv.

Arunachal Pradesh

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

Chhattisgarh

Mr. Sourav Roy, Adv./Dy. Adv. Gen.
Mr. Mahesh Kumar, Adv.
Mr. Suushant Yadav, Adv.
Mr. Prabudh Singh, Adv.
Mr. Leela Dhar Prajapat, Adv.
Ms. Devika Khanna, Adv.
Mrs. V.D. Khanna, Adv.
M/s VMZ Chambers, AOR

Gujarat	Mr. Satyalipsu Ray, Adv. Ms. Deepanwita Priyanka, Adv. Mr. Aniruddha P. Mayee, AOR Mr. Raj Kamal, AOR
Maharashtra	Mr. Rahul Chitnis, Adv. Mr. Sachin Patil, AOR Mr. Aaditya A. Pande, Adv. Mr. Geo Joseph, Adv.
Manipur	Mr. Pukhrambam Ramesh Kumar, AOR Ms. Anupama Ng., Adv. Mr. Karun Sharma, Adv.
Meghalaya	Mr. Avijit Mani Tripathi, AOR Ms. T.K. Nayak, Adv.
Mizoram	Mr. Siddhesh Kotwal, Adv. Ms. Bansuri Swaraj, Adv. Mr. Divyansh Tiwari, Adv. Ms. Ana Upadhyay, Adv. MR. Nirnimesh Dube, AOR Mr. Som Raj Choudhury, AOR
Tamil Nadu	Mr. Jayanth Muth Raj, Sr. Adv. AAG Mr. Yogesh Kanna, AOR Mr. RajaRajeshwaran S., Adv. Mr. Aditya Chadha, Adv. Mr. Uma Prasuna Bachu, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, AOR Ms. Sweena Nair, Adv.
GNCTD	Mr. Chirag M. Shroff, AOR Ms. Abhilasha Bharti, Adv. Mr. Sushant Dogra, Adv.
Puducherry	Mr. V.G. Pragasaam, AOR Mr. S. Prabhu Ramasubramanian, Adv.
Nagaland	Ms. K Enatoli Sema, Adv. Mr. Amit Kumar Singh, Adv. Mr. Apratim Aniesh Thakur, Adv. Ms. Prachi Hasija, Adv.

Uttar Pradesh	Mr. Pradeep Misra, Adv. Mr. Suraj Singh, Adv.
UT/Andaman & Nicobar Islands	Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, AOR
Kerala	Mr. Jishnu M.L., Adv. Ms. Priyanka Prakash, Adv. Ms. Beena Prakash, Adv. Mr. G. Prakash, AOR
Goa	Mr. Ravindra A. Lokhande, Adv. Dr. Abhishek Atrey, AOR Ms. Ambika Atrey, Adv.
Tripura	Mr. Shuvodeep Roy, Adv. Mr. Kabir Shankar Bose, Adv.
GNCTD	Mr. Chirag M Shroff, Adv. Ms. Abhilasha Bharti, Adv. Mr. Sushant Dogra, Adv.
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Rajasthan	Mr. Vishal Meghwal, Adv. Mr. Milind Kumar, AOR
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Arunachal Pradesh	Mr. Abhimanyu Tewari, AOR Ms. Eliza Bar, Adv.
Karnataka	Mr. V.N. Raghupathy, AOR Mr. Md. Apzal Ansari, Adv.

HP

Mr. Manish Kumar, Adv.
Mr. Satish Kumar, AOR

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

We must notice at the inception that considerable work has occurred on account of the *inter se* discussion between the stakeholders, coordinated by Mr. Jayant K. Sud, learned ASG. we do appreciate the positive attitude of all the stakeholders to streamline the process.

It is now agreed as per table I of the note submitted by learned ASG that the following agreed directions can be issued:

A. Accident Information Report-

The jurisdictional police station shall report the accident under Section 158(6) of the Act (Section 159 post 2019 amendment) (hereinafter "the report") to the tribunal and insurer within first 48 hours either over email or a dedicated website.

B. Detailed Accident Report-

Police shall collect the documents relevant to the accident and for computation of compensation and shall verify the information and documents. These documents shall form part of the Report. It shall email the Report to the tribunal and the insurer within three months. Similarly the claimants may also be permitted to email the application for compensation with supporting documents, under Section 166 to the tribunal and the insurer within the same time.

C. The tribunal shall issue summons

along with the Report or the application for compensation, as the case may be, to the insurer by email.

D. The insurer shall email their offer for settlement/response to the Report or the application for claim to the tribunal along with proof of service on the claimants.

E. After passing the award, the tribunal shall email an authenticated copy of the award to the insurer.

F. The insurer shall satisfy the award by depositing the awarded amount into a bank account maintained by the tribunal by RTGS or NEFT. For this purpose the tribunal shall maintain a bank account and record the relevant account details along with the directions for payment to the insurer in the award itself.

G. Each tribunal shall create an email ID peculiar to its jurisdiction for receiving the emails from the police and the insurer as mentioned above. Similarly, all insurer throughout India shall also create an email ID peculiar to the jurisdiction of each claim tribunal. These email IDs would be prominently displayed at tribunal, the police stations and the office of the insurers for the benefit of the claimants. Similarly, these email IDs shall also be prominently displayed on the website maintained by the tribunal and the insurer.

H. Insurers shall appoint nodal officers for each tribunal and provide their contact details, phone and mobile phone numbers, and email address to Director Generals of State Police and the tribunals.

We direct that the aforesaid directions will apply across the country so that a uniform practice is followed.

There are two other aspects which have been

noted as under:

(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.

(J) Each State having an independent online platform for submission of accident reports, claims and responses to claims, will hamper efficient adjudication of claims, especially where the victim of the accident is not a resident of State where accident has occurred. Therefore, Central Government shall develop an online platform accessible to the tribunals, police authorities and insurers throughout India.

In respect of the aforesaid matters, learned ASG states that some more time may be required to work out the time period within which they can be implemented and the necessary infrastructure for the same created for which some more discussions are required.

We are of the view that both (I) and (J) also liable to be implemented across the country but in pursuance to the discussions brought before us, we will specify the time period within which (I) and (J) have to be implemented.

List for further directions on 4th May, 2021.

Learned senior counsel for the petitioners Ms. Meenakshi Arora submits that inadvertently while handing

over the presences on 24.02.2021, the name of Mr. Jagdish Solanki was included, who is Manager (Legal) and not an Advocate. She submits that since Mr. Solanki has surrendered his Sanad, this mistake may cause some problem for him. She assures us that in future while giving presences due care will be taken. The presence in the order dated 24.02.2021 stands modified to the extent that the name of Mr. Jagdish Solanki stands deleted from that order.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)