

ITEM NO.49

COURT NO.13

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. 121017/2022 - APPLICATION FOR EXEMPTION FROM PAYMENT OF COSTS, IA No. 52588/2020 - EX-PARTE AD-INTERIM RELIEF, IA No. 140335/2022 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 121023/2022 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 152377/2022 - EXEMPTION FROM FILING O.T., IA No. 121014/2022 - INTERVENTION/IMPLEADMENT, IA No. 140333/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(Crl) No. 9264/2019 (II-C)
(FOR ADMISSION and I.R.)

MA 194-195/2020 in C.A. No. 2476-2477/2019 (XIV-A)
(FOR ADMISSION and IA No.182922/2019-INTERVENTION/IMPLEADMENT and IA No.182946/2019-INTERVENTION/IMPLEADMENT and IA No.182950/2019-RECALLING THE COURTS ORDER and IA No.176990/2019-RECALLING THE COURTS ORDER and IA No.176988/2019-APPLICATION FOR PERMISSION and IA No.182943/2019-APPLICATION FOR PERMISSION)

Date : 16-07-2024 These matters were called on for hearing today.

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HON'BLE MR. JUSTICE ARAVIND KUMAR

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

SLP(Crl) No. 9264/2019 & MA 194-195/2020 in C.A. No. 2476-2477/2019:

1. Applications for impleadment are allowed.
2. The grievance of the petitioner and applicant is that Rule 150A of the Central Motor Vehicles (Amendment) Rules, 2022 (for short, 'the Rules') along with its Annexure XIII might come in the way of the Court exercising its power under Sections 168, 169 and 176 of the Motor Vehicles Act, 1988 (for short, 'the Act').
3. Mr. S Prabakaran, Senior Counsel appearing for the petitioner submitted that Rule 36 is unwarranted as it will not facilitate a claimant to receive the money which he is entitled to, in a lumpsum, particularly in a case where the dispute is resolved through mediation.
4. As rightly submitted by Mr. N. Vijayaraghavan, learned Amicus, that Rule 150A merely deals with the procedure for the investigation of a road accident. Thus, it has no connection with the parent statutes, namely, Sections 166, 168, 169 and 176 of the Act. The said Rule has got a laudable objective, and has to be read along with Section 159 of the Act by which the information given regarding an accident would be treated as a complaint. It also addresses the question of limitation that might arise after the period of limitation has lapsed.

5. We may also note that the aforesaid position of the compliance of Rule 150A read with Section 159 of the Act being incidental and ancillary in a claim petition has been made amply clear by sub-Section 4 of Section 166 of Act.
6. Rule 21 is extracted as under:

"21. Claims Tribunal shall treat DAR as a claim petition for compensation under sub-section (4) of section 166 of the Motor Vehicles Act, 1988

(1) The Claims Tribunal shall treat the DAR filed by the Investigating Officer as a claim petition under sub-section (4) of section 166 of the Motor Vehicles Act, 1988. However, where the Investigating Officer is unable to produce the claimant(s) on the first date of hearing, the Claims Tribunal shall register the DAR as a claim petition after the appearance of the claimant(s).

(2) Where the claimant(s) have filed a separate claim petition, the DAR may be tagged along with the claim petition.

(3) If the Report under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974) has not been filed at the time of filing of the DAR, the Claims Tribunal may either wait till filing of the Report under Section 173 of the said Code of Criminal Procedure or record the statement of the eye witness(es) to satisfy itself with respect to the negligence before passing the award.

(4) The Claims Tribunal shall register the FAR as a Miscellaneous application and the IAR as well as DAR shall be taken on record in the same Miscellaneous application."

7. Rule 21 states that the DAR report has to be treated as a claim petition within the purview of Section 166(4) of the Act. Therefore, the provisions quoted above are certainly pieces of welfare legislation meant for the benefit of the litigant. Upon material being placed before the Court, a lawyer representing the claimant would be in a better position to seek adequate compensation as the litigant would also get a copy of the DAR Report. Thus, we do not find anything contrary to Act that has been stated under Rule 150A.
8. The other apprehension expressed by Mr. N Prabakaran, is that Rule 36 completely debars the claimant from receiving a payment in lumpsum, awarded to a needy claimant. Rule 35 gives ample discretion to the Tribunal to adopt an appropriate mechanism for the release of the award amount to the claimant. Rule 36 has to be read with Rule 35 for the purpose of the Tribunal exercising its discretion.
9. To clarify the aforesaid position, it is for the Tribunal in a given case to make a decision as to whether the entire amount has to be released or if it is to be released in part. Suffice it is to state that the Tribunal is expected to give its own reasoning while undertaking such an exercise.
10. With the aforesaid clarification, the Special Leave Petition and the Miscellaneous Application stand disposed of.
11. Pending application(s), if any, shall stand disposed of.

W.P.(C) No. 534/2020:

Learned counsel appearing for the respective respondents and the States are directed to give their response to paragraph 6 of the suggestions made by the Union of India in their report filed today. The said suggestions will have to be sent to learned Amicus Curiae within a period of four weeks from today.

List the matter on 03.09.2024. at 2.00 PM.

(SWETA BALODI)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)