

**CHIEF JUSTICE'S COURT**  
HON'BLE THE CHIEF JUSTICE DY CHANDRACHUD  
HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE PANKAJ MITHAL  
HON'BLE MR. JUSTICE MANOJ MISRA

**COURT NO.1 SECTION PIL-W  
SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS**

**Civil Appeal No.841/2018**

**BAJAJ ALLIANCE GENERAL INSURANCE CO. LTD. Petitioner(s)**

**VERSUS**

**RAMBHA DEVI & ORS. Respondent(s)**

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TRANSCRIPT OF HEARING

22-November-2023  
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10:45 AM IST

1 **ATTORNEY GENERAL R. VENKATARAMANI:** There's a note...

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3 **CHIEF JUSTICE DY CHANDRACHUD:** Yes, let's have a quick... a note has been uploaded  
4 for us on the screen.

5

6 **ATTORNEY GENERAL R. VENKATARAMANI:** After a series of discussions with the  
7 government on the many provisions of the Act which may require a relook and we have also  
8 appended it in this note.

9

10 **CHIEF JUSTICE DY CHANDRACHUD:** Let's have a quick glance at the note so that then  
11 we can...

12

13 **ATTORNEY GENERAL R. VENKATARAMANI:** As Your Lordship pleases. So, the first  
14 part of the note is about Your Lordship's order. I think it's... you can look into that. Paragraph  
15 11 is set out there. We are inclined to take this view for the following reason. Enactment of so  
16 and so has been rapid evolution of transport sector, particularly in the last few years with the  
17 emergence of new infrastructure. New arrangements are putting into place, private transport  
18 arrangements. Interpretation must now duty take into account valid concerns of road safety  
19 bearing in the safety uses. And any change in position of law, expressed in ***Mukund***, would  
20 undoubtedly have an impact on persons who obtained insurance relying on the law declared  
21 by this Court and obey driving commercial vehicles with LMV licenses. A large number of  
22 persons who depend on this sector for earning their livelihood.

23

24 The position in ***Mukund*** has held the field for nearly six years, and the impact of the reverse  
25 resolution at this stage, particularly in the social sector, is a facet, which would have to be  
26 placed in balance with the policy of the government. Having regard to this feature, the review  
27 that the issue of interpretation referred to the Constitution Bench with the referral order dated  
28 so and so, should await a careful evaluation of the policy consideration, which may weigh with  
29 the government in deciding us whether the reversal decisions if obtained in so and so is  
30 warranted. And so, the way forward adopted bearing in mind the diverging interests, some of  
31 which we noted in earlier part of the Order. Hence in view of the consequences which may  
32 arise by reversal, it would be appropriate the entire matter is revaluated with the Government  
33 before this Court embarks upon interpretive exercise. Once the Court is apprised with the  
34 considered view, then the Government, the proceeding before the Constitution Bench can be  
35 taken up. This Ministry has come in the exercise, the Amendment of Motor Vehicles Act by  
36 Section 2(21) and Section 10 of the said Act are among the provisions sought to be evaluated.

1 This Ministry has identified many provisions from the MV Act, which may require evaluation,  
2 including the said particular section. The entire process of amendment to the Motor Vehicles  
3 Act entails continuous consultation with the stakeholders, especially the States, considering  
4 the fact the motor vehicles are vehicles mentioned under List 2 and List 3 of Constitution of  
5 India in the VII schedule. List 2 states in so and so, serial number 57. Then List 3 states in  
6 serial numbers so and so, etc. The views of the stakeholders are necessary for them to be  
7 incorporated in the tart language of the proposed amendment. To embark upon the process of  
8 amendment, the Ministry will be examining the possible repercussions of the amendment of  
9 certain provisions in the other provisions for the Motor Vehicles Act and rules framed  
10 thereunder, to the state's exchequer and to the general public. Ministry has conducted a  
11 number of internal discussions, deliberated over the issues involved in the present matter, in  
12 due deference and in furtherance of the orders dated so and so. Discussions entailed,  
13 examination of the issues and the potential solution thereof with the office of various divisions,  
14 sections of this Ministry. On 20/10, Ministry conducted a round of consultations with the  
15 stakeholders in the identified provisions, including the Department of Financial Services,  
16 General Insurance Council and Insurance Regulatory Development Authority. [UNCLEAR]  
17 Ministry held another round of consultations with the stakeholders to identify provisions  
18 containing some matters specified to the States and Union Territories. In the process of  
19 seeking written inputs and comments from the stakeholders such as States and Union  
20 Territories and all the identified provisions, including Section 2(21) and Section 10. In order  
21 to thoroughly examine and evaluate the considerations that are mentioned by the Hon'ble  
22 Supreme Court in paragraph number so and so, it is required to continue having the  
23 consultations with stakeholders and executing authorities. Said consultation is necessary for  
24 the Ministry to thoroughly comprehend and evaluate. The issues entailed therein are the  
25 implementation so and so comes under the purview of State Transport Department, concerned  
26 state etc., etc. Then, it will be pertinent to know that for the purpose of Amendment, Section  
27 2(21) Ministry ought to *inter alia* examine, deliberate the following consideration, in addition  
28 to the ones mentioned in paragraph number 1. Namely, *inter alia* Section 7, 8, 9 ,10, 183 of  
29 The Motor Vehicles Act ought to be examined for the possible repercussion of an Amendment  
30 to Section 2(21). *Inter alia* Form 2, under Rules so and so, so and so, Form 8, under so and so,  
31 et cetera may require an appropriate amendment to align with the amended Section 2(21) and  
32 10. The potential impact of the amendments to road safety which *inter alia* entails, examines  
33 the qualification of the drivers, effect on road accidents, re-evaluation of the safety standards  
34 of a light motor vehicle, re-evaluation of training material for transport vehicles, etc. The above  
35 considerations ought to be deliberated upon by the state and other stakeholders. Exhaustive  
36 consultations with the state, the Ministry shall be in a position to appraise the Honourable  
37 Court with respect to the subject matter in the present petition. Therefore, I want to request

1 to adjourn the present proceedings *sine die*. In fact, I had a series of discussions with the  
2 government and... Rule... Section 2(21) and 10 has come up for very internal, intensified  
3 discussion. Therefore, the government thought that instead of going in a piecemeal  
4 amendment, let us take a larger view of the picture. That's where the matter stands. In fact, I  
5 will impress upon the Ministry to conclude all this before the next budget session, sometime  
6 in February. But we have something on hand, and the matter goes...

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8 **CHIEF JUSTICE DY CHANDRACHUD:** Subject to hearing, of course, of the Learned  
9 Counsel.

10

11 **ATTORNEY GENERAL R. VENKATARAMANI:** Yeah, yeah.

12

13 **CHIEF JUSTICE DY CHANDRACHUD:** And we are not concluded. If necessary, we'll  
14 hear you. But if you all agree, we can pass this. We'll take on record your (ii) in our order. We'll  
15 just say that this is the exercise which the Government of India is carrying out in pursuance of  
16 our order. We're not inclined to adjourn the proceedings *sine die*.

17

18 **ATTORNEY GENERAL R. VENKATARAMANI:** Your Lordships, it may not be *sine die*.

19

20 **CHIEF JUSTICE DY CHANDRACHUD:** It may not be fair to the insurance companies  
21 also, because they want some resolution at some point of time.

22

23 **ATTORNEY GENERAL R. VENKATARAMANI:** I agree.

24

25 **CHIEF JUSTICE DY CHANDRACHUD:** So we can't tell them that look... and because we  
26 are insisting and that's the position of law, that until the Constitution Bench decides the issue,  
27 ***Mukund Dewangan*** continues to hold the field. Therefore, all Tribunals implied their  
28 liability to pay, is governed by ***Mukund Dewangan***. So, they must also have some clarity.  
29 So what we'll do is on the 17th of January, we have listed the Arbitration Act Constitution  
30 Bench hearing, a similar thing, they were amending the Act, etc. So we'll keep it on the 17 of  
31 January.

32

33 **ATTORNEY GENERAL R. VENKATARAMANI:** Fair enough.

34

35 **CHIEF JUSTICE DY CHANDRACHUD:** We will expect that now, the Ministry must  
36 follow, whatever it is doing, with all expedition.

37

1 **ATTORNEY GENERAL R. VENKATARAMANI:** The only concern is about consultation  
2 with the state governments. How... how...

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4 **CHIEF JUSTICE DY CHANDRACHUD:** How long will it take?

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6 **ATTORNEY GENERAL R. VENKATARAMANI:** How expeditious they can...

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8 **CHIEF JUSTICE DY CHANDRACHUD:** Two weeks. You have to tell the state  
9 governments, you know, come back in two weeks. Because you know, if we keep this you know,  
10 *sine die*, then March, then April, then it goes to next year, you know, I mean, we... the

11

12 **JAYANT BHUSHAN:** Your Lordship has heard it substantially, all that time will go to waste.

13

14 **CHIEF JUSTICE DY CHANDRACHUD:** Exactly, you know. The longer the time that  
15 elapses, we will be ourselves a little hazier with... you know...

16

17 **NEERAJ KISHAN KAUL:** Your Lordships, you're now giving two months for all these  
18 states consultations or more?

19

20 **CHIEF JUSTICE DY CHANDRACHUD:** Not at all.

21

22 **ATTORNEY GENERAL R. VENKATARAMANI:** The states just don't come on table for  
23 discussion... before the [UNCLEAR] the interests they would like to protect, and so many  
24 invisible hands behind...

25

26 **JUSTICE HRISHIKESH ROY:** Mr Sud, would appreciate the exercise that you have  
27 envisaged in the note. In order to carry out, you may take two years also, and you may say that  
28 consultation is going on, response from a particular State A, State B has not come. So  
29 therefore, unless we have a kind of a...

30

31 **ATTORNEY GENERAL R. VENKATARAMANI:** I entirely agree with that. I'm not saying  
32 that it should...

33

34 **JUSTICE HRISHIKESH ROY:** If the government pushes, if the Union Government  
35 pushes, I'm sure the responses will come quicker. And if the governments... State  
36 Governments and the Union Government are also conscious of the fact that the matter is going  
37 to come in a little while, then perhaps things may move a little quicker.

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**ATTORNEY GENERAL R. VENKATARAMANI:** I will welcome, Your Lordships making an observation. I hope in this exercise, State Governments would also... you know...

**JUSTICE HRISHIKESH ROY:** I think that also...

**ATTORNEY GENERAL R. VENKATARAMANI:** ... be able to... so that all the stakeholders will... will engage in expedition.

**JUSTICE HRISHIKESH ROY:** That's a good idea

**CHIEF JUSTICE DY CHANDRACHUD:** In pursuance of the order of this Court... in pursuance of the order dated 13th September, 2023, the Ministry of Road, the Union Ministry of Road Transport and Highways, has informed the Court through the learned Attorney General for India, that the exercise of amending the Motor Vehicles Act, 1988, including the provisions of Section 2(21), and Section 10 'is sought to be evaluated'. The exercise which has been carried out thus far by the Union Government, is set out, in the note which has been tendered by the Attorney General, which is extracted below:

We are not inclined to accede to the request made by the Union Government for adjourning the proceedings *sine die*. This Court is seized of the essence, where the correctness of the decision... of the three-judge bench decision in *Mukund Dewangan* has been doubted. An element of certainty must be brought on the aspects which are raised in the reference. At the same time, we do appreciate the stance of the Union Government, that any exercise for amendment would involve consultation with multiple stakeholders, including the state governments, since the implementation of the provisions of the Motor Vehicles Act 1988 and the rules which are framed under it, lies with the states. In this view of the matter, we are of the view that the Union Government and the Ministry of Road Transport and Highways... we direct that the Union Government and the Ministry of Road Transport and Highways, pursue the exercise which is sought to be conducted with utmost expedition. Since consultation with the state governments is envisaged, we direct that all state governments shall cooperate in the time schedule which may be laid down by the Union... by MORTH, so as not to delay the proceedings any further. The proceedings shall now be listed before this Court on 17th January 2024, by which date, we expect that the consultation should be completed in its entirety, and a clear roadmap of the further steps which the Union Government proposes to take, should be placed before this Court. It needs to be clarified, though this is a settled principle of law, that though the correctness of the decision in *Mukund Dewangan* has been doubted, the decision still continues to hold the field. (But don't say 'though the correctness'). During the

1 pendency of this reference, the judgment of the three-judge bench in *Mukund Dewangan*,  
2 shall continue to hold the field, and all courts, tribunals, and authorities shall therefore act on  
3 that basis.

4

5 **ATTORNEY GENERAL R. VENKATARAMANI:** This order may be communicated to the  
6 state governments also.

7

8 **CHIEF JUSTICE DY CHANDRACHUD:** A copy of this order shall be communicated to  
9 the Chief Secretaries of all the states, or as the case maybe, the union territories, for further  
10 dispatch to the competent arms of the states/UTs.

11

12 **JAYANT BHUSHAN:** Would Your Lordships, only clarify this, that unless there is a clear  
13 roadmap, Your Lordship would proceed to hear the matter then.

14

15 **CHIEF JUSTICE DY CHANDRACHUD:** Now, we have said that they'll... We have said  
16 that they'll give us... We can't compel them to amend, but we have now virtually said that, look,  
17 give us a roadmap.

18

19 **JAYANT BHUSHAN:** In fact ultimately, My Lord, in January they may very well come and  
20 say, we don't think any amendment is required. We don't know what they will do.

21

22 **ATTORNEY GENERAL R. VENKATARAMANI:** I don't think that will happen.

23

24 **CHIEF JUSTICE DY CHANDRACHUD:** I don't think that, because they also realize that  
25 there are inferences to...

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27 **ATTORNEY GENERAL R. VENKATARAMANI:** No, no, no. In fact, I am getting periodic  
28 reports from the Ministry that, we are continuing dialogue. I'm looking into it myself.

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***END OF THIS PROCEEDING***