

CHIEF JUSTICE'S COURT
HON'BLE THE CHIEF JUSTICE
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)

TRANSCRIPT OF HEARING

16-April-2024

Document Control

Document Name & Date	Transcript of Civil Appeal No. 841 of 2018 Hearing dated 16.04.2023
Status	Released
Version	1.0
Last Update	16.04.2023
Nature of Update	Original version
Release Date	16.04.2023
Document Owner	Supreme Court of India

10:45 AM IST

1 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Good morning, Brother Narasimha. Are you
2 online?

3

4 **JUSTICE P. S. NARASIMHA:** Good morning, Chief.

5

6 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Brother Narasimha is joining us online.

7

8 **JUSTICE P. S. NARASIMHA:** Yes, yes, yes. Good morning, Chief.

9

10 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Good morning.

11

12 **R. VENKATARAMANI:** I have sent that note, it's been shared, placing on record the
13 culmination of the consultative process. I have also placed on record the proposed
14 amendment. Since *Mukund* came in the context, whether an endorsement would be require
15 or not, all these conclusions that the classification.

16

17 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes, Mr. Attorney General, I got your note.
18 Yes.

19

20 **R. VENKATARAMANI:** Along with a note we have the letter. There's a letter received from
21 the Ministry which is... I have placed it on record. 15th April, which outlines in *seriatim*
22 proposed amendment. After I looked into it, I thought a few more...

23

24 **CHIEF JUSTICE D. Y. CHANDRACHUD:** But therefore, you'd like us to now hear the
25 matter at this stage or defer the matter for the...?

26

27 **R. VENKATARAMANI:** That's it.

28

29 **CHIEF JUSTICE D. Y. CHANDRACHUD:** And the proposed amendments also, you have
30 referred to...

31

32 **R. VENKATARAMANI:** Only the letter from the Ministry which contain the detailed set of
33 amendments and along with it the approved draft language, but that's only for placing the
34 matter before Your Lordship. But a few more things that came to mind yesterday...

35

1 **JUSTICE HRISHIKESH ROY:** The amendments that are proposed is to categorize the
2 transport and the non-transport category within the bracket of LMV license, light motor
3 vehicle.

4

5 **R. VENKATARAMANI:** In *National Insurance Company*, category of vehicle and type
6 of vehicle it said does not make a difference. That's why the endorsement was not required
7 there. So, I thought we should take care of that question. A few more things, I think...

8

9 **JUSTICE HRISHIKESH ROY:** We know that election is on, but you see, we have indicated
10 that we'd like to see the light of whatever the proposed amendment. Any timeline in your...

11

12 **R. VENKATARAMANI:** Only after the election. The consultation process is almost over. It
13 has to go to the Cabinet Committee and all that, then I think it'll be through. And then after I
14 got that, I had a few more suggestions, I thought, I'll share it with the Ministry.

15

16 **JAYANT BHUSHAN:** For the purposes of this case, My Lord, it may not make any difference
17 because, as Your Lordship had seen, if I'm right in, My Lord, what I had contended last time,
18 that Section 3 that proviso says that "provided if you want to drive a transport vehicle, your
19 license must specifically authorize you to do so". Therefore, the license should have had an
20 endorsement, that your LMV license, you are authorized to drive a transport vehicle also. Now
21 My Lord, they have made this only clearer, but they have not changed it. They have not said
22 that you don't need an endorsement.

23

24 **CHIEF JUSTICE D. Y. CHANDRACHUD:** But then on the other hand, once the
25 amendment will come, we will see what is the impact of this. Possibly...

26

27 **JAYANT BHUSHAN:** Just have a...

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29 **R. VENKATARAMANI:** I looked into it. I'm alive to that.

30

31 **JAYANT BHUSHAN:** Just have a look at the proposed Section 10. Just have a look at the
32 proposed Section 10, My Lord. That's on the second page of that proposed amendment.

33

34 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

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36 **JAYANT BHUSHAN:** Starts on the second page. And if Your Lordship has 10(2), which is
37 on the third page. A learner's license... Does Your Lordship have that?

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CHIEF JUSTICE D. Y. CHANDRACHUD: Yes.

JAYANT BHUSHAN: A learner's license, or a driving license, as the case may be, shall also be expressed as entitling the holder to drive a motor vehicle specified as transport vehicle or non-transport vehicle with manual gear selection or automatic gear selection, as the case may be of one or more of the following classes, namely Light Motor Vehicle, Category 1. So, what they've done is they've divided light motor vehicle which was up to 7000 kilos, into two categories.

CHIEF JUSTICE D. Y. CHANDRACHUD: LMV-1 and LMV-2.

JAYANT BHUSHAN: That's right, but, they have also made it clearer than before. Earlier, My Lord, when I had to look at three proviso etc. Now, they've made it very clear that your license will indicate, whether it's to drive a transport vehicle or a non-transport vehicle. So, therefore, the same position as was there earlier, they're only making it clearer. So, therefore, in my humble submission need not wait.

R. VENKATARAMANI: In 10(1) every learner says so and so shall be in such form, shall contain such information endorsed in such manner prescribed as so and so. Therefore, the rules will certainly take care of all of that.

CHIEF JUSTICE D. Y. CHANDRACHUD: What we'll do is let them, since they are now proposing to bring about an amendment to the MV Act, let them go ahead with this process. And what we could do is we'll keep it... because otherwise if we deliver a judgment before the amendment, then what is the impact of the amendment on the judgment of the Constitution Bench will again be a moot question. So, instead of that, we can have the amendment. See, what, if you are right that the amendment in fact makes things the position which you are espousing clearer.

JAYANT BHUSHAN: Yes.

CHIEF JUSTICE D. Y. CHANDRACHUD: Then we can always say that we can deal with the amendment which has been brought about by Parliament.

1 **JAYANT BHUSHAN:** I have no difficulty with that My Lord, the only issue is how long
2 they'll take. Because since Your Lordship had heard this matter substantially therefore, I'm
3 not...

4

5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** We'll take it in, say, the second week of July.

6

7 **R. VENKATARAMANI:** No. I think the sessions may be only after. Let it be in the last week
8 of July. Little time to push through. Because I know what kind of agendas the Parliament will
9 have immediately. Many pending agendas are there. I won't be able to say anything now.

10

11 **ARCHANA PATHAK DAVE:** There is one more...

12

13 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Attorney General, there's one more thing.

14

15 **R. VENKATARAMANI:** Yes.

16

17 **CHIEF JUSTICE D. Y. CHANDRACHUD:** When Parliament brings about the
18 amendment, we'll also have to see what happens to those people who held licenses in the past.
19 Will you apply the sunset clause?

20

21 **R. VENKATARAMANI:** I've asked Ministry to take care of that, so that we provide for a
22 transition. And that there's no gap in the, as far as the...

23

24 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Exactly. There has to be some provision for a
25 transition.

26

27 **ARCHANA PATHAK DAVE:** There are certain things, My Lords, we want to propose. My
28 Lords, can we also be consulted? Because, while the consultations...

29

30 **R. VENKATARAMANI:** They can all give.

31

32 **CHIEF JUSTICE D. Y. CHANDRACHUD:** You can give whatever you want to the
33 Ministry. The consultation process is complete, but that you can always give what you want to
34 the Ministry. So...

35

36 **ANUJ BHANDARI:** My Lord, just one thing. What fell from, My Lord, during the hearing
37 was, My Lord, won't be changing anything retrospectively. Because, My Lord, appeals are

1 pending. Everyone has got compensation. What will be done would be prospective. Even if the
2 amendment comes, it will be prospective. So there's no point keeping this present petition
3 unless, My Lord, is inclined to change it from '91 and give an interpretation.

4

5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Let's keep it where it is right now. Whether it
6 is prospective, retrospective. We needn't anticipate what Parliament will do.

7

8 **ANUJ BHANDARI:** No, My Lord. Even if they bring it, or change it, doesn't change it, it will
9 be all prospective.

10

11 **CHIEF JUSTICE D. Y. CHANDRACHUD:** We don't know. Parliament has the power to
12 do what it... prospect to legislate retrospectively.

13

14 **ANUJ BHANDARI:** Today, My Lord, the question is, what transpired from '91 till now. My
15 Lord, what fell from, My Lord, would not give an interpretation which would change things
16 retrospectively.

17

18 **JUSTICE HRISHIKESH ROY:** Counsel, why are you insisting on that? I mean, elaborate
19 arguments, I think all the pros and cons have been discussed in course of the deliberations.
20 And the Government is proposing to take a call by virtue of the amendment. Whether the
21 amendment will apply retrospectively. I'm sure they will have a this thing. The Chief Justice
22 has already indicated that there will have to be a sunset clause as well. So, therefore, I don't
23 think the submission that we are making has any bearing on the matter. Do you want us to
24 write the judgement before the amendment?

25

26 **DEVVRAT:** It's an interim order. Our interests are protected. That will protect us, My Lord.
27 That's all.

28

29 **CHIEF JUSTICE D. Y. CHANDRACHUD:** In pursuant to the order dated 22 November
30 2023, the Union Ministry of Roads, Transport and Highways, has carried out an exercise of
31 consultations. The learned Attorney General has submitted a note indicating that the
32 consultations carried out by the ministries, have culminated in certain proposals for amending
33 the Motor Vehicles Act, 1988. By its communication dated 15 April 2024, the Ministry has
34 placed on the record details of the proposed amendments to the statute. In view of the pending
35 General Elections, the learned Attorney General for India requests that these proceedings may
36 be deferred until the last week of July 2024, so as to to enable the Union Government, to bring
37 forth proposals for the amendment of the Motor Vehicles Act 1988 before the newly

1 constituted Parliament following the General Elections. The impact, if any, of the amendment
2 which is proposed on the reference will be decided in the course of the hearing. In view of the
3 above position, we stand over the hearing of the reference to the Constitution, then to 30th
4 July 2024. That will be...

5

6 **JAYANT BHUSHAN:** My Lord, just one thing, My Lord.

7

8 **ARCHANA PATHAK DAVE:** My Lord, for the consultation we are allowed to, because it
9 will only make the process...

10

11 **CHIEF JUSTICE D. Y. CHANDRACHUD:** See, we don't have to say. It's a parliamentary
12 process, so we can't say that you shall be consulted. They'll always do it. You submit your
13 representation to MoRTH.

14

15 **ARCHANA PATHAK DAVE:** And My Lords, if it's important..

16

17 **CHIEF JUSTICE D. Y. CHANDRACHUD:** They've already carried out extensive
18 consultation. If you are so interested, you should have made your representation. Anyway,
19 we'll not say anything you can always...

20

21 **DEVVRAT:** The para 5 of the order of 22-11-2023, in this very matter, I'll just read that order,
22 My Lord, where Your Lordship has given us the protection, My Lord. It says, "During the
23 pendency of this reference, the judgment of the three judge bench, in *Mukund Dewangan*
24 shall continue to hold the field." That's all, My Lord.

25

26 **CHIEF JUSTICE D. Y. CHANDRACHUD:** So, we have said that, it's not until today. That
27 is already clarified in that order.

28

29 **JAYANT BHUSHAN:** Just one thing, My Lord. In the last order what Your Lordship had
30 said was, "It is understood that in the event that the issue is not resolved by that date by the
31 Union Government the proceedings shall be listed for concluding the remaining part of the
32 hearing on 23rd April, 2024.

33

34 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Now, that they have virtually formalized the
35 amendment...

36

1 **JAYANT BHUSHAN:** No, no, I know, So, all I'm saying is would Your Lordship only add
2 this, because if they don't do it by the next date because, My Lord at some stage...

3

4 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Attorney General if it doesn't... If the
5 Government comes to the conclusion that you don't want to bring an amendment then. We'll
6 then...

7

8 **R. VENKATARAMANI:** My Lord, I think even prior to the said date of hearing, I will be able
9 to come back to the Court and inform the Court in advance. The progress will certainly be
10 intimated to the Court.

11

12 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Alright. Now, thank you.

13

14 **R. VENKATARAMANI:** Here also, I have shared a note with the Court.

15

16 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Now, what do we do in this case? Because the
17 committee has submitted its report. The Government say that because of the impending
18 elections, we have not been able to take a final conclusion. Now, you have said that on a prima
19 facie consideration of the report and points of view that may be presented to the Court in this
20 regard, this court may proceed to hear the matter or await the final outcomes in the
21 consultative process and the views of the government emanating therefrom. So, what would
22 you... should we list it then for hearing and then...?

23

24 **R. VENKATARAMANI:** Yes, I think...

25

26 **GOURAB BANERJI:** Please, either way.

27

28 **NEERAJ KISHAN KAUL:** My Lords, we would... Our request is Your Lordships should.
29 Because the Government has not accepted the report and it's still being deliberated at the
30 inter-ministerial level. So, if this process goes on, it will go on for 6 months.

31

32 **CHIEF JUSTICE D. Y. CHANDRACHUD:** What we can do is we are now on the 16th of
33 April... We have basically one, two and three weeks, now. How long will this matter take to
34 argue?

35

1 **GOURAB BANERJI:** My Lord, the written submissions have come in from both sides. I
2 think mainly it is for the Government and them to argue. But on our side, I think there are
3 only two of us, so we will not take...

4

5 **NEERAJ KISHAN KAUL:** The issue will be My Lords, really the four judgments of Your
6 Lordships in *TRF*, *Perkins* and *Tantia* on one side and *Core* on the other. That's really
7 the...

8

9 **TUSHAR MEHTA:** There are other judgments also, My Lord. There are few judgments, also.

10

11 **NAKUL DEWAN:** In fact, there are multiple facets which will have to be considered.

12

13 **CHIEF JUSTICE D. Y. CHANDRACHUD:** 30th July?

14

15 **NEERAJ KISHAN KAUL:** One more request, My Lords. I had moved an application for de-
16 tagging of my petition, but we are withdrawing that application for de-tagging matters. That's
17 1205.

18

19 **R. VENKATARAMANI:** I have only spent some time whether to be de-tagged or not. Now
20 they are withdrawing, I withdraw my time spent on them.

21

22 **CHIEF JUSTICE D. Y. CHANDRACHUD:** In view of the note which has been submitted
23 by the learned Attorney General, it has been agreed on behalf of all the Counsel appearing on
24 behalf of the contesting parties, that the proceedings may be now listed for final hearing for
25 the reference to the Constitution Bench. The proceedings shall be listed on 30th. We will keep
26 it on the 30th itself.

27

28 **GOURAB BANERJI:** It may go on for a second day, My Lord.

29

30 **CHIEF JUSTICE D. Y. CHANDRACHUD:** For a second day. So 30th, 31st we'll wrap it
31 up.

32

33 **NEERAJ KISHAN KAUL:** And My Lords, I may be permitted to withdraw.

34

35 **CHIEF JUSTICE D. Y. CHANDRACHUD:** We'll finish it in two days. I mean, I don't think
36 this reference will take longer than that. There are so many judgments now which hold the
37 field from *Perkins* onwards. What is the [UNCLEAR] Mr. Jethmalani?

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MAHESH JETHMALANI: One of the questions of law pertaining to *Perkins* judgments, that now all unilateral arbitration agreements stand struck down as per *Perkins*.

CHIEF JUSTICE D. Y. CHANDRACHUD: That we will have to decide. We will hear everybody. No difficulty.

NEERAJ KISHAN KAUL: Your Lordships are permitting us to withdraw the application, My Lords, 12052?

CHIEF JUSTICE D. Y. CHANDRACHUD: Nodal Counsel has still not filed the submissions as yet.

NODAL COUNSEL: There are other things have kept coming in, My Lord. So, therefore even the dates I was going to make a request on the dates...

CHIEF JUSTICE D. Y. CHANDRACHUD: Yes, the written submissions and compilations, in terms of the circular dated 03 April, 2024 shall be filed by the Nodal Counsel, no later than by the 15th of July. Yes. All parties seeking to file any submissions shall ensure that they are forwarded to the Nodal Counsel on or before 11th July, 2024. So, you have four days. Then you have to just collate it and put it in a proper manner.

NODAL COUNSEL: It's already mostly done.

GOURAB BANERJI: Mostly done, we have already filed our...

ARCHANA PATHAK DAVE: Mostly it's done.

CHIEF JUSTICE D. Y. CHANDRACHUD: Alright. Make sure that they are emailed to the Court Master so that...

ARCHANA PATHAK DAVE: Yes, yes, Your Lordship.

END OF THIS PROCEEDING