

ITEM NO.51

COURT NO.3

SECTION PIL-W

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). 295/2012

S.RAJASEEKARAN

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

Date : 20-07-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Gopal Subramaniam, Sr. Adv. (A.C.)(NP)
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Mr. Talha Abdul Rahman, Adv.
Mr. Jayavardhan Singh, Adv.
Mr. Pavan Bhushan, Adv.

For Petitioner(s)

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Ms. Lalita Kohli, Adv.
Mr. Sajid Imam Naqvi, Adv.
for M/s Manoj Swarup & Co.

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For Respondent(s)

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National Insurance
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Mr. S.L. Gupta, Adv.
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Haryana	Mr. Samar Vijay Singh, Adv. Ms. Monika Gosain, Adv. Mr. Ashish Chouhan, Adv. Mr. Jaswant, Adv.
H.P.	Mr. Varinder Kumar Sharma, Adv.
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M.P.	Mr. Arjun Garg, AOR Mr. Manish Yadav, Adv. Mr. M. Abdullah, Adv. Mr. Rohit Chandra, Adv.
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Puducherry	Mr. V. G. Pragasam, Adv. Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.

Mr. P. K. Manohar, AOR

Ms. Manjeet Chawla, AOR

Dr. (Mrs.) Vipin Gupta, AOR

Mr. Neelesh Singh Rao, Adv.

Impleader

Ms. Jaikriti S. Jadeja, Adv.

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

Report No.16

It is stated that the Motor Vehicles (Amendment) Bill, 2017 is presently pending with the Rajya Sabha and it might be taken up for consideration during the current session of Parliament.

List the matter on 13th August, 2018.

Report No.17

We have perused Report No.17 with the assistance of learned *amicus curiae*, learned Additional Solicitor General and learned counsel appearing for some of the insurance companies.

On 12th July, 2018, we had issued notice to the Insurance Regulatory and Development Authority of India(IRDA). Despite service, no one is present on behalf of IRDA. No Objections have been filed by IRDA to Report No.17. Therefore, we take it that IRDA accepts Report No.17.

In a meeting held by the Supreme Court Committee on Road Safety held on 26th March, 2018, it is recorded that there are about 18 crore vehicles plying on the road and only about 6 crore vehicles have the mandatory third party cover. In other words, 66% vehicles are running on the road without any third party insurance cover and the victims of accidents including those who have died and their legal representatives are not getting compensation because the vehicles are not insured.

To get over this problem being faced, particularly by persons who are legal representatives of victims of fatal road accidents, the Committee had detailed discussions with IRDA, General Insurance Council, Ministry of Road Transport and Highways and Department of Financial Services, Ministry of Finance, Government of India.

After detailed discussions and taking into consideration the views of all the participants in the meeting, the following decisions were taken by the Committee:

"6. To sum up, the following decisions were taken:

i) It shall be mandatory for all General Insurance Companies to issue a three year third party insurance cover for new cars and five year third party insurance cover for new two wheelers as a separate product or as part of a comprehensive insurance product. IRDA should issue instructions accordingly to all General Insurance Companies.

ii) The GIC and IRDA should ensure that the legacy insurance data is also shared with MoRTH as soon as possible for its integration with Vahan data.

iii) IRDA should ensure that all General Insurers

follow its directions dated 01.01.2018 advising them to make available the third party insurance cover to all proposers on online channels; liaise with police authorities to facilitate issue and renewal of third party insurance cover and ensure its easy availability.”

In our opinion, the decisions taken by the Committee are eminently reasonable.

Accordingly, we direct that the decisions taken by the Committee should be implemented.

We make it clear that the third party insurance cover for new cars should mandatorily be for a period of three years and for two-wheelers, it should mandatorily be for a period of five years. This may be taken and treated as a separate product. We leave it to the insurance companies to deal with comprehensive insurance policies on a separate footing and it would be at the option of the owner of the vehicle to decide which policy should be taken except that the third party insurance is mandatory. The decision should be implemented from 1st September, 2018 on the policies sold.

Learned counsel for the General Insurance Council says that IRDA may be directed to clear and finalize the product immediately.

We accept the suggestion and direct the IRDA to clear and advertise the product immediately so that it can be implemented from 1st September, 2018 onwards.

No further orders are required to be passed on Report No.17.

Issue concerning potholes

It is a matter of common knowledge that there are large number of deaths as a result of fatal accidents which occur due to the potholes on the roads. This is particularly so in the city of Mumbai as well as in the city of Bengaluru.

There is little doubt that those who are obliged to maintain the roads under the municipal laws are not doing their job as effectively as they should. It is as a result of this that fatal accidents are taking place and the families are facing distress.

Recently, there was a report in one of the newspapers that the number of deaths as a result of accidents due to potholes are more than the the number of deaths due to terrorists' attacks. This is frightening, if true.

Even otherwise, this is obviously a very grave and serious issue and the legal representatives of persons who have lost their lives as a result of accidents due to potholes on the roads should be entitled to compensation if nothing else as a tortious claim.

We request the Supreme Court Committee on Road Safety to look into the matter at the earliest and give us a report in this regard including determining the quantum of compensation.

List the matter on 18th September, 2018

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER