

ITEM NO.103

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 6517/2008

BAJAJ ALLIANZ GEN. INSURANCE CO.

VERSUS

Appellant(s)

RAM KUMAR RAJAK & ORS.

Respondent(s)

(WITH INTERIM RELIEF AND OFFICE REPORT)

WITH

C.A. NO. 6519/2008

(WITH INTERIM RELIEF AND OFFICE REPORT)

C.A. NO. 6520/2008

(WITH INTERIM RELIEF AND OFFICE REPORT)

C.A. NO. 6521/2008

(WITH INTERIM RELIEF AND OFFICE REPORT)

C.A. NO. 6522/2008

(WITH INTERIM RELIEF AND OFFICE REPORT)

C.A. NO. 6523/2008

(WITH INTERIM RELIEF AND OFFICE REPORT)

SLP(C) NO. 13308/2009

SLP(C) NO. 13309/2009

(WITH OFFICE REPORT)

Date : 28/08/2014 These cases were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE R.K. AGRAWAL

For Parties (s)

Mr. Nikhil Majithia, Adv.
for M/s Ap & J Chambers, Adv.Mr. Nikhil Majithia, Adv.
Ms. Pragati Neekhara, Adv.

For Respondent(s)

Ms. Sadat Rehman, Adv.
Mr. Surya Kamal Mishra, Adv.

Signature Not Verified

Digitally signed by

Mr. Mushtaq Ahmad, Adv.

Vinod Lakhina

Date: 2014.08.30

11:55:22 IST

Reason:

2

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

Leave granted in Special Leave Petition (Civil) Nos.

13308 of 2009 and 13309 of 2009.

The appeals are dismissed in terms of the signed

order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 6517 OF 2008

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY
LIMITED ...APPELLANT

VERSUS

RAM KUMAR RAJAK & ORS. ...RESPONDENTS

WITH

C.A. NO. 6519/2008
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
BHUWAN & ORS.]

C.A. NO. 6520/2008
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
URMILA BAI & ORS.]

C.A. NO. 6521/2008
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
UMA BAI NIRMALKAR & ORS.]

C.A. NO. 6522/2008
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
SUKHIRAM SURYAVANSHI & ORS.]

C.A. NO. 6523/2008
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
INDIRA BAI & ORS.]

C.A. NO.8360/2014
[ARISING OUT OF SLP(C) NO. 13308/2009]
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
HARDEEP KAUR & ORS.]

2

C.A. NO.8365/2014
[ARISING OUT OF SLP(C) NO. 13309/2009]
[BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED
VS.
MANKAMAL KAUR & ORS.]

ORDER

Leave granted in Special Leave Petition
(Civil) Nos. 13308 of 2009 and 13309 of 2009.

In this group of appeals, the appellant
- Insurance Company has raised the question as to
whether the direction to pay and recover in a
situation where there was an apparent breach of
the terms and conditions of the Insurance Policy
read with the permit for running the vehicle was
justified.

A reference to several decided cases on
the issue has been made by the learned counsel
for the appellant - Insurance Company of which we
take specific notice of the decision in Manager,
National Insurance Co. versus Saju P. Paul and
another [2013 (1) AWC 799 (SC) = (2013) 2 SCC 41
= (2013) 2 SCR 1]

3

In Paragraph 24 of the aforesaid
decision, though the Bench took notice of the two
questions that were referred to the larger Bench
of three Hon'ble Judges in National Insurance
Company Limited Versus Parvathneni and another
[(2009) 8 SCC 785], having regard to the peculiar
facts of the case, the direction to pay and
recover was maintained.

We are informed that the questions
referred to the larger Bench of three Hon'ble
Judges in National Insurance Company Limited
Versus Parvathneni and another [(2009) 8 SCC 785]

remain unanswered as the case had been disposed
of by keeping the questions of law open.
order of the Hon'ble three judges Bench in
National Insurance Company Limited Versus
Parvathneni and another [Special Leave Petition
(Civil) No.22444 of 2009] disposing of the
petition before it may be conveniently reproduced
below:

The

4

"Order dated 17.09.2013 shall be read
as under:

'Application for impleadment is
dismissed.

Shri S.L. Gupta, learned counsel
appearing for the petitioner
vehemently argued the matter, but
keeping in view the smallness of the
amount involved, we are not inclined
to entertain this petition under
Article 136 of the constitution.

The questions of law raised in this
petition are kept open to be decided
in an appropriate case.'"

In view of the above and having regard to the
facts of the present cases, we decline to
interfere with the orders under challenge in the
appeals before us. However, we keep all
questions of law open for decision in an
appropriate case.

The appeals are consequently dismissed in
terms of the above.

....., J.
(RANJAN GOGOI)

....., J.
(R.K. AGRAWAL)