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SLP(C)No. 5962-5963 OF 2000

ITEM No.26

Court No. 1

SECTION IVA  
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.5962-5963/2000

(From the judgement and order dated 23/08/1999 in MA 254/99  
and final order dated 24.09.1999 in MCC No.240/99 of the  
Hih Court of Madhya Pradesh, Jabalpur, Bench at Gwalior )

MAHENDRA RATHORE

Petitioner (s)

VERSUS

OMKAR SINGH & ORS

Respondent (s)

(With prayer for interim relief)

Date : 26/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE R.C. LAHOTI  
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. J.M. Khanna, adv.

For Respondent (s) Mr. Joy Basu, adv.  
No.3 Mr. B.K.Satiya, adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

Leave granted.  
The appeals are allowed in terms of the signed  
order. No costs.

.SP1

(Neena Verma)  
Court Master

(Prem Prakash)  
Court Master

Signed order is placed on the file.

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.PL52

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1498-1499 OF 2001@@  
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( @ Special Leave Petition (C) Nos.5962-5963/2000)

Mahendra Rathore ..... Appellant

Versus

Omkar Singh & Ors. .... Respondents

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

Leave granted.

A claim petition filed by the appellant before the Motor Accident Claims Tribunal at Shivpuri, Madhya Pradesh came to be dismissed in default of appearance on 27.01.1998. On 15.04.1998, the appellant filed an application for restoration of the claim petition under Order 9 Rule 9 CPC setting out the necessary facts explaining the reasons for failure to appear on the date of hearing and the delay in moving the application. That application was rejected by the Tribunal. The appeal preferred in the High Court also met the same fate.

We have heard the learned counsel for the parties.  
...2/-

: 2 :

In the peculiar facts and circumstances of this case, in our opinion, the Motor Accident Claims Tribunal ought to have recalled the order of dismissal of the claim petition, dated 27.01.1998 and restored the petition to its original status, condoning the delay in moving the application for restoration. The application was supported by medical certificate showing the applicant having fallen ill on the date of hearing. The applicant's own statement on oath remained uncontroverted. In such matters a justice oriented approach, and not a too technical or pedantic approach is expected to be adopted by courts more so when the application sought to be restored for hearing was a claim case arising out of a motor accident. Refusal on the part of Tribunal to restore the claim petition, as also on the part of High Court to show indulgence to the appellant has occasioned failure of justice. The Tribunal could have put the parties to terms to meet the ends of justice but should not have refused to restore the claim petition. We, accordingly, allow these appeals and set aside the impugned orders of the High Court as also of the Motor Accident Claims Tribunal dated 27.01.1998. The claim petition is restored to its original number and remanded to the Tribunal for its trial on merits. The proceedings hereafter shall  
...3/-

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commence from the stage at which the same were on 27th January, 1998 when the claim petition was dismissed in default of appearance. The Tribunal shall expeditiously

dispose of the petition.

The appeals are, accordingly, allowed. No costs.

.SP1

.....CJI.

.....J.  
( R.C. LAHOTI )

New Delhi,  
February 26, 2001.

.....J.  
( BRIJESH KUMAR )