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SLP(C)No. 13342 OF 2000

ITEM No.204

Court No. 3

SECTION XVIA
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.13342/2000

(From the judgement and order dated 28/02/2000 in CIMA 25/98
of The HIGH COURT OF J & K AT JAMMU)

MUSHTAQ HUSSAN MIR

Petitioner (s)

VERSUS

REGNL.MANAGER,U.I.INSURANCE CO.LTD.&ORS.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 01/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. S.K.Gambhir,Sr.Adv.
M/s H.K. Puri,S.K.Puri,U.Banerjee and
Ms. Anindita Gupta,Advs.

For Respondent (s)

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

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Though by order dated 4.9.2000, a limited notice appears to have been issued, but on examining the materials in this case, we find some error in the aforesaid notice. On a complaint made to the consumer forum, the commission allowed Rs.3.75 Lakh as the compensation with interest. On an appeal being carried under section 17 of the J&K Act, the High Court expressed an opinion that complicated question of fact could not have been interferred and decided by the consumer forum in exercise of its summary jurisdiction. This conclusion, prima facie, appears to us to be erroneous. Since the High Court has refused to exercise its jurisdiction on an erroneous view of law, the only order which could be

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passed in this case is to remit the appeal to the High Court for re-disposal of appeal on merits. Unfortunately, the notice already issued is to the effect why the matter should not be remitted back to the Tribunal. The Tribunal has already exercised its jurisdiction and has granted relief to the claimant. Question of remitting back to the Tribunal does not arise. In this view of the matter, a fresh notice

be issued to the respondents to show cause as to why the impugned order should not be set aside and the matter should not be remitted back to the High Court for reconsideration of the appeal on merits.

Put up after service is complete.

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(Y.P.Dhamija)

(Janki Bhatia)@@

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Court Master

Court Master@@

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