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SLP(C)No. 13879 OF 2000

ITEM No.30

Court No. 9

SECTION XVII  
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.13879/2000

(From the judgement and order dated 09/05/2000 in MA 118/99  
of The HIGH COURT OF PATNA)

GOBIND PATHAK

Petitioner (s)

VERSUS

UNION OF INDIA

Respondent (s)

Date : 16/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI  
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) M/s Ravi Shankar Kumar,  
Er.LK Thakur,Adv.  
Mr Pavan Kumar,Adv.

For Respondent (s) Mr.KN Rawal,ASG  
Ms.Anita Verma,Adv.  
Mrs Anil Katiyar,Adv.

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

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

Leave is granted.  
The appeal is allowed in terms of the signed order.  
No costs.

.SP1

[Naresh Kumar]  
Court Master

[Kanwal Singh]  
Court Master

[Signed order is placed on the file.]

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....L....I....T.....T.....T.....T.....T.....T.....J.....R  
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1313 OF 2001@@  
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[Arising out of SLP(C) 13879/2000]

Gobind Pathak ... Appellant

vs.

Union of India ... Respondent

O R D E R@@  
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Leave is granted.

Heard the learned counsel for the appellant and the learned Additional Solicitor General for the respondent.

This appeal is directed against the order of the High Court dated 9.5.2000 confirming the order of the Railway Claims Tribunal, Patna Bench dated 17.12.1998 dismissing the claim petition filed by the appellant.

A perusal of the order of the Tribunal shows that in its view the claim petition could not have been entertained as it was filed after one year from the date of the accident. Therefore, the Tribunal held the claim petition was not maintainable. Obviously, the Tribunal did not advert to Section 17(2) of the Railway Claims Tribunal Act, 1987 which reads thus:-

.....L.....IT.....T.....T.....T.....T.....J.....T.....R  
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"Notwithstanding anything contained in sub-section (1), an application may be entertained after the period specified in sub-section (1) if the applicant satisfies the Claims Tribunal that he had sufficient cause for not making the application within such period."

....L.....I.....T.....T.....T.....T.....T.....T.....J.....R  
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Inasmuch as Section 17(2) of the Act confers power on the Railway Claims Tribunal to condone the delay in filing claims and the Tribunal has not adverted to this provision, the order of the Tribunal dated December 17, 1998, is unsustainable in law. Further the said provision was not brought to the notice of the High Court also, so it dismissed the appeal of the appellant without reference to the said provision. Having regard to the facts and circumstances of the case, we are satisfied that the appellant has made out a case to condone the delay under Section 17(2) of the Act.

For these reasons, we set aside the order of the High Court as well as that of the Tribunal and direct the Tribunal to entertain the claim and decide the same on merits. The appeal is accordingly allowed. No costs.

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.....J.  
[ SYED SHAH MOHAMMED QUADRI ]

.....J.

New Delhi,  
February 16, 2001.@@  
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[ S.N. PHUKAN ]