

Supreme Court of India

New India Assurance Co. Ltd. vs Ramesh Bhai C. Patel And Ors. on 7 February, 1997

Equivalent citations: 1997 ACJ 938, JT 1997 (10) SC 674, (1997) 5 SCC 510

Bench: J Verma, S Kurdukar

ORDER

1. The learned Counsel for the petitioner submits that the relief granted by the High Court of entertaining the claim petition in view of the deletion of Sub-section (3) of Section 166 of the Motor Vehicles Act could not have been given in a petition under Article 227 of the Constitution. He submits that only an appeal in the High Court under Section 173 of the Act could have been treated as a pending matter in which the benefit of deletion of Sub-section (3) of Section 166 of the Act could have been given. He also submits that there is a limitation prescribed for filing an appeal under Section 173 which had expired and this presented a further difficulty in the present case.

2. In our opinion, these are mere procedural or technical objections which should not frustrate the course of justice. The object of omitting Sub-section (3) of Section 166 of the Act to remove the bar of limitation for a claim petition is obvious. This being so, a matter which was pending in the High Court when this change was brought about, should be governed by the effect of omission of Sub-section (3) of Section 166. In the present case, the petition under Article 227 of the Constitution is deemed to be an appeal to the High Court under Section 173 of the Act and condoning the delay in filing the appeal, the benefit of omission of Sub-section (3) of Section 166, is granted to the claimants. The High Court's order directing the claim petition to be entertained and decide on merits is sustained on this basis.

3. The special leave petition is disposed of accordingly.