

RAJASTHAN HIGH COURT

Raga Ram

Vs.

Kokali

Spl. Appeal Civil No.1512 of 2000
(N.P. Gupta and Deo Narayan Thanvi, JJ.)

15.02.2008

ORDER

N. P. Gupta and Deo Narayan Thanvi, JJ.

1. The matter comes up on defective side, and the Registry has reported the appeal to be barred by one day, and two other defects have also been pointed out.
2. Learned counsel for the appellant submits that he has filed application under Section 5, Limitation Act today and prayed for time to remove other defects.
3. However, the perusal of the impugned order shows that this is an order passed by learned Single Judge in appeal filed against the order of the Motor Accident Claims Tribunal, whereby the learned Tribunal had dismissed present appellant's application filed under Order 9 Rule 13 Civil Procedure Code for setting aside the *ex parte* award dated 23-11-98.
4. In our view, in view of the latest judgment of Hon'ble the Supreme Court in *Kamla Devi v. Khushal Kanwar and Anr.*, reported ¹ in wherein Hon'ble the Supreme Court has considered and followed the earlier Constitutional Bench Judgments also, the present appeal, being an intra-court appeal, filed against the judgment of the learned Single Judge passed in exercise of appellate powers, in view of the provisions enacted by Section 100A Civil Procedure Code, is not maintainable. In that view of the matter, we need not go into the other aspects of the matter, and the appeal is, therefore, dismissed as not maintainable.

Appeal dismissed.

Cases Referred.

1. AIR 2007 SC 663