

18.09.2025
Item No.10
Ct. No.01
Saikat

FMAT (WC)/21/2025
with
IA NO: CAN/1/2025
with
CAN/2/2025
with
CAN/3/2025

ORIENTAL INSURANCE CO. LTD.
VS.
SADHU SINGH AND ANR.

Ms. Gopa Das Mukherjee, Adv.
...For the Appellant/Company

Mr. Anup Kumar Bag, Adv.
...For the Respondent/Claimant

In Re: CAN 1 of 2025

1. There is a delay of 43 days.
2. As sufficient cause has been shown for not preferring the appeal within the period of limitation, the delay in filing the appeal is condoned.
3. The application being Can 1 of 2025 is allowed and disposed of.

In Re: FMAT (WC) 21 of 2025

4. The appeal is arising out of an order passed by the Commissioner, Employees' Compensation (3rd Court, In-Charge), West Bengal, in Claim Case No.171 of 2015. In the said order the Commissioner has allowed compensation at Rs.3,37,037/- taking into consideration that the claimant/respondent No.1 has suffered permanent partial disability to the extent of 75% and loss of earning capacity would be 100% as a driver. However,

considering the Exhibit-6 and the cross-examination of PW-2 before the said Commissioner, the loss of earning capacity was assessed at 80%.

5. The Insurance Company is aggrieved by the said impugned order.
6. We have heard the learned counsel appearing for the parties.
7. The claimant was an employee of the respondent No.2 and has suffered injury while he was driving the truck from Ludhiana to Kolkata. The accident occurred on 26th April, 2006. Admittedly, the petitioner was victim of a road traffic accident and was treated in SVHRI, Kolkata. At the time of the accident he was 43 years old. However, it appears that the doctor as deposed in support of the percentage of disability was not the doctor who treated him or examined the claimant immediately after he suffered the accident or by whom he was discharged from the hospital. Although, it cannot be disputed that he had suffered disability but the percentage of the disability of the driver at the time consequent upon the said accident cannot be assessed with certainty. On 23rd September, 2002, the opinion of the doctor was on the basis of a document that was made available to her for her opinion with regard to the percentage of disability.
8. In such situation we reduce the loss of earning capacity to the extent of 50% instead of 80%, the other directions with

regard to the order passed by the said Commissioner stands affirmed.

9. The appeal succeeds in part.

10. We direct the Commissioner, Employees' Compensation, West Bengal, to release the compensation with all statutory allowance immediately in terms of the modified order to the claimant on proper identification on receipt of the server copy of this order.

11. The excess/balance amount shall be disbursed and/or refunded to the Insurance Company.

12. With the aforesaid modification and direction, the appeal as well as the pending applications are disposed of.

13. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

[SOUMEN SEN, C.J.(ACTING)]

(RAJA BASU CHOWDHURY, J.)