

25.09.2025
Item No.3
Ct. No.01
Saikat

FMAT/574/2019
with
IA NO: CAN/1/2025

SUNIL KR. ROY @ SUNIL KR. YADAV
VS.
PAPPU YADAV & ANR.

Mr. Jayanta Kr. Mondal, Adv.
Mr. Anup Kumar Bag, Adv.
Mr. Sayantan Rakshit, Adv.

...For the Appellant/Claimant

Ms. Gopa Das Mukherjee, Adv.

...For the Respondent/
Insurance Company

In Re: CAN 1 of 2025

1. There is a delay of 20 days.
2. As sufficient and satisfactory 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 574 of 2019

4. By consent of both the parties the appeal is taken up for hearing and is disposed of by common order.
5. The appeal is arising out of an order passed by the Commissioner, Employees' Compensation (1st Court), West Bengal, in Claim Case No.21 of 2013.
6. The appellant/claimant was a khalashi and was under the employment of Pappu Yadav, the owner of the vehicle. He suffered injury during the course of his employment. All

relevant documents including injury report have been produced before the learned tribunal. The learned tribunal apparently has accepted that the appellant has suffered injury but dismissed the claim petition on the ground that the applicant/claimant has failed to establish that he suffered injury in course of employment and he was being employed by Pappy Yadav, contrary to the evidence led which conclusively established that the applicant/claimant was at the relevant time employed by Pappu Yadav as khalashi in the truck that had suffered an accident.

7. The Insurance Company has failed to establish that the applicant/claimant was not at the relevant time under the employment of Pappy Yadav.
8. The best reliable evidence available to the learned tribunal the statement of the opposite party No.1, namely, the owner of the vehicle and even during his cross-examination he has categorically stated that at the relevant point of time the appellant was working as khalashi in the said truck. In view of the clinching evidence it was not open for the learned tribunal to deny the claim of the ground that the appellant/claimant has failed to establish that he was under the employment of Pappu Yadav.
9. On such consideration, the appeal is allowed and disposed of.
10. The learned tribunal is directed to assess the compensation on the basis of the evidence already on

record within a period of three months from the date of communication of the order and disburse the compensation amount as early as possible to the rightful claimant on proper identification.

11. 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)]

(APURBA SINHA RAY, J.)