

07.08.2025
SI No.14
Court No.16
(gc)

**FMAT (WC) 14 of 2024
CAN 1 of 2024
CAN 2 of 2025**

**National Insurance Company Ltd.
Vs.
Kalachand Sarkar & Anr.**

Mr. Afroze Alam

...for the Appellant.

Re: CAN 2 of 2025

1. In spite of service upon the respondent no.1, the said respondent is not represented.
2. There is a delay of 15 days in preferring the appeal.
3. Sufficient cause being shown for not being able to prefer the appeal within the period of limitation. The delay of 15 days is condoned.
4. Accordingly, the application of condonation of delay is allowed and disposed of.

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5. This appeal has come up for admission under Section 30 of the Employees' Compensation Act, 1923. The first proviso to Section 30(1) of the said Act clearly states that no appeal shall lie against any order unless a substantial question of law is involved. We have carefully read the order under appeal as well as the grounds of appeal.

6. The learned Counsel for the appellant has submitted that the khalasi of Truck, namely, the award-holder herein has failed to establish the relationship of employer and employee. However, there is a clear finding on the basis of the evidence on record that the said vehicle was owned by the opposite party no.2 and at the time of accident, the victim vehicle was covered by the insurance policy of the opposite party no.2, that is, the insurance company. The award-holder was medically treated at NRS Medical College and Hospital, Kolkata. Moreover, the P.W.1 on oath corroborated the claim case and the cross-examination could not displace or dislodge the claim made by the P.W.1. The best evidence available to the P.W.1 was produced. The appreciation of evidence by the learned Court on the basis of the materials on record and findings of fact shall not be ordinarily disturbed when it comes up for admission under Section 30 of the Employees' Compensation Act, 1923. The legislature considering the interest of the victim has clearly mentioned in the first proviso under Section 30(1) of the said Act that the appeal can be admitted only if it involves a substantial question of law. The said proviso has been incorporated with the avowed object of

protecting the victims/workers who shall not be dragged into unending litigation in the highest forum.

7. In view of the fact that the appeal does not involve any substantial question of law, the appeal is not admitted.
8. This order shall be immediately communicated by the department concerned to the Commissioner of Employees' Compensation (1st Court), West Bengal in connection with Claim Case No.469 of 2010 for information and doing the needful.
9. The opposite part no.1, that is the claimant shall be entitled to realize the compensation amount and we request the learned Court to ensure that the said amount is released to the claimant/award-holder on proper identification.
10. Accordingly, the appeal and the application are dismissed.
11. However, there shall be no order as to costs.
12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)