

12.05.2026
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FMA 1257 of 2025
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IA No.: CAN 1 of 2025 [Stay]
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IA No.: CAN 2 of 2025 [Disposed of on 15.07.2025]
National Insurance Co. Ltd.
– Versus –
Sri Dilip Mondal & Another

Mr. Saibalendu Bhowmik,
Mr. Biplab Guha,
Mr. Rajsekhar Basu
... for the Appellant.

The present appeal has been preferred by the insurance company challenging an order dated 30th August, 2024 passed by the learned Commissioner, 3rd Court (in-charge), Employees' Compensation, West Bengal in Claim Case no.477 of 2009.

The first proviso to Section 30(1) of the Employee's Compensation Act, 1923 (hereinafter referred to as ECA) clearly states that no appeal shall lie against any order unless a substantial question of law is involved in the appeal.

Records reveal that the Claim Case was filed by the claimant/respondent no.1 herein claiming to be a driver of the vehicle owned by the respondent no.2 herein stating *inter alia* that the vehicle met with an accident on 17th September, 2008 and he received injuries and that the accident arose out of and the course of employment. The PW1 in his examination-in-chief corroborated the Claim Case.

The owner of the vehicle admitted the case of the claimant by filing a written statement and declined to cross examination the PW1. The appellant herein also filed a written statement and in course of cross examination admitted the oral testimonies of PW1.

Mr. Bhowmik, learned advocate appearing for the appellant/insurance company strenuously argues that the learned Commissioner disposed of the Claim Case erroneously directing payment of compensation by the impugned order without even framing any issue as to whether the alleged accident arose out of and in course of employment.

He contends that the learned Commissioner erroneously assessed the loss of earning capacity of the claimant to be 100% on the rudiments of a certificate pertaining to permanent partial disability to the extent of 35%.

He further argues that the impugned order has been passed on an erroneous interpretation of the insurance policy and such infirmity warrants interference in appeal.

We have heard Mr. Bhowmik and considered the materials on record.

A perusal of the order impugned clearly reveals that the learned Commissioner allowed the Claim Case as during cross-examination of the doctor, the

appellant *'did not dispute the percentage of loss of earning capacity of applicant'*.

On the rudiments of the documents, as exhibited and the deposition of the parties, the learned Commissioner arrived at a finding that the claimant's loss of earning capacity was 100%. The appreciation of evidence by the learned Commissioner on the basis of the materials on record and findings of fact should not be ordinarily interfered with when it comes up for an admission under Section 30 of ECA.

In the said conspectus, we are of the opinion that the appeal does not involve any substantial question of law and accordingly, the same along with the application for stay, being IA No.: CAN 1 of 2025 stands dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)