

04.02.2026.
Item No. 12.
Court No. 13
ap

**F.M.A. No. 538 of 2021
With
I.A. No. CAN 1 of 2019
And
I.A. No. CAN 2 of 2021
And
I.A. No. CAN 3 of 2026**

**Employees State Insurance Corporation
Versus
Shri Prabir Kumar Baidya**

Mr. Tilak Mitra.

...For the appellant.

Sk. Toslim Ali,
Mr. Sagnik Bhattacharya.

...For the respondent.

Re: CAN 1 of 2019 (Condonation)

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 7 days in filing the instant appeal.

2. Having heard the learned Advocate appearing on behalf of the appellant as also considering the statements made in the said application, this Court is satisfied with the grounds indicated therein, as sufficiently explaining delay of 7 days in preferring the instant appeal.

3. In view of the above, the application for condonation of delay being CAN 1 of 2019 is allowed and disposed of.

4. There will be no order as to costs.

Re: CAN 3 of 2026

5. This is an application for expeditious hearing of the instant appeal.

6. Since the appeal itself is being taken up by this Court, the said application is disposed of without any further order.

7. The application being CAN 3 of 2026 is disposed of.

Re: F.M.A. 538 of 2021

8. The subject matter of appeal is the judgment and order dated 13th July, 2018 passed by the Employees Insurance Court at Calcutta in Appeal No. 34 of 2006 (Shri Prabir Kumar Baidya – Vs. – Employees State Insurance Corporation).

9. The brief facts relevant to the case are that the appellant was insured under the ESIC and was workman at M/s. Waverly Jute Mill as a “Mistry”. In course of employment, he suffered an accident when a machine roller accidentally slipped and hit his right thigh including hip joint. The appellant was treated medically at Calcutta and at Christian Medical College, Vellore. ESIC admitted 10% loss of earning capacity of the appellant.

10. The Trial Court in its wisdom, having regard to the entire facts and circumstances of the case, has increased the loss of income from 10% to 20%.

11. This Court finds that Employees Insurance Court, Calcutta has exercised discretion vested upon it in accordance with law. The decision is neither perverse nor arbitrary. The order of the EIC Court was

passed after due compliance of principles of natural justice.

12. The conclusion arrived at by the EIC, Court is not so baffling that no reasonable man can come to such conclusion.

13. In that view of the matter, this Court is of the view that the impugned judgment and order dated 13th July, 2018 passed by the Employees Insurance Court, Calcutta calls for no interference by this Court and it is upheld.

14. F.M.A. 538 of 2021 must fail and is hereby dismissed.

15. In view of dismissal of the appeal itself, the connected application being CAN 2 of 2021 is also dismissed.

16. There will be no order as to costs.

17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)