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FMA 1151 of 2025
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IA No.: CAN 2 of 2025
National Insurance Co. Ltd.
– *Versus* –
Saroj Biswas & 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 24th July, 2024 passed by the learned Commissioner, 1st Court, Employees' Compensation, West Bengal in a Claim Case, being CC – 04 of 2013.

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 workman employed as a driver by the respondent no.2 herein stating *inter alia* that he received personal injuries in an accident on 4th December, 2012 and that the accident arose out of and the course of employment. In the said proceedings, the

PW1 deposed and placed on record documents marked as Exhibit no.1 to Exhibit no. 13. The appellant and the respondent no.2 did not contest the said proceedings.

Mr. Bhowmik, learned advocate appearing for the appellant submits that no copy of the claim petition was served upon the appellant and as such, the insurance company had no knowledge about the initiation and pendency of the said Claim Case.

He further 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 basis of a document certifying the claimant's percentage of disability to be 50%.

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

The contents of the order impugned reveal that the matter was fixed for *ex parte* order on 24th July, 2024. It was categorically observed in the said order that the appellant and the respondent no.2 '*did not contest the case even after knowing the*

existence of this case and as such case is heard ex-parte' against them.

In the order impugned the learned Commissioner arrived at a finding that the oral evidence of PW1 stands corroborated by the documents produced and exhibited as Exhibit nos. 1 to 13 and such oral evidence of PW1 and the exhibited evidence had remained unchallenged.

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 2 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.)