

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 274 of 2025

**Cholamandalam MS General Company Limited
Versus
Nabera Khatun & Ors.**

With

COT/45/2025

Nabera Khatun & Ors.

-Vs.-

Cholamandalam MS General Company Limited & Anr.

For the Appellant : Mr. Soumalya Ganguli

For the Respondent No.1 to 3 : Mr. Subir Banerjee
Ms. Ruxmini Basu Roy

Heard & Judgment on : 20th August, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No.1 to 3/claimants are present in Court.

2. The instant appeal had been filed against the judgment and award dated 3rd September, 2024 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 2nd Court, Islampur, Uttar Dinajpur in M.A.C. Case No. 311 of 2023.
3. The Learned Advocate representing the appellant/Insurance Company filed the instant appeal exclusively on the ground that the Learned Tribunal in absence of corroborative, oral and documentary evidence had granted monthly income to the extent of Rs. 6000/-. More-over, the sum of Rs. 1,50,000/- was granted towards funeral expenses, loss of estate, loss of spousal consortium and loss of filial consortium which had been excessive following the principles laid down in the decision of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr.
4. The Learned Advocate representing the respondent No.1 to 3/claimants to have filed a cross objection being COT 45 of 2025 wherein he had agitated that the Learned Tribunal had granted notional income to the extent of Rs. 6000/- per month which had been inadequate considering the accident to have incurred in the year 2023. The Learned Tribunal had granted interest at the rate of 5% per annum which was diminutive. He further submitted that the Circular issued by the Labour Department stipulated the daily wages with regard to the worker.

5. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of issues agitated by the learned Advocates representing the respective parties. The evidence of P.W.1 being the wife of the deceased victim on affidavit stated that the victim used to work as Mason earning a sum of Rs. 10,000/- per month. Considering the fiscal index prevalent on the date of the accident the monthly salary of the victim to be Rs. 8000/- per month should not be improbable. However, the Learned Tribunal had granted an excess amount of Rs. 1,50,000/- towards general damages which should be Rs. 77,000/- along with 10% enhancement every three years.
6. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.² The impugned award of Rs. 12,92,000/- is modified as follows:

Monthly Income	Rs. 6000/-
Future Prospect to be added(40%)	Rs. 2400/-
	<u>Rs. 8400/-</u>
	X 12
Annual Income	<u>Rs. 1,00,800/-</u>

1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Personal Expenses (1/3)	Rs. 1,00,800/- Rs. 33600/-
Multiplier to be "17"	Rs. 67,200/- X 17
General Damages	Rs.11,42,400/ Rs. 77,000/
Entitlement	Rs.12,19,400/

7. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 13,84,210/=(Rs. 25,000 + 13,59,210) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
8. The Learned Advocate representing the respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 12,19,400/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
9. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present respondent Nos. 1 to 3/claimants as mentioned by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 2nd Court, Islampur, Uttar Dinajpur in M.A.C. Case No. 311 of 2023 on proof of proper identification of the respondent No.1 to 3/claimants

subject to payment of ad valorem Court fees within four weeks and refund the differential amount, if any, through a cheque to the Learned Advocate for the insurance company for the accounts of the insurance company. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

10. The instant appeal and cross objection are disposed of accordingly.
11. Pending applications, if any, stands disposed of.
12. The interim order if any stand vacated.
13. The TCR be sent down to the concerned tribunal forthwith.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)