

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 43 of 2025

**Cholamandalam MS General Insurance Company Limited
Versus
Bina Bala & Ors.**

For the Appellant/Insurance Company : Mr. Soumalya Ganguli

For the Respondents/Claimants: Mr. Soujanya Bandyopadhyay

Heard & Judgment on : 3rd September, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court today.
2. The instant appeal had been preferred against the impugned judgment and order dated 05.08.2024 passed by the Learned Judge, Motor Accident Claims Tribunal, 12th Bench, City Civil Court at Calcutta in M.A.C. Case No. 386 of 2011.
3. The Learned advocate representing the appellant/Insurance Company submitted to have filed the instant appeal exclusively on the ground that on the date of occurrence of the accident on 30th March, 2011 the driving licence possessed by the driver of

the offending vehicle was invalid. It was further submitted that the R.T.O. appeared to depose before the Learned Tribunal and with regard to the document marked as Exhibit 'B' and 'C' series the driving licence issued in favour of the driver of the offending vehicle expired in the year 1998.

4. The Learned Advocate representing the appellant/Insurance Company further submitted contrary to the observation of the Learned Tribunal accepting the driving licence to be fake the driving licence was otherwise invalid on the date of the occurrence of the accident since the driving licence to have been issued in favour of one Goutam Roy being the driver of the offending vehicle would appear from the charge-sheet marked as Exhibit – 4 to have been arrested.
5. The Learned Advocate representing the respondents/claimants submitted that the Learned Tribunal after assessing the entire gamut of oral as well as documentary evidence assessed the compensation which should not be interfered with.
6. Since the occurrence of the accident, Insurance policy, route permit etc. and other ancillary issues are not disputed by the learned advocate representing the appellant/Insurance Company, this Court restrict itself only to the extent of determine the above-mentioned issues.

7. Considered the rival contentions of the Learned Advocates representing the respective parties.
8. Assessing the evidence of R.T.O. being O.P.W. 1 along with the documents marked as Exhibit 'B' and 'C' series the driver of the offending vehicle did possess a valid driving licence. However, whether the same was subsequently renewed after its period of validity which expired in the year 1998 could not be stated by the R.T.O. who appeared to depose before the Learned Tribunal as O.P.W. 1.
9. Under the facts and circumstances of the case, it could not be stated sacrosanctly and indubitably that the driver of the offending vehicle possessed an invalid driving licence, when the onus lay upon the appellant/Insurance Company to establish its claim based on legal sanctity. Under such circumstances, the instant appeal fails.
10. The appeal being FMA/43/2025 is, accordingly, dismissed.

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct.)