

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 249 of 2025

**Cholamandalam MS General Insurance Co. Ltd.
Versus
Janeka Bibi & Ors..**

For the Appellant

Insurance co.

: Mr. Rajesh Singh

For the Respondent Nos. 1 to 2
claimants

: Mr. Saidur Rahaman

Heard on & Judgment on

: 2nd May, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 27th August, 2024 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1st Fast Track Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 94 of 2020.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of death of the victim in

an accident which occurred on 06.05.2020 at about 9.00 a.m. with the involvement of the offending vehicle being Bolero Pick-up van bearing registration No. WB-57E/1322 which approached at an exceeding speed rashly and negligently using its control. The driver of the offending vehicle hit the victim near the house of Bhoteru Sk of Ampara on NH-34. The victim suffered severe injuries and was transferred from one hospital to other and finally expired at Greenage Hospital Pvt. Ltd., Siliguri on 12.05.2020.

4. Learned Advocate representing the appellant/insurance company submitted to have filed the instant appeal exclusively on two grounds viz the victim had been a bachelor and personal expenses to the extent of 50% was not deducted. More-over, the general damages of Rs. 70,000/- including loss of consortium was granted instead of Rs. 36,000 in case of the victim being Bachelor.
5. The Learned Advocate representing the respondent Nos. 1 and 2/claimants submitted that the victim was 9 years old and the multiplier 15 was applied instead of 18.
6. Considered the rival contentions of the respective parties.
7. 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 appellant/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate representing the appellant/insurance company as well as respondent No.1 & 2/claimants. Since the victim expired at the age of 9 the multiplier should have been applied as 18. In case of the victim being a child eradicated the possibility of his status being a Bachelor who died at a tender age the deduction to the extent of 50% to be mandatorily stipulated to have been resorted to and loss of consortium to the extent of Rs. 40,000/- should not have been granted.

8. The judgment and order passed by the learned Tribunal required to be modified to the following extent:

Annual Income	Rs. 30,000/-
Future Prospect to be added(40%)	Rs. 12,000/-
	Rs. 42,000/-
Multiplier to be "18"	18
	Rs. 7,56,000/-
Personal expenses (50%)	Rs. 3,78,000
	Rs. 3,78,000/-
General damages(Rs. 30,000 + 20%)	Rs. 36,000/-
Medical Expenses	Rs. 1,25,000/-
Entitlement	Rs. 5,39,000/-

9. The respondent Nos. 1 and 2/claimants are entitled to a sum of Rs. 5,39,000/- along with 6% interest per annum to be paid from

the date of filing of the claim application till the date of its realization.

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 10,56,362/=(Rs. 25,000 + 10,31,362) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present respondent Nos. 1 and 2/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1st Fast Track Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 94 of 2020 on proof of proper identification of the respondent Nos. 1 and 2/claimants subject to payment of ad valorem Court's fees within four weeks and refund the differential amount through a cheque to the learned advocate for the insurance company for the accounts of the insurance company.
12. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which has been further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest

accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company through a cheque to be deposited at the office of the appellant/insurance company.

13. The instant appeal is disposed of accordingly.
14. The interim order, if any, stand vacated.
15. The pending applications if any stands disposed of.
16. The TCR be sent down to the concerned tribunal forthwith.
17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.