

Form No. J (2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay.

F.M.A. 464 of 2025

**The Legal Manager Cholamandalam MS General Insurance
Co. Ltd.**

Vs.

Champala Singha & Ors.

With

COT 44 of 2025

Champala Singha & Ors.

Vs.

The Legal Manager Cholamandalam MS General Insurance Co. Ltd.

Mr. Rajesh Singh, ... for the appellant/Insurance
Company.

Mr. Sandip Bandyopadhyay, ... for the respondent
nos. 1 to 4.

Heard on : : 13.06.2025

Judgment On : 10.07.2025

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 29th August, 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. 267 of 2021.
3. An application under Section 166 of the M.V. Act had been filed on account of the death of the victim in an accident which occurred on

August 27, 2021 at about 6:30 P.M. on National Highway no.34 at Khetrabari within the jurisdiction of Karandighi police station with the involvement of the offending vehicle being a Bolero bearing registration no.WB-74-AK/8718 which approached at an exceeding speed, rashly and negligently clashed the pedestrian/victim on his way to his residence resulting in severe injuries sustained by the victim who was thereafter transmitted to the Karandighi BPHC hospital for treatment wherein the doctor declared him dead.

4. The Learned Advocate representing the appellant/insurance company submitted to have filed the instant appeal exclusively on the ground that the learned Tribunal had erroneously granted a sum of Rs.80,000/- towards parental consortium as well as Rs. 40,000/- towards loss of filial consortium which was excessive.
5. The Learned Advocate representing the respondents/claimants submitted to have filed a cross objection being COT 44 of 2025 being aggrieved that the claimants received 25 per cent of the income towards future prospect contrary to 40 per cent of the same in respect of his age to have been below 40 years at the time of the accident. The learned Tribunal in its discussion in the impugned judgment and order had mentioned as follows :

“In cases of self employed persons or persons employed under fixed ages the enhancement for future prospect would be 40% if the deceased is below 40 years of age, 25% if deceased is between 40 to 50 years and 10% if the deceased is above 50 years of age. I have accepted the age of deceased Pradip Singha as 38 years and he had a kuti business for which the petitioners are entitled to get 25% of the income of the deceased as future prospect”.

6. Since, the learned Tribunal elaborately discussed the issue of entitlement of the future prospect to the extent of 40 per cent. However, it appeared that there had been a typographical error in mentioning 25 per cent instead of 40 per cent towards future prospect and this Court considered it prudent to rectify such act of inadvertence.
7. 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. 12,02,500/- is modified as follows:

Monthly Income	Rs. 6000/-
Annual income	x 12
	Rs. 72,000/-
Future Prospect to be added(40%)	Rs. 28,800/-
	Rs. 1,00,800/-
1/4 th Deduction	Rs. 25,200/-
	Rs. 75,600/-
Multiplier to be "15"	X 15
	Rs. 11,34,000/-
General Damages	Rs. 84,000/-
Less	Rs. 12,18,000/-
	Rs. 12,02,500/-
Entitlement	Rs. 15,500/-

8. Learned advocate representing the respondent No.1 to 4/claimants submitted that the respondents/claimants had received the entire compensation award passed by the learned Tribunal inclusive of the interest at the rate of 5 per cent per annum from the date of filing of the aforesaid application till date of which actual realization.

¹ 2017(4)TAC 673(S.C)

9. The learned Advocate representing the appellant/Insurance Company further submits to have deposited a sum of Rs. 14,02,477/=(Rs. 25,000 + 13,77,477) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company. The excess amount of Rs.15,500/- along with the differential interest to be computed and, thereafter, deposited at the office of the learned Registrar General, High Court at Calcutta within two months.
10. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited to the respondent Nos. 1 to 4/claimants as mentioned by learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 2nd Court, Islampur, Uttar Dinajpur in M.A.C. Case No. 267 of 2021 on proof of proper identification of the respondent No.1 to 4/claimants subject to payment of ad valorem Court fees and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.
11. The instant appeal and cross objection are disposed of accordingly.
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.)

CHC