IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.Nos.542 & 1436 of 2021
and C.M.P.No.3428 of 2021

C.M.A.No.542 of 2021:

Shriram General Insurance Co. Ltd.,
E-8, RIICO Industrial Area
Sitra Pura, Jaipur
Rajasthan – 302 022. ... Appellant

Vs.

1.Sumant A.Gulvadi (Died)
2.Nandhini Gulvadi
3.Lotika Gulvadi
[R1 died. R2 and R3 (who are already on record) are recorded as LR of the deceased R1 viz., Sumant A.Gulvadi as per memo dated 10.12.2025 are recorded and vide Court order dated 10.12.2025]
4. Venkatachalaiah ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award and decree dated 19th day of February 2020 made in M.C.O.P.No.611 of 2017, on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes) Chennai.

For Appellant : Mr.S.Dhakshnamoorthy
For R1 : Died

For R2 & R3	:	Mr.Rajnish Pathiyil
For R4	:	Not ready in notice

C.M.A.No.1436 of 2021:

1.Sumant A.Gulvadi (Died)

2.Nandhini Gulvadi

3.Lotika Gulvadi

[Appellant-1 died. Appellants 2 and 3 (who are already on record) are recorded as LR of the deceased A-1 viz., Sumant A.Gulvadi as per memo dated 10.12.2025 are recorded and vide Court order dated 10.12.2025]

... Appellants

Vs.

1. Venkatachalaiah

2.M/s.Shriram General Insurance Company Limited,

E8, RIICO Industrial Area,

Sitra Pura Jaipur,

Rajasthan – 302022 .. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.02.2020, made in M.C.O.P.No.611 of 2017, on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai directing the 2nd respondent herein to enhance the compensation amount from 2,37,42,400/- (Rupees Two Crores Thirty Seven Lakhs Forty Two Thousand and Four Hundred only) to Rs.3,08,07, 093.75/- (Rupees Three Crores Eight Lakhs Seven Thousand Ninety Three and Seventy Five Paise Only) to the appellants.

For Appellants	:	Mr.Rajnish Pathiyil
For R1	:	Not ready in notice
For R2	:	Mr.S.Dhakshnamoorthy

COMMON JUDGMENT

(Judgment of the Court was delivered by C.V.KARTHIKEYAN, J.)

C.M.A.No.542 of 2021 has been filed by the appellant – Insurance Company against the Award and decree dated 19th day of February 2020 made in M.C.O.P.No.611 of 2017, on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes) Chennai.

2.C.M.A.No.1436 of 2021 has been filed by the appellants-claimants seeking enhancement of compensation granted by the Tribunal in the Award and decree dated 19th day of February 2020 made in M.C.O.P.No.611 of 2017, on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes) Chennai.

3.Both the appeals arise out of same accident and same award and hence we disposed of by this Common Judgment.

4.The parties are referred to as per their ranks in the claim petition, for the sake of convenience as 'claimants' and 'Insurance Company'.

5.The claimants in M.C.O.P.No.611 of 2017, on the file of the II Small Causes Court at Chennai are the appellants herein in C.M.A.No.1436 of 2021 and the respondents herein in C.M.A.No.542 of 2021.

6.M.C.O.P.No.611 of 2017 had been filed under Section 166 of the Motor Vehicles Act and Rule 3 of the MACT Rules, seeking compensation of Rs.5,85,16,993/- for the death of Ms.Menaka Gulvadi in a road accident. The claimants were the father, mother and sister of the deceased. It had been stated in the claim petition that the deceased was employed as Manager, Head of Cargo Service in Cathway Pacific Airways, Bengaluru. They claimed that at the time of death she was earning Rs.1,87,000/- per month.

7.The accident occurred on 24.03.2016 at around 6.20 a.m., in Bangalore-Bellary Main Road near Bharathi Nagar Cross Canal, Yelahanka, Bengaluru, when the deceased, who was aged about 37 years was riding a bicycle on the extreme left side of the road from North to South. It was contended that a TATA Indica Car bearing Registration No.KA 04 C 7294 came behind her and dashed against her causing severe injuries to her head, hands, legs, abdomen and other parts of the body. In this connection FIR in Crime No.81/2016 had been registered by the Yelahanka Traffic Police Station, Yelahanka, Bengaluru City, Karnataka. It was claimed that due to the accident, the bicycle was totally damaged. She died on the spot. In the claim petition, the claimants had sought a total claim of Rs.5,85,16,993/-.

8.The first respondent was the driver of the vehicle and the second respondent / Insurance Company was the insurer.

9.The Insurance Company had filed a written statement denying the averments as to how the accident occurred. It was denied that the vehicle was driven in rash and negligent manner. It was asserted that the accident occurred only due to the negligence of the deceased. It was also contended that the claim was highly excessive.

10.The matter was taken up for trial by the learned II Judge, Small Causes Court, Chennai and by order dated 19.02.2020, holding that the accident occurred only due to the rash and negligent manner in which the TATA Indica Car was driven by the first respondent, a total compensation of Rs.2,37,42,400/- had been granted. The calculation with respect to the grant of compensation was as follows:

1. Loss of Dependency	*:*	*Rs.2,36,02,320.00*
2.Loss of Love and Affection	*:*	*Rs.75,000.00*
3.Filial Consortium	*:*	*Rs.50,000.00*
4.Funeral Expenses	*:*	*Rs.15,000.00*
Total	***:***	***Rs.2,37,42,320.00***

the same was ***rounded to Rs.2,37,42,400/-***

11.Challenging the said grant of compensation and seeking enhancement, the claimants have filed the present appeal.

12.The Insurance Company has also preferred an appeal in C.M.A.No.542 of 2021.

13.The learned counsel for the claimants would submit that the Tribunal has not granted 50% towards future prospects and in this connection referred to the Judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***2017 16 SCC Page 686***. With respect to the income of the deceased, it was contended that the evidence of P.W.3, a Chartered Accountant, who had filed income tax returns on behalf of the deceased, had been completely disregarded by the Tribunal. It was also contended that the Tribunal had failed to take into consideration the correct income as declared in the income tax returns of the deceased. It was also argued that additional compensation under the heads of love and affection had not been granted. It was also contended that compensation was not granted for damages to bicycle, clothes and mobile phone and compensation was also not granted towards transport to hospital.

14.The learned counsel for the claimants further contended that compensation had not been granted towards loss of filial consortium. The learned counsel also contended that no amount was awarded towards Part Provident Fund withdrawal, which was permissible, if the deceased had not died and that the Tribunal had also not considered the Provident Fund contribution of the employer and had also not considered the Gratuity which is payable and would have been paid, had the deceased continued in service. The learned counsel further argued that as part of the service condition, the deceased and her family members were entitled to three air passes/tickets. It was contended that evidence had been adduced by the chartered accountant/ P.W.3 that the claimants had earlier availed three air passes and on that basis, there was a possibility of them again availing the same in the future. It was contended that a direct loss had been suffered by the claimants owing to the accident causing death and it was urged that compensation should be granted for three air passes. In this connection, the learned counsel stated that free air tickets have been provided for private journeys for the employees and family members, which are treated as benefits and makes it taxable in the hands of the employer and argued that failure to consider the same had seriously vitiated the award.

15.The learned counsel also contended that Provident Fund and Gratuity should have been considered as part of income, but the Tribunal had failed to consider them as such. In this connection, the learned counsel placed reliance on the Judgment of Delhi High Court in ***Klaus Mittelbachert (Deceased) through LRs vs. East India Hotels Ltd*** reported in ***1997 (40) DRJ 147*** wherein, it had been held that a beneficiary can sue on a contract for enforcement of the benefits intended to be conferred on him under the contract. In that case, the design of a swimming pool was defective, which developed skin infection and thereafter frequent infections of the bladder. The claimant in that case was a Co-Pilot and it was held therein that the action seeking enforcement of liability under the contract would not abate by the death of the injured plaintiff, and the cause of action would survive to the legal heirs.

16.The learned counsel further relied on the Judgment of the Hon'ble Supreme Court in ***William Cameron and Alaska Airlines, Inc., vs. Deborah Chang-Craft*** reported in ***251 P.3d 1008 (2011),*** which was a case of payment of damages for the loss of travel benefits extended.

17.The learned counsel also placed reliance on the Judgment of Hon'ble Supreme Court in ***Arthur H.Mclan and Jean D.McKean, et al., vs. The United States*** reported in ***33 Fed.Cl.535*** wherein, payments for lost health insurance benefits and lost travel passes were considered as income for the purpose of grant of compensation.

18.The learned counsel also placed reliance on the Judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd., vs. Indira Srivastava and ors*** reported in ***MANU/SC/8201/2007,*** wherein the Hon'ble Supreme Court, while pointing out the term *'just compensation'* under Section 168 of the Motor Vehicles Act, 1988, awarded by the Motor Accident Claims Tribunal, had held as follows:

> *"9.Section 168 of the Act uses the word 'Just compensation' which, in our opinion, should be assigned a broad meaning. We cannot, in determining the issue involved in the matter, lose sight of the fact that the private sector companies in place of introducing a pension scheme takes recourse to payment of contributory Provident Fund, Gratuity and other perks to attract the people who are efficient and hard working. Different offers made to an officer by the employer, same may be either for the benefit of the employee himself or for the benefit of the entire family. If some facilities are being provided whereby the entire family stands to benefit, the same, in our opinion, must be held to be relevant for the purpose of computation of total income on the basis whereof the amount of compensation payable for the death of the kith and kin of the applicants is required to be determined. For the aforementioned purpose, we may notice the elements of pay, paid to the deceased."*

19.The learned counsel further placed reliance on the judgment of the Hon'ble Supreme Court in ***Meenakshi vs. Oriental Insurance Co. Ltd.,*** reported in ***2024 SCC Online SC 1872*** wherein, the Hon'ble Supreme Court has held as follows:

> *"9. Recently in a judgment dated 11th July, 2024 in National Insurance Company Ltd. v. Nalini and Ors. [Petition for*

Special Leave to Appeal (C) No. 4230/2019], this Court held that, allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary of the victim/deceased to arrive at the dependency factor.

10. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant.

11. Clearly, the High Court erred in accepting the appeal filed by the respondent No. 1- Insurance Company and reducing the compensation payable to the appellant from a sum of ? 1,04,01,000/- (Rupees One crore four lakh one thousand only) awarded by the Accident Claims Tribunal to ? 49,57,035/- (Rupees Forty nine lakh fifty seven thousand and thirty five only)."

20.The learned counsel further placed reliance on the Judgment of the Hon'ble Supreme Court in ***Kavita Devi and Others vs. Sunil Kumar and Another*** reported in ***2025 SCC Online SC 1639,*** wherein the Hon'ble Supreme Court held as follows:

"16.This Court in Sarla Verma (supra) has clarified that for the purpose of computation, actual income of the deceased has to be taken into consideration. This Court in National Insurance Co. Ltd. v. Indira Srivastava and Others6, this Court while interpreting the words 'just compensation' and 'income' held as follows:

"9.The term 'income' has different connotations for different purposes. A court of law, having regard to the change in societal conditions must consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family. Loss caused to the family on a death of a near and dear one can hardly be compensated on monetary terms.

10.Section 168 of the Act uses the word 'just compensation' which, in our opinion, should be assigned a broad meaning. We cannot, in determining the issue involved in the matter, lose sight of the fact that the private sector companies in place of introducing a pension scheme takes recourse to payment of contributory Provident Fund, Gratuity and other perks to attract the people who are efficient and hard working. Different offers made to an officer by the employer, same may be either for the benefit of the employee himself or for the benefit of the entire family. If some facilities are being provided whereby the entire family stands to benefit, the same, in our opinion, must be held to be relevant for the purpose of computation of total income on the basis whereof the amount of compensation payable for the death of the kith and kin of the applicants is required to be determined.

…………

17.This Court has consistently held in case of the allowances which are included in the component of salary of the deceased, Tribunal has to take into consideration these allowances as they were used for supporting the family. The claimants have to show that these allowances were regularly received and used for the family's benefit. Further, while determining whether the allowances form a part of the salary or not, the Tribunal by looking into the facts of each case and by considering the extent of dependency of the claimants on the salary of the deceased including the allowances, have to determine whether these allowances should be excluded from determination of the income of the deceased. If the answer of the Tribunal is in affirmative, then the allowances may be excluded for determination of loss of dependency. If the Tribunal answers the above point in negative, then the Tribunal has to include the allowances for computation of income of the deceased, thus determining the loss of dependency.

21.Placing reliance on the dictum laid in the aforesaid judgments, learned counsel for the claimants urged that this Court should revise the award and allow the appeal.

22.The learned counsel for the Insurance Company however disputed the said contentions. He pointed out that Free Air Passes were payable only till the life time of the employee and on death, the said passes would not be granted. It was therefore contended that a presumption had been raised regarding possible usage there was no guarantee that the claimants would have used the air passes in the future.

23.With respect to claim for Gratuity, the learned counsel argued that the Gratuity would be granted at the time of retirement of the employee and cannot be taken as part of the monthly income. With respect to the Provident Fund Contribution of the employer, the learned counsel asserted that amounts under the heads of Provident Fund and Gratuity had never been granted as compensation.

24.The learned counsel further pointed out that the deceased was employed only for nine 9 months in the Airlines Company and therefore, proportionate salary alone should be taken into consideration and that amount had been rightly taken by the Tribunal. The learned counsel contended that no grounds have been made to revise the compensation and urged that the appeal should be dismissed.

25.We have considered the arguments advanced on both sides and perused the material records.

26.The fact that the deceased died in an accident owing to the rash and negligent manner in which the TATA Indigo vehicle was driven is not in dispute. The issue before the Court is about the quantum of compensation granted, with specific respect to the issue of **Provident Fund contribution of the employer,** issue of **Gratuity** and issue whether **Free Air Ticket Passes** should form part of the salary or should be taken as a separate head, with respect to the **Income of the Deceased.**

27.With respect to the income of the deceased, it is seen from the records, especially Ex.P23 / appointment letter, that the deceased was employed in British Airways as Cargo Customer Service Manager with effect from 15.05.2015 and she met with an accident and died on 24.03.2016. Thus, she worked in the British Airways for about 10½ months. The income tax returns for the financial year

2014-2015 for the assessment year 2015-16 had been filed as Ex.P22 series, as per which, the gross total income was Rs.22,35,286/-. But same could not form basis to calculate the income of the deceased, since she has joined in new service with British Airways and was carrying new pay scale as per her appointment order dated 24.03.2015.

28.The father of the deceased/first claimant examined himself as P.W.1. As per Ex.P27 / Income Tax Return for the year 2016 - 2017, the salary of the deceased paid by the British Airways for 10½ months i.e., 01.04.2015 to 14.02.2016 comes to Rs.8,43,871/- along with HRA of Rs.4,21,935/-, Management Allowance of Rs.1,74,681/- and VLTA of Rs.70,000/-. Thus the income for 10½ months comes to Rs.15,10,487/-. The same is converted to 12 months, **the annual income comes to Rs.17,22,899/-** [15,10,487 / 320 (10½) = 4720 x 45(1½) = 2,12,412 (15,10,487 + 2,12,412) = 17,22,899].

Slab Rate for Computation of Income Tax:

Up to 2.5 lakhs – Nil
2.5 lakhs to 5 lakhs – 10% =25,000
5 lakhs to 10 lakhs – 20% = 1,00,000
Above 10 lakhs – 30% = 2,16,869.7 (17,22,899-10,00,000=7,22,899 x 30%)

Total = 3,41,869.7 @ 3,41,870

Thus the gross total income comes to Rs.13,78,829/- after deducting

Income Tax @ Rs.3,41,870/- and Professional Tax @ Rs.2,200/- [17,22,899-3,44,070 (3,41,870 + 2,200) = 13,78,829].

29.The non taxable Provident Fund contributed by the employer is Rs.1,15,200/- which is added to the income. The non taxable medical allowance of Rs.15,000/- is also added. **Thus the total annual income comes to Rs.15,09,029/-** [13,78,829 + 1,15,200 + 15,000].

30.We thus calculate the total annual income for a sum of **Rs.15,09,029/-**. With a multiplier of '15', (since the deceased was permanent employee) the income comes to **Rs.2,26,35,435/-** [15,09,029 x 15 = 1,94,57,895].

31.The deceased was a spinster at the time of accident and therefore, 50% of the income is deducted towards her personal expenses. The deceased was aged about 37 years at the time of accident, 50% of the income is added towards future prospects. This would indicate that a sum of Rs.1,13,17,717.5/- @ Rs.1,13,17,718/- (2,26,35,435 x 50/100) is deducted towards personal expenses and also added 50% @ Rs.1,13,17,718/- which comes to Rs.2,26,35,435/-. **The loss of income / loss of dependency is thus determined at Rs.2,26,35,435/-.**

32.The learned counsel for the claimants has urged that the provident fund part final amount of Rs.5,86,799/- that was withdrawn by the deceased should be included. He relied on a judgment of the Hon'ble Supreme Court in ***Kavita Devi and Others vs. Sunil Kumar and Another*** reported in ***2025 SCC Online SC 1639,*** which categorically held that withdrawal of Provident Fund should be included towards monthly income of the deceased. However, the salary certificate or pay bill of the deceased had not been produced to show that whether the provident fund contributions deducted from the employee / deceased salary were remitted to provident fund authorities or paid separately to the employee as one of the component of salary. In the absence of that particular evidence being produced, we are not able to include the provident fund, i.e., the part final amount of Rs.5,86,799/- remitted in the relevant year, as part of the salary income. It is to be noted that we have already included the employer's contribution to the provident fund in the income, which amount was paid directly by the employer to the provident fund authorities.

33.In the Judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited vs. Indira Srivastava and Others*** reported in ***2008 (2) SCC 763***, held in Para 9 that *"just compensation under Section 168 of the Motor Vehicles Act must be construed or broad term and includes Provident Fund, Gratuity and other perks to attract the people who are efficient and hard working".*

34.With respect to the value of Free Air Passes / Tickets admissible to the deceased, we hold the said benefit of Rs.8,95,030/- (Rs.89,503x10) should be calculated and awarded under a separate head. P.W.3 / Chartered Accountant had clearly spoken about the agreement of employment and deposed that the value of free passes is an integral part of an income of an Airline employee. Though the said value of free passes cannot be included in the monthly income of the employee, it can be termed as a special allowance payable to an employee by the employer. Therefore, a presumption can be drawn that the claimants would have availed it during the life time of the deceased. We would consider the evidence of P.W.3 in this connection and take the amount towards value of free air passes / tickets as a separate head.

35.The Tribunal has awarded compensation of Rs.75,000/- under the head loss of love and affection. As per the Judgment of the Hon'ble Apex Court in ***National Insurance Co. Ltd., vs. Pranay Sethi and other [2017(2) TN MAC 609 (SC): 2017 (16) SCC 680],*** the head loss of love and affection is included under the head loss of consortium and the dependents are entitled to get loss of consortium, as reiterated in ***United India Insurance Co. Limited vs. Satinder Kaur and Ors [MANU/SC/0500/2020 : (2021) 11 SCC 780]***. Thus, under the head loss of consortium we grant Rs.80,000/- [40,000 x 2 = 80,000].

36.The Tribunal has awarded compensation of Rs.15,000/- under the head Funeral Expenses and the same is hereby confirmed. The claimants are also entitled for compensation under the head Loss of Estate of Rs.15,000/-; attender charges of Rs.10,000/-; transport expenses of Rs.5,000/- and damages to clothes of Rs.1,000/-. We also grant towards Loss of I phone under Ex.P17, a sum of Rs.50,000/- and towards loss of cycle under Ex.P16, a sum of Rs.32,500/-.

37.Thus, the award passed by the Tribunal under various heads are hereby modified and the revised calculation is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Loss of Income/Loss of Dependency	Rs.2,36,02,320/-	Rs.2,26,35,435/-	Reduced
2.	Loss of Consortium / Filial Consortium	Rs.50,000/-	Rs.80,000/-	Enhanced
3.	Loss of Love and Affection	Rs.75,000/-	---	Set aside
4.	Loss of Estate	---	Rs.15,000/-	Granted
5.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Free Air Passes/ Ticket Benefit	---	Rs.8,95,030/-	Granted
7.	Loss of Iphone	---	Rs.50,000/-	Granted

8.	Loss of Cycle	---	Rs.32,500/-	Granted
9.	Loss of Clothing and Articles	---	Rs.15,000/-	Granted
10.	Medical Expenses and Transport	---	Rs.20,000/-	Granted
	Total Compensation	**Rs.2,37,42,320/- @ Rs.2,37,42,400/-**	**Rs.2,37,57,965/-**	**Enhanced to Rs.45,565/-**

38.In the result, these Civil Miscellaneous Appeals stand disposed of. The compensation awarded by the Tribunal at Rs.2,37,42,400/- is hereby enhanced to Rs.2,37,57,965/- [Rupees Two Crores Thirty Seven Lakhs, Fifty Seven Thousand Nine Hundred and Sixty Five only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.611 of 2017 on the file of the II Judge, Small Causes, Motor Accidents Claims Tribunal, Chennai. On such deposit, the claimants are permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the amount by directly crediting in to the Savings Bank Account of the claimants. Since this Court enhanced the compensation the appellants/claimants are directed to pay the court fee if any, on the enhanced amount. In other aspects the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeals. Consequently, the connected miscellaneous petition stands closed.

(C.V.K., J)   (K.R.S., J)
18.03.2026

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Index   : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No

To

1.The II Judge,
Small Causes Court,
Motor Accident Claims Tribunal,
Chennai.

2.The Section Officer,
VR Section,
High Court, Madras.

C.V.KARTHIKEYAN, J.
and

K.RAJASEKAR, J.

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C.M.A.Nos.542 & 1436 of 2021

18.03.2026