IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20 / 01 / 2026

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A. NOS.1251 OF 2022 AND 1370 OF 2023
AND
C.M.P. NO.9211 OF 2022
IN
C.M.A. NO.1251 OF 2022

C.M.A. NO.1251 OF 2022

Shriram General Insurance Company Ltd.,
Having Branch Office at No.5F,
Sachin Plaza Reddiyur,
Block No.1, Shriram Nagar,
Alagapuram, Salem – 636 004. ... Appellant / 2nd Respondent

Versus

1.Vijayalakshmi
2.Preethi
3.Kirankumar

(Respondents 2 and 3 are declared as Major and their Mother Respondent–1 Vijayalakshmi is discharged from Guardianship of Respondents 2 and 3 vide Court Order dated January 20, 2026 made in CMP No.1282 of 2026 in CMA No.1251 of 2022)

4.Lakshmi @ Lakshmiammal	...	Respondent 1 to 4/ Petitioners
5.Chandrasekar	...	5th Respondent / 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the Award dated September 1, 2021 passed in M.C.O.P.No.1417 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellant	:	Mr.S.Dhakshnamoorthy
For Respondents 1 to 4	:	Mr.C.Kulanthaivel
For Respondent – 5	:	Notice – Dispensed with

C.M.A. NO.1370 OF 2023

1.Vijayalakshmi

2.Preethi
3.Kirankumar
(Appellants 2 and 3 are declared as Major and their Mother Appellant–1 Vijayalakshmi is discharged from Guardianship of Appellants 2 and 3 vide Court Order dated January 20, 2026 made in CMP No.1347 of 2026 in CMA No.1370 of 2023)
4.Lakshmi @ Lakshmiammal ... Appellants / Petitioners

Versus

1.Chandrasekar
(Notice to Respondent 1 may be dispensed with

for the time being and separate petition is filed)

2.Shriram General Insurance Company Ltd.,
No.5 F, Sachin Plaza Reddiyur,
Block No.1, Shriram Nagar,
Alagapuram, Salem – 636 004. ... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the Civil Miscellaneous Appeal and modify the Award dated September 1, 2021 passed in M.C.O.P.No.1417 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem by enhancing the compensation awarded thereby.

For Appellants	:	Mr.C.Kulanthaivel
For Respondent – 1	:	Notice – Dispensed with
For Respondent – 2	:	Mr.S.Dhakshnamoorthy

* * * * *

COMMON JUDGMENT

(Judgment of the Court was made by R.Sakthivel, J.)

Feeling aggrieved by the Award dated September 1, 2021 passed by 'the Motor Accident Claims Tribunal cum Special District Court, Salem' ['Tribunal' for short] in M.C.O.P.No.1417 of 2016, the second respondent therein namely – Shriram General Insurance Company Limited, has preferred C.M.A. No.1251 of 2022 seeking to set aside the same, while the petitioners therein have preferred C.M.A. No.1370 of 2023 seeking enhancement of compensation.

2. As these Civil Miscellaneous Appeals arise out of one and the same Award, they will be governed by this Common Judgment.

3. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Petition.

PETITIONERS' CASE

4. The deceased - Jayaraman passed away in an accident that occurred on February 27, 2016 at about 02.30 p.m. The petitioners 1 to 4 are his wife, two children and mother respectively.

4.1. On the fateful day, the deceased -Jayaraman was travelling on Salem – Chennai National Highway along with his friends in an Ford Eco-Sport Car bearing Registration No.TN-10-AT-3903. As the car tyre got punctured, they parked the car opposite Pavender Polytechnic at Manivizhunthan on the road's earthen shoulder and got an Auto Driver namely Mr.Manivannan to help them by changing the spare wheel. The Auto Driver had parked his Autorickshaw in front of the car. Both the car and the Autorickshaw were parked with indicators and parking lights turned on. Warning Triangle was also properly used. All the traffic rules and regulations were followed.

4.2. At that time, an Eicher Lorry bearing Registration No.TN-37-AT-6220, driven in a rash and negligent manner, suddenly hit against the deceased - Jayaraman, Auto Driver - Manivannan and deceased Jayaraman's friend - Anandakumar and also hit against the right side of the Car and the Autorickshaw. In the accident, deceased - Jayaraman sustained grievous injuries and passed away on the way to the hospital, the Auto Driver passed away on the spot and the said Jayaraman's friend - Anandakumar sustained grievous injuries.

4.3. At the time of accident, the deceased - Jayaraman was 39 years old, engaged in the business of purchasing cotton fabrics and processing & reselling them, under the name of M/s.Vijayalakshmi Tex and thereby earned Rs.1,50,000/- per month.

4.4. First respondent is the owner of the said offending Eicher Lorry and the second respondent is the insurer of the said vehicle. According to the petitioners, the accident occurred solely due to the rash and negligent driving of the driver of the Eicher Lorry and therefore, both the respondents are jointly and severally liable to compensate the petitioners. Accordingly, the petitioners filed the present Claim Petition seeking a compensation of Rs.3,00,00,000/- (Rupees Three Crores only).

FIRST RESPONDENT'S CASE:

5. The first respondent filed a counter statement contending that the driver of the Eicher lorry bearing Registration No. TN-37-AT-6220 was driving the vehicle slowly and cautiously on the left side of the road, strictly adhering to traffic rules. The said Car and Auto Rickshaw were parked in the middle of the road without any warning signal, parking lights or indicators. In an attempt to avert the accident, the driver of the Eicher Lorry applied sudden brakes, however, despite his best efforts, the accident occurred solely due to the carelessness and negligence of the deceased - Jayaraman and the deceased Auto Driver - Manivannan. They had contributed to the occurrence of the accident and therefore, are guilty of contributory negligence. The first respondent's Lorry was duly insured with the second respondent and the insurance policy was in force on the date of the accident. The driver of the lorry possessed a valid and effective driving license at the relevant point of time. Hence, the second respondent is liable to indemnify the first respondent, if any liability is fastened. The first respondent further contended that the owners and insurers of the car and the auto are necessary parties to the proceedings and that the Original Petition is bad for non-joinder of necessary parties. On the above grounds, the first respondent prayed for dismissal of the Original Petition.

SECOND RESPONDENT'S CASE:

6. The second respondent filed a counter statement contending that the deceased - Jayaraman had no knowledge of the traffic rules relating to parking of vehicles on the road and there is no warning signal or indication placed near the car at the spot of occurrence. There was no fault on the part of the driver of the first respondent's vehicle and that the deceased - Jayaraman himself was a tort-feasor. Hence, the petitioners are not entitled to any compensation. Compensation claimed under various heads are excessive and exorbitant. On the above grounds, the second respondent prayed for dismissal of the Original Petition.

TRIBUNAL

7. At trial, on the side of the petitioners, the first petitioner - Vijayalakshmi who is the wife of the deceased - Jayaraman was examined as P.W.1 and one Anandakumar, an eyewitness / injured in the accident was examined as P.W.2. and Ex-P.1 to Ex-P.25 were marked. On the side of the respondents, neither any witness was examined nor any document was marked. A copy of Aadhaar Card of P.W.2 was marked as Ex-X.1.

8. The Tribunal, upon consideration of the oral and the documentary evidence available on record, observed that the place of occurrence is a four-way National Highway Road. Even while assuming that the car was parked in the middle of the road, the Eicher Lorry had sufficient space and carriageway to pass through the place of accident without any difficulty. Admittedly, the accident occurred at about 2.30 p.m., in the day light, and therefore, even in the absence of any warning signal, the driver of the first respondent's vehicle could have clearly noticed the parked vehicles from a considerable distance. The Tribunal further observed that the deceased - Jayaraman would not have parked the car in the middle of a National Highway carrying heavy vehicular traffic. Accordingly, the Tribunal came to the conclusion that the accident occurred solely due to the rash and negligent driving of the driver of the Eicher lorry belonging to the first respondent. Eicher lorry involved in the accident was duly insured with the second respondent–Insurance Company at the material point of time. Consequently, the Tribunal held that the respondents are jointly and severally liable to pay compensation to the petitioners and awarded a sum of Rs.1,45,85,570/- (Rupees One Crore Forty-Five Lakhs Eighty-Five

Thousand Five Hundred and Seventy only) as compensation to the petitioners.

9. Challenging the Award, the second respondent / Insurance Company has preferred C.M.A. No.1251 of 2022 and seeking enhancement of the compensation, the petitioners have preferred C.M.A. No.1370 of 2023.

ARGUMENTS:

10. Mr.S.Dhakshnamoorthy, learned Counsel appearing for the appellant in C.M.A. No.1251 of 2022 and second respondent in C.M.A. .No.1370 of 2023 would submit that the Tribunal did not properly appreciate Ex-P.19 to Ex-P.25 which are Income Tax Returns of the deceased - Jayaraman. He would invite attention of this Court to Ex-P.25, the Income Tax Returns for the Assessment Year 2016-2017 (Financial Year 2015-2016) submitted on September 17, 2016, after the demise of the deceased - Jayaraman, and submit that a bare perusal of Ex-P.25 along with Ex-P.22 to Ex-P.24 would show that the deceased - Jayaraman's income has been boosted in Ex-P.25 only for the purpose of getting higher compensation in the Motor Accident Claim. The Tribunal erred in not taking the said aspect into consideration. In sum and substance, the learned

Counsel would submit that the income stated in Ex-P.25 cannot be taken into account. The Tribunal has taken Ex-P.19 and Ex-P.25 - Income Tax Returns and averaged the income stated therein to conclude that the deceased earned a sum of Rs.14,44,057/- per annum. The approach of the Tribunal in assessing the deceased's income is not in consonance with law. Further, the Tribunal did not deduct income tax prevailing at the relevant assessment year. He further would submit that the deceased - Jayaraman was a businessman. Hence, the Tribunal rightly did not apply any future prospects. Accordingly, he would pray to allow the Civil Miscellaneous Appeal in C.M.A. No.1251 of 2022, dismiss C.M.A. No.1370 of 2023 and set aside the Award.

11. In response to the above submission, Mr.C.Kulanthaivel, learned Counsel appearing for the appellants in C.M.A. No.1370 of 2023 and Respondents 1 to 4 in C.M.A. .No.1251 of 2022 would submit that the Tribunal ought to have taken the income stated in Ex-P.25 - Income Tax Return which is the last earned income of the deceased - Jayaraman. There is no reason to reject Ex-P.25 which was filed through a qualified Auditor. He further would submit that the Tribunal failed to add future prospects as per the dictum laid down in the Judgment of Hon'ble Supreme Court in ***National Insurance Company Limited -vs- Pranay Sethi*** reported in

(2017) 16 SCC 680. Further, the deceased - Jayaraman passed away leaving four persons behind him, as his dependents. The Tribunal ought to have deducted 1/4 of his income as his personal living expenses instead of 1/3, as per ***Sarla Verma -vs- Delhi Transport Corporation****,* reported in ***(2009) 6 SCC 121***. Accordingly, he would pray to allow C.M.A. No.1370 of 2023, dismiss the C.M.A. .No.1251 of 2022, and thereby, enhance the Award amount by modifying the Award dated September 1, 2021 passed in M.C.O.P.No.1417 of 2016.

DISCUSSION:

12. This Court has considered the submissions made on either side and perused the materials available on record.

13. The evidence of P.W.2, who is an injured witness in the accident, coupled with Ex-P.1 - F.I.R. and Ex-P.3 - Final Report, is sufficient to come to the conclusion that the accident occurred solely due to the rash and negligence of the driver of the first respondent's Eicher Lorry. The Tribunal has rightly held so. Moreover, the learned Counsel appearing for the insurance company submitted that challenge in these Civil Miscellaneous Appeals is restricted to the quantum of compensation alone. Since the insurance company accepted its liability to pay compensation, there is no need for this Court to delve into aspect of negligence and liability.

14. Coming to quantum of compensation, the contentions raised are only with regard to computation of income, personal deduction and future prospects. The points that arise for consideration in these appeals are as follows:

(i) *Whether the Tribunal is right in computing annual income by taking the average of the income stated in Ex-P.19 and Ex-P.25, which are the Annual Income Tax Return Acknowledgments for the Assessment Years 2013- 2014 (Financial Year 2012-2013) and 2016-2017 (Financial Year 2015-2016) respectively ?*

(ii) *Whether Ex-P.25 which is the Annual Income Tax Return Acknowledgment for the Assessment Year 2016-2017 (Financial Year 2015-2016) submitted on September 17, 2016, that is to say after the demise of deceased - Jayaraman, can be taken into account as such for determining his income ?*

(iii) *Whether future prospects is to be added to the income of the deceased - Jayaraman given that he is engaged in a business ?*

(iv) *Whether the Tribunal is right in deducting 1/3 as personal deduction ?*

(v) *Whether the Award passed by the Tribunal is to be interferred with ?*

Point Nos.(i) and (ii)

15. As regards the income of the deceased - Jayaraman, he was running a textile business in the name and style of M/s.Vijayalakshmi Tex as its Sole Proprietor. Ex-P.18 - Registration Certificate issued by the Government of Tamil Nadu under the Tamil Nadu Value Added Tax Act, 2006, would prove the same. He is an Income Tax Assessee and his Permanent Account Number (PAN) Card is marked as Ex-P.15. Ex-P.15 shows that his date of birth is June 2, 1976, which means the deceased - Jayaraman was aged 39 years at the time of accident. Further, the petitioners filed Ex-P.19 to Ex-P.25 which are Income Tax Return Acknowledgements for the Assessment years 2013-2014 to 2016-2017. What could be discerned from Ex-P.19 to Ex-P.25 is that deceased -

Jayaraman had two sources of income. One is rental income from a house property owned by him in Chennai and another is the aforementioned business. It could be further discerned that the said house property was purchased on housing loan and that the deceased - Jayaraman was paying interest for the same.

16. The relevant details contained in Ex-P.19 to Ex-P.25 can be summarised as tabulated hereunder:

Assessment year & relevant exhibit	Total Income from House Property	Total Income from Business	Total Income	80-C, 80-D and other deductions	Total Taxable Income after deductions	Net Income Tax	Date of filing of Return
2013-14 Exs-P.19 & 22	94,570	10,63,938	9,69,369	1,09,824	8,59,550	1,04,967	26.10.2013
2014-15 Ex-P.24	61,792	12,26,627	11,64,836	1,11,830	10,53,010	1,50,280	26.11.2014
2015-16 Ex-P.23	34,206	12,02,907	11,68,702	1,62,251	10,06,450	1,30,743	01.10.2015
2016-17 Ex-P.25	57,450	18,61,294	19,18,745	1,50,000	17,68,750	3,66,294	17.09.2016
Note: All the amounts are in Indian Rupees							

17. The deceased - Jayaraman passed away on the date of accident viz., February 27, 2016. From the above table, it could be discerned that there is no net income from the house property as the income therefrom is spent on the interest for the housing loan. Hence, it cannot be considered as income for the purpose of computing compensation. In fact, the auditor seems to have deducted the same from his income while paying income tax in Ex-P.19 to Ex-P.25. Further it could be seen from the above table that the deceased - Jayaraman's income revolved around 10 to 12 Lakhs from the Assessment Years 2013 - 14 and 2015 - 16 but has seen a jump of about 50% in Assessment Year 2016 - 2017. To be noted, Ex-P.25 is an Acknowledgement for the Income Tax Return filed on September 17, 2016 after the demise of the deceased - Jayaraman. Under such circumstances, the petitioners ought to have taken steps to explain the sudden increase in the income of the deceased. But the petitioners have failed to do so. The Auditor who filed Ex-P.25 was not examined to prove its veracity. No supporting documents or evidence was let in on the side of the petitioners to substantiate the sudden boost in income. There is not even a plea to that effect. As stated *supra,* Ex-P.25 was filed after the demise of the deceased - Jayaraman. Hence, on the face of it, the income from business as stated in Ex-P.25 appears to have been boosted for the purpose of obtaining a higher compensation. Therefore, the Tribunal ought not to have taken into account Ex-P.25 while computing compensation. On the other hand, the Tribunal ought to have the total annual income in Ex-P.19 to Ex-P.24 and averaged the same. In that manner, the average annual income of the deceased - Jayaraman would be Rs.11,00,969/-. **Point No.(i) and (ii) are**

answered accordingly in favour of the insurance company and against the petitioners.

Point No.(iii)

18. As regards future prospects, the learned Counsel for the insurance company would submit that business income is not certain. Profit this year may very well be followed by loss the next year. Even ***Pranay Sethi's Case*** mentions of only self - employed people and self - employed people does not include business people. Accordingly, he would contend that future prospects is not to be added to the income of the deceased - Jayaraman as he was engaged in a business.

19. At this juncture, this Court finds it appropriate to extract the relvant portion of the Hon'ble Supreme Court's Judgment in *Pranay Sethi's Case* hereunder:

> *"59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the*

necessary method of computation. The established income means the income minus the tax component."

20. The contention of the learned Counsel deserves to be recorded only to be rejected. This Court is unable to accept the contention that self-employed does not include a person engaged in a business activity. While its apparent, Cambridge Dictionary available online also defines self-employed as *not working for an employer but finding work for yourself or having your own business*. Hence, the petitioners are indeed entitled to future prospects which the Tribunal has failed to award. **Point No.(iii) is answered accordingly in favour of the petitioners and against the insurance company.**

Point No.(iv)

21. As regards personal deductions, the deceased - Jayaraman passed away leaving behind his wife, two minor children (Now attained major) and mother as his financial dependents. Hence, the Tribunal is not justifiable in deducting 1/3rd of his income towards personal and living expenses. Deduction of 1/4 would be appropriate as per Judgment of Hon'ble Supreme Court in ***Sarla Verma -vs- Delhi Transport Corporation***, reported in ***(2009) 6 SCC 121***. Relevant portion reads thus:

"30. Though in some cases the deduction to be

made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra [(1996) 4 SCC 362] , the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six."

22. Point No.(iv) is answered accordingly in favour of the petitioners and against the insurance company.

Point No.(v)

23. As stated *supra* under Point Nos.(i) and (ii), the annual income of the deceased is to be taken at Rs.11,00,969/- and as stated under Point No.(iii), future prospects is to be added. With 40% future prospects, the annual income of the deceased would be Rs. 15,41,356/-. Further, the deceased is an income tax assessee. He passed away on February 27, 2016. The income tax slabs for the relevant assessment year 2015-2016 (financial year 2014-15) are as follows:

Income slabs	**Income tax rates**
Upto Rs.2,50,000	Nil
Rs.2,50,000 to 5,00,000	10% of the amount exceeding Rs.2,50,000 **less:** tax credit - 10% of taxable income upto a maximum of rs. 2000/-.
Rs.5,00,000 to 10,00,000	Rs.25,000 + 20% of the amount exceeding Rs.5,00,000
Rs.10,00,000 & above	Rs.1,25,000 + 30% of the amount exceeding Rs.10,00,000

24. As per the above slab rates, the income tax payable would be Rs.2,87,406/-. With the addition of 3% Educational Central Excise and Service Tax (Educational CESS), the deceased - Jayaraman would have to totally pay Rs. 2,96,028/- as tax and the same is to be deducted from the total annual income after future prospects. In that manner, the income of the deceased will be Rs.12,45,328/-.

25. As held under Point No.(iv), 1/4 deduction is to be made. With such deduction, the loss of annual income to the petitioners from the deceased - Jayaraman would be Rs. 9,33,996/-.

26. As stated *supra*, the age of the deceased - Jayaraman at the time of accident is 39 years. The appropriate multiplier is 15. With the multiplier of 15, the total loss of dependency would be Rs.1,40,09,940/-.

27. That apart, the Tribunal has awarded Rs.25,000/- as funeral expenses which is not in tune with *Pranay Sethi's Case*. Rs.15,000/- is the right amount. At the same time, the Tribunal failed to award compensation under the conventional head of loss of estate which the petitioners are entitled to as per *Pranay Sethi's Case.* This Court is inclined to award Rs.15,000/- under the said head.

28. In other aspects and heads, this Court finds no reason to interfere with the Award of the Tribunal. To the above extent, the Award of the Tribunal is liable to be interfered with. **Point No.(v) is answered accordingly.**

29. The modified compensation the petitioners are entitled to is as tabulated hereunder:

Sl. No	Head	Amount Rs.
1.	Loss of income / dependency	1,40,09,940.00
2.	Loss of Estate	15,000.00
3.	Loss of consortium [Parental consortium – Rs.40,000.00 Filial consortium – Rs.80,000/- (Rs.40,000/- X 2) Spousal consortium – Rs.40,000.00]	1,60,000.00
4.	Funeral expenses	15,000.00
	Total Compensation	**1,41,99,940.00**

30. Therefore, the appellant in C.M.A.No.1251 of 2022 / Insurance Company is directed to deposit the modified award amount of Rs.1,41,99,940.00 ***(Rupees One Crore Forty-One Lakhs Ninety-Nine Thousand Nine Hundred and Forty only)*** along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, with proportionate costs incurred by the claimants before the Tribunal to the credit of M.C.O.P.No.1417 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem, less the amount if any already deposited, within a period of eight (8) weeks from the date of receipt of copy of this Judgment. The Award amount shall be apportioned in a manner propotionate to the apportionment made by the Tribunal. The compensation amount shall be disbursed to the petitioners. In all other aspects, the Award of the Tribunal shall hold good.

CONCLUSION:

31. In the result,

(i) C.M.A.No.1251 of 2022 filed by the Insurance Company is allowed in part as detailed above.

(ii) C.M.A. No.1370 of 2023 filed by the petitioners / claimants is dismissed.

(iii) Considering the facts and circumstances of the case, there shall be no order as to costs in both the CMAs'.

(iv) Consequently, connected Civil Miscellaneous Petition is closed.

[N.S.K., J.] **[R.S.V., J.]**

20 / 01 / 2026

Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
TK/PAM

To

The Motor Accident Claims Tribunal
Special District Court
Salem.

N.SATHISH KUMAR, J.
AND
R.SAKTHIVEL, J.

TK/PAM

C.M.A. NOS.1251 OF 2022 AND 1370 OF 2023

20 / 01 / 2026