

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 18 OF 2019

Bajaj Allianz General Insurance Company Limited ... Appellant

Versus

Bapurao Vithoba Misal and others ... Respondents

....

Mr. S. G. Chapalgaonkar, Advocate for appellant

Mr. Anand Deshmukh, Advocate for respondent No.1

....

CORAM : R. G. AVACHAT, J.

DATED : 06th DECEMBER, 2021

PER COURT :-

. Heard.

2. The appellant - Insurance Company takes exception to the judgment and award granting compensation of Rs.5,48,000/- with interest @ 9% on account of injuries and permanent disability suffered in the accident involving motor vehicle.

3. The challenge is mainly on the grounds of contributory negligence, quantum, statutory defence and on the ground that the insured vehicle was used on hire.

4. During the hearing, the learned Advocate for the respondents - claimants came around to scale down the claim to Rs.04,06,400/-.

5. It was an accident between a car and the motorbike. The car was said to have been let on hire. In view of this Court, even if the said fact is proved in this claim, the same will have no bearing on the impugned award since the claimant herein was third party as against the owner and insurer of the car involved in the accident.

6. In view of the same, the appeal partly succeeds in view of consent given by the learned Advocate for the respondents-claimants.

7. It is informed that one another claim in respect of death of the occupant of the car involved in the accident is pending before this Court. In view of this Court the findings recorded herein, may not have bearing on the decision of the pending appeal.

8. The appeal is partly allowed.

9. The amount of compensation awarded by the Tribunal is scaled down from Rs. 05,48,000/- to Rs.04,06,400/-. Rest of the impugned award to stand unaltered.

10. The amount in deposit be paid to the respondents-claimants, immediately with interest accrued thereon. The balance amount be paid back to the appellant - Insurance Company with interest accrued thereon.

[R. G. AVACHAT, J.]

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