

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

FIRST APPEAL NO.2463 OF 2009

The New India Assurance Company Ltd. ... APPELLANT

VERSUS

Chhaya w/o Mohan Jarange & ors. ... RESPONDENTS

.....
Mr. A.B. Kadethankar, Advocate for appellant
Mr. Sachin S. Deshmukh, Advocate for respondent No.5
.....

CORAM : R. G. AVACHAT, J.

DATE : 7th DECEMBER, 2021

PER COURT :

The appellant Insurance Company has challenged the judgment and award, granting compensation on account of death in a vehicular accident. The challenge is mainly on the ground of quantum.

2. It appears that, although the case of contributory negligence was set up before the Tribunal, no evidence in that regard was let in. The deceased was a teacher. The amount of compensation awarded is Rs.16,08,776/-. When the impugned award was passed, the Apex Court judgments in

case of National Insurance Company Limited Vs. Pranay Sethi and others [(2017) 16 SCC 680] and MAGMA General Insurance Company Limited Vs. Nanu Ram Alias Chuhru Ram & ors. [(2018) 18 SCC 130] were not in the field. It thus appears that, nothing was awarded on account of future prospects. Even if the appellant Insurance Company would be successful in pointing out some deduction in the amount of compensation awarded, the respondents claimants would be justified in defending the award in the light of the judgments in cases of Pranay Sethi (supra) and MAGMA (supra). As such, the amount of compensation awarded appears to be just and reasonable.

3. No interference is therefore called for. The Appeal is dismissed. The amount in deposit be paid to the respondents – claimants along with interest accrued thereon.

(R. G. AVACHAT)
JUDGE

fmp/-