

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1413 OF 2015
IN
FIRST APPEAL NO.59 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.R.S.Tanna for the applicant

CORAM : K.K.TATED, J.
DATED : 26/06/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 Though the appellant Insurance Company is duly served no one appeared on behalf of them when the matter was called out.
- 3 Advocate for the applicant undertakes to file affidavit of service within one week from today. Undertaking is accepted.
- 4 This application is preferred by defendant for withdrawal of the amount deposited by the appellant in the Trial Court pursuant to the order passed by this court on 15.7.2014.
- 5 The learned counsel for the applicant submits that in an accident which occurred on 5.10.2005 applicant lost their son Rekhelash Govindan. On the date of accident, he was 29 years old. He was serving with Pepsico India Holdings Pvt.Ltd. and

was earning Rs.18,200/- per month. He submits that due to the death of their son in an accident, they filed application for compensation under section 166 of the Motor Vehicle Act, 1988 for Rs.30 lacs. He submits that the MACT, Thane considering the evidence on record held that appellant/Insurance Company was liable to pay 60% of Rs.27,99,600/- with 7% interest. He submits that both the claimants are Senior Citizens. They do not have any source of income. He further submits that applicant no.2 is suffering from Cancer. Hence, they require the amount for day to day expenses as well as for treatment of applicant no.2.

6 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

a) Applicant nos.1 and 2, Mrs.Ratnavalli Govindan and Mr.K. Govindan, both of them are entitled to withdraw 25% each of the amount deposited by appellant ICICI Lombard General Insurance Co.Ltd. in the Tribunal without furnishing any security but subject to outcome of First Appeal.

b) Tribunal is directed to invest remaining

amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

c) Civil Application is disposed of accordingly.

(K.K.TATED, J.)