

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.669 OF 2013
IN
FIRST APPEAL (STAMP) NO.804 OF 2012

Smt. Ratnamala Jayant Abhyankar & Ors. Applicants

V/s

**The New India Assurance Company
Limited & Ors. Respondents**

Mr. Shailendra S. Kanetkar for Applicants.

Mr. D.S. Joshi for Respondents.

**CORAM : ANOOP V. MOHTA &
A.A. SAYED, JJ.**

DATED : 20 OCTOBER 2015

ORDER:

1 By the impugned order dated 30 July 2011 of the trial Court, Respondent – New India Assurance Company Limited was directed to pay Rs.34,03,434/- (including NFL) with interest at the rate of 6% per annum, from the date of the petition till realization. Out of the said amount, an amount of Rs.10,00,000/- was directed to be deposited in the name of Applicant No.1 and Rs.5,00,000/- each in the name of Applicant Nos.2 and 3 and the balance amount was directed to be paid to Applicant Nos.1 to 3. The impugned order was stayed by this Court on the condition that Respondent – Assurance Company deposits the entire amount in the trial Court, which the Court is informed was accordingly deposited.

2 Considering the averments made in paragraph nos.2 and 3 of the Affidavit dated 15 October 2015, the earlier averments made in the Civil Application and as the case is made out as the requirement of money appears to be genuine and therefore, at this stage, in the interest of justice, by keeping all points open, we are inclined to permit the original Claimants/Applicants to withdraw an amount of Rs.10,00,000/- out of the amount deposited in the trial Court.

3 The Civil Application is accordingly disposed of with liberty to apply for withdrawal of further amount, if required, and/or necessary. No costs.

(A.A. SAYED, J.)

(ANOOP V. MOHTA, J.)

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