

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

**CIVIL APPLICATION NO.4110 OF 2014
IN
FIRST APPEAL (ST) NO.14487 OF 2014**

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.Nitesh V. Bhutekar for the applicant

Ms.Kalpana R. Trivedi for the respondent

**CORAM : K.K.TATED, J.
DATED : 06/02/2015**

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by original claimants for withdrawal of the amount deposited by the appellant Insurance Company before the Tribunal.
- 3 The learned counsel for the applicant submits that in an accident which occurred on 29.8.2010 the applicant lost their 22 years old son. At the time of accident, their son was doing business. He further submits that the deceased was earning near about Rs.24000/- per month when the accident took place.
- 4 The learned counsel for the applicant

submits that the Doctor suggested the surgery to be performed on the applicant no.2. In support of that he has placed on record Medical Certificate in additional affidavit dated 6.2.2015. He submits that applicants are not in a position to bear the expenses of surgery. Hence, this Honourable court be pleased to allow the applicant to withdraw the amount deposited by the appellant Insurance Company.

5 On the other hand the learned counsel for the appellant Insurance Company vehemently opposed the present Civil Application. He submits that applicants have shown no ground for withdrawal of the amount. She further submits that the Tribunal has awarded compensation on higher side. She further submits that the documents placed on record by the applicants in their additional affidavit are not sufficient to show that the applicant no.2 requires amount for medical surgery. Hence, there is no substance in the present Civil Application. Same be dismissed with costs.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application as well as in additional affidavit dated 6.2.2015, I am satisfied that the Applicant has made out a case

for allowing them to withdraw some amount.
Hence, following order:

a) Applicant no.1 original claimant no.1 Fida Hussain Abdul Kadir Pathan is entitled to withdraw sum of Rs.5.0 lacs with accrued interest without furnishing any security subject to outcome of the present First Appeal.

b) Applicant no.2 original claimant no.2 Munni Begum Fida Hussain Pathan is permitted to withdraw sum of Rs.5.0 lacs with accrued interest without furnishing any security but subject to outcome of the present First Appeal.

c) 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.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)