

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1300 OF 2016
IN
FIRST APPEAL ST.NO. 34754 OF 2014**

Vishwas Rajaram Suryavanshi & Ors.

..Applicants

Vs.

The New India Assurance Co. Ltd.

..Respondent

Mr. R. A. Shelke for the Applicants / Original Respondent Nos.1 and 2

Mr. S. S. Jinsiwale for the original Appellant

Mr. Mahendra Deshmukh for the Respondent No.4

CORAM : R. M. SAVANT, J.

DATE : 22nd JULY, 2016

P.C.

1 The above Civil Application has been filed by the original Respondent Nos.1 and 2 for withdrawal of an amount of Rs.9 lacs from the amount deposited by the Appellant – Insurance Company-The New India Assurance Co. Ltd. in the MACT – Sangli. The reasons why the Applicants seek to withdraw the amount are mentioned in the above Civil Application. In so far as the First Appeal is concerned, the award passed by the MACT challenged on the ground of quantum as well as contributory negligence of the deceased. In so far as the accident is concerned, it seems that there was a head on collision between a school van and a four wheeler which was a Maruti -800 driven by the deceased.

2 In my view, in the facts and circumstances of the case, it would be just and proper to permit the Applicant to withdraw a further amount of Rs.7 lacs from the amount deposited by the Insurance Company in the MACT Sangli. The said amount of Rs.7 lacs and the amount of Rs.4 lacs which has already been withdrawn by the Applicant would make the amount of Rs.11 lacs which would be 50% of the amount deposited by the Insurance Company in the MACT Sangli. The balance remaining 50% would therefore be a sufficient buffer to protect the interest of the Insurance Company if it ultimately succeeds in the First Appeal. The Civil Application is accordingly allowed to the aforesaid extent i.e. permitting withdrawal of Rs.7 lacs. The remaining amount to be invested by the MACT Sangli in a fixed deposit of a nationalised bank initially for a period two years and to be renewed thereafter for an appropriate period.

3 The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]