

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

CIVIL APPLICATION NO.1388 OF 2016

IN

FIRST APPEAL NO.1012 OF 2015

Smt. Pooja Mukund Gondhale and others .. Applicants

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd. .. Appellant

Versus

Smt. Pooja Mukund Gondhale and others .. Respondents

Mr. A. M. Gokhale for the Applicants.

Mr. S. M. Dange for the original Appellant/Respondent.

CORAM : R.M. SAVANT, J.

DATE : 10th AUGUST 2016

PC.

1 The above Civil Application has been filed by the Applicants who are the original Claimants being the widow and two minor children of the deceased Mukund Gondhale who died in the accident in question. The above First Appeal is directed against the judgment and order dated 28.04.2015 passed by the Learned Additional Member of the Motor Accident Claims Tribunal, Pune, by which order, the Claim Petition being MACP No.303 of 2011 came to be partly allowed and the Opponent Nos.1

and 2 were directed to jointly and severally pay the compensation of Rs.13,45,296/- alongwith future simple interest at 8% per annum from the date of the filing of the MACP till its realisation. The Insurance Company has filed the instant First Appeal, the footnote to the Appeal Memo indicates that the Insurance Company is challenging the future prospects granted by the MACT, Pune to the extent of Rs.4,00,000/- and has accordingly paid Court fees of Rs.12,430/-. Hence, the Appeal is limited to the challenge as above.

2 The Applicants have set out the reasons as to why they are required to file an application for withdrawal of the amount. The Applicant Nos.2 and 3 are pursuing their education and therefore the Applicant No.1 who is their mother requires funds to fund the said education. Having regard to the challenge raised by the Insurance Company, which as indicated above, is restricted to Rs.4,00,000/-, in my view, it would be just and proper to permit the Applicants to withdraw an amount of Rs.8,00,000/- with commensurate interest out of the principal amount of Rs.13,45,296/-. The balance amount which would remain after withdrawal of the amount of Rs.8,00,000/- with commensurate interest would be a sufficient buffer for the Appellant Insurance Company if it ultimately succeeds in the First Appeal. The Civil Application is accordingly disposed of.

3 The Applicant No.1 is directed to invest an amount of Rs.1,00,000/- each in the name of the children i.e. the Applicant Nos.2 and 3 in a Nationalized Bank so that the interest which accrues can be utilized for the purposes of the Applicant Nos.2 and 3. The amount of Rs.25,000/- deposited in this Court be transmitted to the MACT, Pune in the account of MACP No.303 of 2011.

[R.M. SAVANT, J]