IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.807 OF 2013

IN

FIRST APPEAL NO.613 OF 2012

Smt. Sangeeta Deepak Tolani and others .. Applicants

IN THE MATTER BETWEEN

National Insurance Company Limited .. Appellant

Versus

Smt. Sangeeta Deepak Tolani and others .. Respondents

Mr. Wasim Ansari for the Applicants

Mr. Rahul Mehta i/by KMC Legal Venture for the Respondent/ Appellant.

CORAM : R.M. SAVANT, J.
DATE : 12th AUGUST 2016

P.C.

1 The above Civil Application has been filed for withdrawal of the amount which has been deposited by the Appellant/Insurance Company in the MACT, Mumbai. The Applicants are the widow and the daughters of the deceased Deepak Tolani who expired in the accident that took place. The MACT has awarded compensation to the tune of Rs.30,11,800/- as the principal amount and awarded interest at 7.5% on

the said amount from the date of application till the realisation. The Insurance Company has accordingly deposited an amount of Rs.46,25,336/- after deducting the TDS in the MACT, Mumbai. The challenge to the Award passed by the MACT is inter-alia on the ground of the wrong multiplier being applied i.e. multiplier 16 being applied instead of 15, wrongly taking the loss of future prospects at 10% and the net income has been wrongly computed at Rs.20,000/- when it should be around Rs.14,843/-. It is required to be noted that the deceased Deepak Tolani was around 40 years of age at the time of accident therefore, the MACT deemed it appropriate to apply multiplier of 16. The difference in the application of the multiplier is to the extent of one. In so far as the computation of the net income is concerned, the MACT as indicated above has computed net income at Rs.20,000/-, whereas according to the Learned Counsel appearing for the Applicant, the net income should be Rs.14,843/-.

2 In my view, having regard to the grounds of challenge, it would be just and proper to permit the Applicants to withdraw an amount of Rs.18,00,000/- with commensurate interest from the total amount which has been deposited by the Appellant Insurance Company in the MACT, Mumbai. The balance in my view would be a sufficient buffer for the Insurance Company if it ultimately succeeds in the Appeal on the said

three grounds which have been adverted to hereinabove. The Applicant No.1 to invest an amount of Rs.3,50,000/- each in a fixed deposit of a Nationalized Bank in the name of the Applicant Nos.2 and 3 so that out of the interest which accrues on the said fixed deposits the needs of the Applicant Nos.2 and 3 can be taken care of. The balance remaining amount after the withdrawal as aforesaid would be invested by the MACT in a fixed deposit of a Nationalized Bank initially for a period of two years and to be renewed thereafter for appropriate periods as deemed fit. The Applicants would be entitled to withdraw the quarterly interest accruing on the fixed deposit which would be opened by the MACT in respect of the balance amount.

3 Needless to state that withdrawal would be subject to the result of the First Appeal. The Civil Application is accordingly disposed of. Hearing of the First Appeal is expedited.

[R.M. SAVANT, J]