IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3141 OF 2016
IN
FIRST APPEAL St.NO.2759 OF 2011

Anaramidevi Harischandra Jaiswar & Ors ..**Applicants**
Vs.
The Oriental Insurance Co. Ltd. ..**Respondent**

Mr. T. J. Mendon for the Applicant Nos.1, 3 to 5
Mr. D. S. Joshi for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 22nd JULY, 2016

P.C.

1 The above Civil Application has been filed by the Applicants who are the original Claimants for withdrawal of the amount deposited by the Appellant Insurance Company in the MACT – Mumbai. The Applicant No.1 is the widow of the deceased and the Applicant No.3 is the daughter of the deceased and she is of marriageable age being 28 / 29 years old. Though it is not stated as such in the above Civil Application, the Learned Counsel for the Applicants Mr. Mendarkar states that the marriage of the Applicant No.3 is to be solemnised in November 2016. The challenge in the First Appeal raised by the Insurance Company is on two grounds namely that the driver of the offending vehicle was carrying hazardous goods and the income of the deceased has not been properly calculated. It seems that there was an amendment to the Motor Vehicles Act by which a separate endorsement in the

licence for driving a vehicle carrying hazardous goods was done away with on 14-11-1994. In so far as the quantum is concerned, the deceased was working with Balmer Lawrie which is a multinational company. The contemporaneous salary slip of February 2002 was produced wherein his income is shown as Rs,10,593/-. In so far as the income is concerned, a contention is raised that the break up is not given.

2 In my view the said contention would be a too technical approach to be adopted. Hence, prima facie at this stage there does not appear to be any substance in the grounds urged by the Insurance Company in the above First Appeal. However, it is not necessary to dilate further on the said aspect. In my view, the interest of justice would be served if the Applicants are allowed to withdraw a further amount of Rs.10 lacs from the amount lying in deposit in the MACT Mumbai. This is in addition to the amount of Rs.1 lower Appellate Court which has already been permitted to be withdrawn by the earlier order passed in the year 2011. In so far as the balance remaining is concerned, the MACT Mumbai is directed to invest the same in a fixed deposit of a nationalised bank initially for a period of two years and to be renewed thereafter for an appropriate period.

3 The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]