IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1547 OF 2016
IN
FIRST APPEAL NO.1112 OF 2014

Tukaram Vishwanath Patil and another .. Applicants

IN THE MATTER BETWEEN
Reliance General Insurance Co. Ltd. .. Appellant
Versus
Tukaram Vishwanath Patil and others .. Respondents

Mr. Vishwanath Patil i/by Mr. Sameer Khedekar for the Applicants.
Ms. Deepika Motagi i/by Res Juris for the original Appellant.

CORAM : R.M. SAVANT, J.
DATE : 4th AUGUST 2016

P.C.

1 The above Civil Application has been filed for withdrawal of the amount which has been deposited by the Insurance Company in the MACT, Pune. The Applicants are the parents of the deceased who died in the accident which took place between the bike on which the deceased was riding with the insured vehicle which was Mahindra Pick Up van. The deceased was an engineer working in Emerson Innovation Center which the Learned Counsel for the Applicant Mr. Patil states is a multinational

company. The income of the deceased was assessed at Rs.39,932/- per month and it is on the said basis by applying the multiplier of 17 that the compensation has been computed. The principal amount awarded by the MACT, Pune is in the sum of Rs.59,08,032/- which alongwith interest awarded at the rate of 8% comes to Rs.70,42,696/- which is the amount deposited by the Insurance Company in the MACT, Pune.

2 In so far as the Applicants are concerned, they have stated in the application that they have incurred expenditure for the education of the deceased by borrowing loans privately from friends and relations which are required to be repaid. The ground of challenge in the above First Appeal is on the point of contributory negligence and quantum. In so far as the quantum is concerned, there is no rebuttal evidence led by the Insurance Company. In so far as the contributory negligence is concerned, assuming for the sake of argument that there was some contributory negligence, the same cannot exceed 50% of the maximum.

3 In my view, it would be just and proper to permit the Applicants to withdraw an amount of Rs.30,00,000/- alongwith commensurate interest out of the total amount deposited by the Insurance Company in the MACT, Pune. The balance would be a sufficient buffer for the Insurance Company if it ultimately succeeds in the Appeal. The

balance to be deposited by the MACT, Pune in a fixed deposit of a Nationalized Bank initially for a period of two years and thereafter renewed for appropriate period as deemed fit. Needless to state that the withdrawal is subject to the result of the above First Appeal. The Civil Application is disposed of.

[R.M. SAVANT, J]