

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

CIVIL APPLICATION NO.2709 OF 2016

IN

FIRST APPEAL NO.752 OF 2015

Smt. Manisha Sopan Pawar

.. Applicant

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd.

.. Appellant

Versus

Smt. Anusaya Ishwara Pawar

**(Since deceased & Appeal abated
against R. No.1)**

Smt. Manisha Sopan Pawar and others

.. Respondents

Mr. A. A. Palkar for the Applicant.

Mr. D. S. Joshi for the original Appellant.

Mr. K. J. Patil for the Respondent Nos.5 & 6.

CORAM : R.M. SAVANT, J.

DATE : 8th JULY 2016

PC.

1. The above Civil Application has been filed for withdrawal of the amount deposited by the New India Assurance Co. Ltd., Kolhapur Division pursuant to the Award passed by the MACT, Karad and which is the subject matter of the above First Appeal. By order dated 14.07.2015 passed by a Learned Single Judge of this Court an amount of Rs.5,00,000/- was permitted to be withdrawn alongwith commensurate

interest. The Applicant has accordingly withdrawn an amount of Rs.5,06,549/- pursuant to the said order. The principal amount awarded is an amount of Rs.23,60,000/- with interest at 8% per annum. The total amount comes to Rs.27,18,867/- which is the amount deposited by the Insurance Company in the MACT, Karad. The Applicants are the widow and the children of the deceased Sopan Pawar who died in the accident in question. The challenge in the above First Appeal is inter-alia on the ground of contributory negligence and on the ground of quantum as according to the Insurance Company the income of the deceased was not properly computed. The income of the deceased has been computed at the rate of Rs.10,000/- per month. The deceased was doing tailoring business at village Gondi and also claimed to be doing some agricultural operations in the lands belonging to him. Be that as it may, assuming that his income is to be calculated at a lesser amount, the interest of justice would be served in the instant case, if the Applicants are allowed to withdraw a further amount of Rs.7,00,000/- out of the amount which is lying in deposit in the MACT, Karad with commensurate interest thereon. The MACT, Karad is directed to invest the balance amount in a fixed deposit of a Nationalized Bank for a period of two years. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J]