IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2782 OF 2016
IN
FIRST APPEAL NO. 44 OF 2016

Smt. Laxmi Tanaji Mangale & Ors. **...Applicants**

In the matter between

Bharati Axa General Insurance Co. Ltd. **...Appellant**

Versus

Smt. Laxmi Tanaji Mangale & Ors. **...Respondents**

Mr. C.G. Patil, for the Applicants/Respondents.

Mr. Nikhil Mehta, i/b KMC Legal Venture, for the Appellant.

CORAM : R.M. SAVANT, J.
DATE : 26th July 2016

P.C. :

1. The above Civil Application has been filed for withdrawal of the amount deposited by the Insurance Company in the MACT, Gadhinglaj, Kolhapur. The amount deposited is the principal amount of Rs. 21,60,000/- with interest accrued at the rate of nine percent per annum from the date of filing of the Application

till realization.

2. The learned Counsel is not in a position to state the exact amount which is deposited in the MACT, Gadhinglaj, Kolhapur. The Applicants are the widow and children of the deceased one Tanaji Managle. The challenge in the above Appeal is on ground of quantum as according to the Appellant Insurance Company. The Trial Court has erred in not deducting 1/3rd amount of the salary or the earnings towards the personal expenses. The Trial Court without such deduction has computed the yearly income of the deceased and thereafter, applying the multiplier has arrived at the total dependency. Hence, even if the said 1/3rd amount is to be deducted from the yearly earnings of the deceased, then in that event also, the variation would be to the extent of around Rs. 6,00,000, the Insurance Company also challenges the income of the deceased on the basis of which the amount has been computed. However, the fact that the deceased was owing a truck and plying the same for carrying sugarcane from the fields to the factory has come on record. Hence, even if the amount is to be reduced, the reduction would not be so drastic as to bring down the compensation awarded to the Claimant. The Applicants have been allowed to withdraw Rs. 5,00,000/- by an

Order dated 11th January 2016. The Applicant No. 1 has two school going children i.e. the Applicant Nos. 2 and 3 and has also to look after the day to day expenses. In my view, it would be just and proper to allow the Applicants to withdraw a further sum of Rs. 5,00,000/- from the amount deposited. The balance remaining would in my view, be a sufficient buffer, if the Appellant Insurance Company succeeds in the Appeal.

3. The Civil Application is allowed to the aforesaid extent. The Applicants are allowed to withdraw an amount of Rs. 5,00,000/-. Needless to state that the said withdrawal would be subject to the result of the Appeal. Insofar as the balance remaining is concerned, the MACT, Gadhinglaj, Kolhapur to invest the sum in two fixed deposits of Rs. 5,00,000/- each in the name of the Appellants No. 2 and 3 namely, Miss Vaishnavi Tanaji Managle and Sumit Tanaji Managle, initially for a period of two years and to be renewed thereafter, for an appropriate period.

4. In the light of the directions which have been issued in the impugned order, no further withdrawal would be permissible as the amounts are to be deposited in the fixed deposits in the names of the Applicants No. 2 and 3.

5. The Appellant Insurance Company would be at liberty to file a compilation of the relevant documents including the notes of evidence. The Order dated 11th January 2016 would stand modified to the said extent.

6. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J.]