

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

CIVIL APPLICATION NO.2549 OF 2015

IN

FIRST APPEAL NO.918 OF 2010

Smt. Shweta Subhash Chalke and ors.

.. Applicants

In the matter of

The New India Assurance Co. Ltd.

.. Appellant

Versus

Smt. Shwetha Subhash Chalke and ors.

.. Respondents

Mr T J Mendon for the Applicants.

Mr. S M Vidyarthi for the Original Appellant.

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 Insurance Company in this Court. The Applicants are the widow and children of the deceased one Subhash Chalke. The said Subhash Chalke died in the accident on account of bus in which he was travelling going down in the valley in Mahad. The principal amount awarded is Rs.14,26,000/- at 7% interest. The Insurance Company has deposited an amount of Rs.22,06,301/-. In my view, it would be just and proper to permit the Applicants to withdraw an amount

of Rs.10,00,000/- with commensurate interest. The said withdrawal would be without security. The ground urged in the Appeal is revolving around Section 149(2)(a) of the Motor Vehicles Act. The said ground has been rejected by the Trial Court. Be that as it may, assuming that some amount is required to be reduced the balance remaining would protect the interest of the Insurance Company pending the Appeal. Hence, by allowing the withdrawal to the extent above, the Civil Application is disposed of.

2. Needless to state that the withdrawal would be subject to the result of the above First Appeal.

[R.M. SAVANT, J]