IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2846 OF 2016

IN

FIRST APPEAL NO.1123 OF 2015

Smt. Prasanthi Satyanarayan P and others .. Applicants

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd. .. Appellant

Versus

Smt. Prashanthi Satyanarayan P and others .. Respondents

Mr. T. J. Mendon for the Applicants.
Mr. D. S. Joshi for the Respondent/original Appellant.

CORAM : R.M. SAVANT, J.
DATE : 11th JULY 2016

P.C.

1. The above Civil Application has been filed for being permitted to withdraw the amount deposited by the Appellant/Insurance Company in the MACT, Mumbai which is pursuant to the impugned Award passed by the MACT, Mumbai. The Applicants are the original claimants. The Applicant No.1 is the widow of the deceased Satyanarayan P, whereas the Applicant No.2 is the daughter and the Applicant No.3 is the mother of the deceased. The Award of the MACT has been challenged inter-alia on two

fold grounds, firstly that the vehicle was driven in a breach of policy as the driver did not have proper driving licence and that the quantum has also been erroneously calculated by applying the multiplier of 17 rather than the multiplier of 16. The income of the deceased is also sought to be disputed by the Insurance Company. The above First Appeal has been admitted. It is the case of the Applicants that the deceased Satyanarayan was the sole earning member of the family and the Applicants were dependent on him. It seems that the father of the said Satyanarayan has also expired after the judgment was passed by the MACT, Mumbai and before filing of the above First Appeal. In my view, considering the challenge raised in the above First Appeal, it would be just and proper to permit the Applicants to withdraw an amount of Rs.15,00,000/- with commensurate interest without security. This is on the basis that the principal amount of awarded is Rs.23,75,625/- which with interest comes to Rs.33,42,879/- which is deposited by the Insurance Company. Hence, even if the First Appeal is allowed, there would be a buffer of about Rs.8,00,000/- with commensurate interest which can protect the interest of the Insurance Company assuming that it is to succeed in the First Appeal. The Civil Application is allowed to the aforesaid extent and is disposed of.

[R.M. SAVANT, J]