IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4049 OF 2015
IN
FIRST APPEAL NO.174 OF 2014

Smt. Seema Samir Sayyad and others .. Applicants

IN THE MATTER BETWEEN
The New India Assurance Company Ltd. .. Appellant
Versus
Smt. Seema Samir Sayyad and others .. Respondents

Mr. Y. S. Bhate for the Applicants.
Mr. S. M. Dange for the Respondent No.1.

CORAM : R.M. SAVANT, J.
DATE : 21st JULY 2016

P.C.

1 The above Civil Application has been filed inter-alia for the relief that the orders dated 26.02.2014, 27.03.2014 and 21.11.2014 be either aside or modified. By prayer clause (b) the Applicants are seeking withdrawal of the amount to the extent mentioned in the said prayer clause (b). In so far as the first prayer is concerned, the Applicants are aggrieved by the fact that whilst calculating the amount there is a shortfall of Rs.65,664/-. The original Appellant i.e. the Insurance Company has deposited an amount of Rs.81,55,291/- in the MACT, Pune which is the

entire decretal amount including interest. The above First Appeal has been filed by the Insurance Company being aggrieved by the computation of the amount based on the future prospects by the MACT, Pune. The grievance of the Insurance Company is in respect of Rs.16,00,000/- out of the total principal amount awarded by the MACT, Pune.

2 In my view, having regard to the extent of the challenge in the above First Appeal which as indicated above to the extent of Rs.16,00,000/- out of the principal amount, the interest of justice would be served if the Applicants are permitted to withdraw an amount of Rs.30,00,000/- out of the principal amount with commensurate interest out of the total amount deposited by the Insurance Company in the MACT, Pune. It is not necessary to modify or set aside the orders as sought by the Applicants. However, in so far as the case of the Applicants that there is a shortfall of Rs.65,664/- is concerned, the same is a matter of calculation and the Learned Counsel appearing for the Insurance Company Mr. S. M. Dange states that the said calculation of the Applicants has been forwarded to the Insurance Company. The said aspect can obviously be gone into at a later stage. If the calculation as given by the Applicants is correct according to the Insurance Company, then the Insurance Company may deposit the deficit amount in the MACT, Pune.

3 Out of the amount of Rs.30,00,000/- with commensurate interest allowed to be withdrawn by the instant order, the Respondent No.4 would be granted an amount of Rs.2,00,000/- with commensurate interest so that the interest of the Respondent No.4 who is the father of the deceased is also taken care of.

4 The Applicant No.1 may invest an amount of Rs.10,00,000/- each in the name of the minors i.e. Applicant Nos.2 and 3 in a fixed deposit of a Nationalized Bank till they attain majority. The amount of Rs.25,000/- deposited in this Court also to be remitted to the MACT, Pune by the Registry. The balance remaining amount 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 periods as deemed fit. The above Civil Application is accordingly disposed of.

[R.M. SAVANT, J]