

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.495 OF 2016
IN
FIRST APPEAL St.NO. 30879 OF 2014**

Deepa Jiten @ Jitenkumar Name & Ors.

..Applicants

Vs.

National Insurance Company Limited

..Respondent

Mr. S. G. Thorat for the Applicants/ orig Respondent Nos.1 to 3

Mr. Nikhil Mehta for the Respondent/ orig Appellant

CORAM : R. M. SAVANT, J.

DATE : 19th JULY, 2016

P.C.

1 The above Civil Application has been filed for withdrawal of the amount deposited by the Appellant-Insurance Company i.e. National Insurance Company Ltd. in MACT Kolhapur. The Insurance Company has challenged the Award of the MACT Kolhapur principally on the ground of quantum as according to the Insurance Company the calculation of the income of the deceased is on the higher side and the challenge is also on the ground of an incorrect multiplier being applied. The principal amount awarded is in the sum of Rs.43,22,496/- with accrued interest thereon. The total amount comes to Rs.47,46,140/-. The said amount of Rs,47,46,140/- has been deposited by the Insurance Company in the MACT Kolhapur. It is the case of the Applicants that during the recent heavy downpour in Kolhapur the dwelling house of the Applicants has been damaged and therefore requires urgent repairs.

2 In my view, it would be just and proper to permit the Applicant No.1 to withdraw an amount of Rs.10 lacs out of the principal amount with accrued interest thereon. The same would be without any security. The Learned Counsel for the Respondent/ original Appellant Insurance Company Mr. Mehta opposes the said withdrawal on the ground that the amount would come down if the Appellant-Insurance Company succeeds in the Appeal. Hence even if providing for the said contingency, the buffer of about Rs.32 lacs which remains is sufficient to take care of such contingency. Hence by permitting the Applicant No.1 to withdraw an amount of Rs.10 lacs with commensurate interest thereon, the above Civil Application is disposed of.

[R.M.SAVANT, J]