

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

**FIRST APPEAL (ST.) NO. 20151 OF 2013
WITH
CIVIL APPLICATION NO. 3347 OF 2015
IN
FIRST APPEAL (ST.) NO. 20151 OF 2013**

Master Sunil Bhima Kale & Ors. ...Applicants

IN THE MATTE`R OF

The New India Insurance Co. Ltd. ...Appellant

Versus

Smt.Savtribai Bhima Kale & Ors. ...Respondents

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Mr.T.J.Mendon for the Applicants.

Mrs.Urmila K.Sanil for the Original Appellant in F.A.

.....

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 10, 2017**

P.C. :

1. This Application is moved for withdrawal of an amount deposited by the insurance company/original appellant pursuant to the judgment and award dated 10.01.2013 passed by the Motor Accident Claims Tribunal, Mumbai, in M.A.C.P. No. 2041 of 2008.

2. The learned counsel for the applicants has submitted that original claimant no.1 is a widow of the deceased, however, she is dead. Her legal heirs are the original claimant nos. 2 to 4. He has further submitted that the amount of compensation was awarded to the children, as Savitrabai Bhima Kale i.e. the widow of the deceased died during the pendency of the claim application and, therefore, the applicants be allowed to withdraw the entire amount deposited by the insurance company. He has further submitted that pursuant to the said judgment and award, the insurance company has deposited an amount of Rs.5,04,000/- alongwith interest @ 7.5% p.a.

3. Learned counsel for the insurance company opposes this application and submits that the Appeal is filed on the point of quantum and breach of the policy.

4. In view of the submissions, the applicants are allowed to withdraw 50% of the amount of compensation as per their entitlement on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

5. Civil Application is allowed and accordingly disposed of.

(MRIDULA BHATKAR, J.)