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

**FIRST APPEAL (ST) NO. 30932 OF 2016
WITH
CIVIL APPLICATION NO. 4631 of 2016
WITH
CIVIL APPLICATION NO.4632 OF 2016
WITH
CROSS OBJECTION NO. 4752 OF 2017
WITH
CIVIL APPLICATION NO. 939 OF 2017
IN
FIRST APPEAL (ST) NO. 30932 OF 2016**

The New India Assurance Co. Ltd. ...Appellant
vs
Mr Julius T.J. Freitas & Ors. ...Respondents.

.....
Mr D.S.Joshi for the Appellant.
Mr S.R.Singh for Respondent No.1.

.....
**CORAM : M. S. SONAK, J
APRIL 04, 2017**

P.C. :

1. Upon production, taken on board.
2. Leave is granted to bring on record, legal representatives of deceased Respondent No.2. Necessary amendment to be carried on or before the next date. Mr S.R. Singh states that the names of legal representatives of deceased Respondent No.2 will be furnished to the learned advocate for the appellant within a period of one week from

today. The statement is accepted.

3 Civil Application No. 939 of 2017 is for permission to withdraw the amount. Mr Singh, learned advocate for applicant/ Respondent No.1 submits that Respondent No.1 is 92 years of age and the amount is required for his medical expenses. He, therefore, submits that withdrawal as prayed in Civil Application be allowed.

4 Mr Joshi, learned advocate for the appellant objects for permission of withdrawal. He submits that Respondent No.1 should be asked for furnishing a bank guarantee, in case withdrawal is to be permitted and the amount, which, Respondent No.1 will be permitted to withdraw, must correspond to more or less 1/3rd of the awarded amount.

5 Respondent No.1 is 92 years of age and during pendency of the proceedings, his wife, Respondent No.2, has expired. If at this stage, Respondent No.1 is not made available with the money, the entire exercise of instituting the claim petition itself may render futile. Therefore, permission to withdraw an amount of Rs.20 Lacs is granted to Respondent No.1 from out of the deposited amount, from M.A.C.T. Mumbai. M.A.C.T., Mumbai to ensure that such an amount is made available to Mr Julius T. J. Freitas as expeditiously as possible and in any case within a period of 10 days from today. Taking into consideration that Mr Julius T.J.Freitas is 92 years of age and is in need of this money to defray his medical expenses, withdrawal is

permitted. Civil Application No.939 of 2017 is disposed of accordingly.

6 The appellant is directed to file private paper book within a period of three weeks from today. Thereafter, place the appeal, Civil Applications along with cross-objection for final disposal on 5th May, 2017.

(M. S. SONAK, J.)