

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**9 CIVIL APPLICATION NO. 9231 OF 2018
IN RC/353/2009**

**TARABAI HARIBHAU SHINDE AND ORS
VERSUS
SUDAM EKNATH PATIL AND ORS**

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Advocate for Applicants : Mr. Patni Pramod F.

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CORAM : P.R. BORA, J.

DATED : 08th OCTOBER, 2018.

PER COURT:-

. Heard Shri Patni, the learned counsel appearing for the applicants.

2. It is submitted that the first appeal filed by the respondent-insurance company stood dismissed vide order passed on 19.06.2008 for want of prosecution and the same has not been restored thereafter. The learned counsel further submitted that at the time of filing of the appeal by the insurance company, the execution of the award impugned in the said appeal was stayed subject to deposit 50% of the awarded amount by the insurance company in this Court and accordingly the insurance company has deposited the said amount.

(2)

3. The learned counsel further submitted that the applicants were permitted to withdraw Rs. 1,00,000/- from the said amount and balance amount was directed to be invested in Fixed Deposit Receipt and the same is still lying with this Court. By filing the present application the applicants have prayed for withdrawal of the said amount. In view of the fact that the first appeal filed by the insurance company though stood dismissed in the year 2008, the same has not been restored, I see no difficulty in allowing the application filed by the applicants. Hence, the following order:

ORDER

- i) Applicant nos. 2 to 4 are allowed to withdraw the amount lying in this Court in the aforesaid appeal invested in Fixed Deposit Receipt along with interest accrued thereon.
- ii) The Civil Application stands disposed of.
- iii) As requested by the applicants, it is further directed that the cheques of amount may be issued in individual names

(3)

of all the three applicants by dividing
the payable amount in equal proportion.

(P.R. BORA, J.)

Mujaheed//