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

956 CIVIL APPLICATION NO. 4282 OF 2018
IN
FIRST APPEAL NO. 41718 OF 2017

VARSHA BHAGWAT GHUGE & ORS.
VERSUS
THE BRANCH MANAGER, THE NEW
INDIA ASSURANCE CO. LTD. THR.
ITS AUTHORIZED OFFICIAL, AURANGABAD & ANR.

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Mr. G.J.Kore, Advocate for Applicants.
Mr. A.S.Osmanpurkar, Advocate for R – 1.

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**CORAM : K.K.SONAWANE, J.**
**DATE : 28th JUNE, 2018**

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**ORAL ORDER :**

1. Heard the learned counsel for the applicants and Mr. A.S.Osmanpurkar, learned counsel for respondent No. 1 – Insurance Company. No one else appeared on behalf of respondent No. 2/owner of the offending vehicle. Perused the application.

2. The appellant Insurance Company has deposited the entire decreetal amount to the tune of Rs. 10,04,530/- in this Court pursuant to the Award passed by the Tribunal. Learned counsel for the applicants seeks permission to withdraw the amount. Mr. Osmanpurkar, learned counsel for respondent No. 1 – Insurance Company raised objection and submits that there is controversy in the Appeal and, therefore, it would not be appropriate to withdraw the entire decreetal amount at this stage.

3. In view of the submissions and the nature of the subject

matter, it would be justifiable to allow the claimants for withdrawal of at least Rs. 5 Lakhs from the decreetal amount deposited in this Court and also it would protect the interest of the Insurance Company. It would sub-serve the purpose in the interest of justice.

4. Accordingly, the application stands partly allowed. The applicants are allowed to withdraw lump sum amount of Rs. 5 Lakhs from the decreetal amount deposited in this Court by the Insurance Company subject to condition that the applicants shall submit undertaking to refund the entire decreetal amount in case any contingency arises in the Appeal. It is stipulated that from the total sum of Rs. 5 Lakhs allowed to be withdrawn by the claimants, the amount of Rs. 1 Lakh each be invested in the name of minor applicant Nos. 2 Ajinkya and 3 Akanksha till they attained the age of majority. Rs. 1 Lakh be paid to applicant No. 4 Nilawati w/o Manohar Ghuge and remaining Rs. 2 Lakhs be paid to applicant No. 1 Varsha w/o Bhagwat Ghuge. Rest of the balance decreetal amount remained deposited in this Court be invested in F.D.R. in any nationalized bank.

5. Accordingly, the application stands disposed of in above terms.

**[K.K.SONAWANE]**
**JUDGE**