IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 CIVIL APPLICATION NO. 5470 OF 2018
IN
FIRST APPEAL NO. 5049 OF 2017

SUNITA HARISHCHANDRA MAGAR & ORS.
VERSUS
DILDAR DAGADU KHONDAVE & ANR.

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Mr. S.B.Chaudhari, Advocate for Applicants.
Mr. S.G.Chapalgaonkar, Advocate for R – 2.

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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 – claimants and learned counsel for the Insurance Company. No one else appeared for respondent No. 1. Perused the application.

2. Pursuant to the order passed by the Tribunal, the appellant has deposited in all Rs. 72 Lakhs approximately in this Court towards compensation arising from the vehicular accident resulting into death of deceased Harishchandra Magar. The claimants are seeking permission to withdraw the said amount. In view of nature of the subject matter and the objections raised on behalf of appellant – Iffco Tokyo General Insurance Co. Ltd. agitating the validity and propriety of the findings expressed by the Tribunal, I find that the claimants – applicants may be allowed to withdraw 50% of the amount i.e. lump sum amount of Rs. 36 Lakhs from the compensation amount deposited in this Court. It would sub-serve the purpose in the interest of justice as well as it would protect the interest of the Insurance Company. Hence, the application deserves to be allowed.

3. The application stands allowed partly. The applicants - Claimants are permitted to withdraw total lump sum amount of Rs. 36 Lakhs from the amount of compensation deposited in this Court on behalf of the appellant Insurance Company. The applicants – claimants are permitted to withdraw the aforesaid amount subject to condition that the applicants – claimants shall furnish the undertaking to refund the entire decreetal amount so withdrawn in case any contingency arises in the Appeal. It is further stipulated that from the entire sum of Rs. 36 Lakhs, the amount of Rs. 5 Lakhs each be paid to the respondent Nos. 2,3 and 4 and rest of the amount of Rs. 21 Lakhs be paid to respondent No. 1. More over, it has been directed that from sum of Rs. 5 Lakhs each allowed to be withdrawn on behalf of respondent Nos. 3 and 4, Rs. 2 Lakhs each be invested in F.D.R. in any nationalized bank for a period of three years and from the total sum of Rs. 21 Lakhs allowed to be withdrawn by applicant No. 1 Sunita, the amount of Rs. 15 Lakhs be invested in the F.D.R. account in any nationalized bank for further period of six years. The applicants – claimants are permitted to avail the benefit of interest amount on the aforesaid F.D.R. invested in the nationalized bank. However, rest of the balance decreetal amount deposited in this Court be invested in any nationalized bank till decision of the present Appeal.

4. Accordingly, the application stands disposed of. Registry to do the needful for disbursement of the amount in favour of the applicants – claimants.

[K.K.SONAWANE]
JUDGE