

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

**924 CIVIL APPLICATION NO. 8483 OF 2018
IN FAST/11609/2016**

**AVINASH MADHUSUDAN NISAL AND ORS
VERSUS
THE BRANCH MANAGER THE NEW INDIA ASSURANCE CO. LTD.
AND ANR**

...

Advocate for Applicants : Mr. N.C. Garud.
AGP for Respondent No.1 : Mr. D. P. Deshpande.

....

CORAM : V.L. ACHLIYA, J.

DATED : 20th JULY, 2018

PER COURT:-

1. The applicants have moved this application for withdrawal of the amount deposited by the appellant – Insurance Company.
2. Heard learned counsel for the applicants and the appellant – Insurance Company. Perused the impugned award passed by the Tribunal.
3. Learned counsel for the applicants submits that the daughter of the applicants is aged about 24 years. The deceased was the only son of the applicants. They have no alternate source of income to maintain themselves as well as to meet the expenditure to be incurred for the marriage of their daughter.

4. Learned counsel for the respondent / appellant – Insurance Company submits that the appellant have good case to succeed in the Appeal and the compensation awarded are much on higher side. In the even the appeal is allowed it will be difficult to recover the amount.

5. On due consideration of the submissions advanced in the light of overall facts of the case and the grounds raised in the appeal, I am of the view that passing of following order would meet the ends of justice :-

O R D E R

(A) Subject to final out come of the appeal, the applicants are permitted to withdraw the amount to the extent of Rs.7,50,000/- (Rupees Sevean Lakhs Fifty Thousand) out of the amount deposited by the appellant – Insurance Company on furnishing usual undertaking to the satisfaction of Registrar (Judicial) that in the event the impugned judgment and award is set aside or modified, the applicants shall deposit the amount in terms of the order to be passed in appeal.

(B) On furnishing the undertaking, the amount of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand) be paid to the applicants in equal proportion by transfer of amount in their respective saving accounts (as per particulars of account to be furnished by

the applicants) by way of electronic transfer through RTGS / NEFT or any other permissible mode of transfer of funds.

(C) After making the payment of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand), the balance amount lying deposited, if not already invested then same be invested in a fixed deposit, initially for a period of three years with standing instructions to renew the same till final disposal of the appeal. Till the further order, the amount of interest accrued over the amount invested be paid to the applicant nos. 1 and 2 in equal proportion after every three months by transferring the amount in their respective saving accounts by electronic transfer / RTGS / NEFT on furnishing account details by the applicants.

(F) The civil application is disposed of in the aforesaid terms.

(V.L. ACHLIYA)
JUDGE

SPR