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

CIVIL APPLICATION NO. 9211 OF 2018
IN
CIVIL APPLICATION NO. 4313 OF 2018
IN
FIRST APPEAL [STAMP] NO. 24847 OF 2017

Mandakini w/o Babasaheb Kalhapure
and others .. Applicants

versus

The Branch Manageer,
New India Assurance Co. Ltd.
and others .. Respondents

Dr. S. D. Taushikar, Advocate, holding for Mr Ashok S. Pavse, Advocate for applicants
Mr M. M. Ambhore, Advocate for respondent no. 1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 12th October, 2018

ORDER :

1. This is an application for modification of order dated 28-03-2018 passed in earlier civil application bearing no. 4313 of 2018 whereunder applicants were allowed to withdraw a sum of ₹ 15,00,000/- along with interest thereon on furnishing undertaking to the effect that in case decision in appeal goes adverse to them, they would deposit the amount withdrawn within a period of three months from the date of

such decision. It was further directed that from withdrawn amount, a sum of ₹ 15,00,000/- be invested in nationalized bank earning interest.

2. Learned counsel for applicant submits that while aforesaid order had been passed, underlying consideration had been that interest at the rate of 9 per cent on the amount of ₹ 15,00,000/- pursuant to order by the tribunal from the date of petition would be allowed to be withdrawn. However, while request for withdrawal of the amount had been made, the office of the high court considers interest from September, 2017 which is the date of deposit of amount in this court is payable and accordingly is calculating interest on the amount of ₹ 15,00,000/- from the date of deposit of amount in this court. In such a case, according to learned counsel, applicants hardly get a sum of ₹ 20,000/- to ₹ 25,000/- in their hands.

3. In aforesaid circumstances, learned counsel submits that order dated 28-03-2018 may be suitably modified and applicants be allowed to withdraw a further sum of ₹ 7,00,000/- .

4. Learned counsel for respondent – insurance company, shows reluctance to accede to the request being made for modification, however, is not in a position to dispute circumstances referred to by learned counsel for applicants.

5. In the circumstances, it appears to be appropriate that applicants be allowed to withdraw a further sum of ₹ 5,00,000/- and that the amount of ₹ 15,00,000/- which is directed to be invested in fixed deposit be decreased to ₹ 13,00,000/- .

6. As such, order dated 28-03-2018 stands modified to following, reading thus,

> '' The applicants are allowed to withdraw total sum of ₹ 20,00,000/ (₹ 15,00,000/- as allowed under order dated 28-03-2018 with additional amount of ₹ 5,00,000/- under present order) along with accruals thereon on furnishing undertaking to the effect that in case decision in appeal goes against their interest, they would deposit the amount so withdrawn within three months from the date of such decision. An amount of ₹ 13,00,000/- from withdrawn amount, instead and in

place of ₹ 15,00,000/- as had been directed under order dated 28-03-2018, be invested in fixed deposits in any nationalized bank earning interest and the applicants shall furnish copies of fixed deposit receipts to this court. Amount of interest accrued on ₹ 13,00,000/- so deposited, may be utilized by the applicants.

7. Civil application, with modification as aforesaid, stands disposed of.

SUNIL P. DESHMUKH
JUDGE

pnd/-