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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1002 CIVIL APPLICATION NO.6193 OF 2018
IN FA/2891/2016

REKHABAI MANOHAR BHIL (SONWANE) AND OTHERS.
VERSUS

UNITED INDIA INSURANCE CO.LTD. THE MANAGER, DHULE AND
OTHERS.

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Advocate for Applicants : Shri Patil Vinod Prakash

Advocate for respondent no.1: Shri S. G. Chapalgoankar

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CORAM: V.L. ACHLIYA, J.

DATE: 03.08.2018

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.

3] Learned counsel for the appellant opposed the application for withdrawal with contention that the appellant has a good case to succeed in the appeal. He submits that there was breach of policy condition and the driver of the vehicle was not holding a valid license to drive the insured vehicle i.e. the commercial vehicle. He further submits that the compensation assessed by the

Tribunal on account of non-pecuniary loss is assessed much on higher side and contrary to the decision of the Apex Court in the case of *National Insurance Co. Ltd v. Pranay Sethi* [JT 2017 (10) SC 450].

4] Considering the submissions advanced, I am of the view that passing of following order would meet the ends of justice :-

O R D E R

a] Subject to outcome of the appeal, the applicants are permitted to withdraw the amount to the extent of Rs.4,00,000/- out of the amount deposited by the appellant. Out of Rs.4,00,000/-, an amount of Rs.3,00,000/- be paid to the applicant no.1 and amount of Rs.1,00,000/- be paid to the applicant no.7 on their furnishing undertakings to the satisfaction of the Registrar (Judicial) to the effect that in the event the award is set aside or modified and they are required to re-deposit the amount, they shall deposit the said amount within twelve weeks from the date of such order.

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b] After paying the amount of Rs.4,00,000/- to the applicant nos.1 & 7 as above, the balance amount be invested in a fixed deposit initially for a period of three years with State Bank of India, High Court Branch, Aurangabad, subject to renewal till the disposal of the appeal or further orders from this Court, whichever is earlier.

c] Interest accrued over the amount invested in fixed deposit be paid to the applicant no.1 after every three months by transferring the amount of interest in the applicant no.1's savings bank account to be utilized for the her own maintenance as well as maintenance of the minor children – applicant nos.2 to 5 till further orders from this Court.

d] The application is disposed of in the aforesaid terms.

(V.L. ACHLIYA, J.)