

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

CIVIL APPLICATION NO. 13711 OF 2017
IN
FIRST APPEAL NO. 1901 OF 2015

Manohar Gopalrao Naik and others .. Applicants

versus

The New India Assurance Co. Ltd.
and others .. Respondents

Mr. Dayanand S. Gaikwad, Advocate for applicants
Mr. Swapnil S. Dargad, Advocate holding for Mr. S. G.
Chapalgaonkar, Advocate for respondent no. 1.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 9th March, 2018

ORDER :

1. Heard learned counsel for parties.
2. This is an application for withdrawal of balance amount deposited in this court.
3. Learned counsel for applicants draws attention to that from amount deposited, ₹ 20,00,000/- have already been withdrawn under the orders of the division bench dated 04-08-2015 and further draws attention to the footnote no.1 of memorandum of appeal dated 15-06-2015 reading thus;

" 1. The claimants have claimed compensation of Rs.40.00 Lacs as such for the purpose of jurisdiction the appeal is valued as Rs.40,00 Lacs. The Hon'ble Tribunal allowed the claim petition and granted an amount of Rs.53,05,770/- to the claimants. The appellant has accepted the liability to tune of Rs.40.00 lacs and restricted the challenge in the appeal to Rs.13,05,770/-. The appellant has deposited the cheque of Rs.46,71,930/- dated 15/07/2015 drawn on Axis Bank Ltd. bearing No.140709 towards accepted liability of Rs.40.00 lacs along with the proportionate interest thereon. As such court fees of Rs.30,000/- on restricted amount of Rs.13,05,770/- is paid herewith which is sufficient. "

4. Learned counsel for applicants submits that applicant no. 2 is major and is taking education in Aurangabad and is in third year of Homeopathic college. She needs amount for educational expenses which presently are of ₹ 3,00,000/- and some more financial aid is required. It is further being referred to in the application that applicant no. 3 as well is taking education and requires some financial aid.

5. In view of need expressed by applicants of admitted claim, it would be expedient to allow them to withdraw a further sum of ₹ 10,00,000/- along with interest accrued thereon as learned counsel for respondents contend that share of applicant no. 3 who is still minor will need some protection.

6. Accordingly, civil application is allowed. Applicants are allowed to withdraw a sum of ₹ 10,00,000/- along with interest accrued thereon on filing undertaking before the Registrar (Judicial) of this court to the effect that in the event decision in the appeal goes adverse to their interest, they would pay back / deposit the amount within a period of three months from the date of decision in the appeal. Undertaking to be filed within a period of three weeks from today.

7. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd