

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2848 OF 2018
IN
FIRST APPEAL NO. 1466 OF 2016**

Vimal Gangaram Patil and others	... Applicants
<i>In the matter between</i>	
The Manager,	
IFFCO Tokio General Insurance Co. Ltd.	... Appellant
Versus	
Vimal Gangaram Patil and others	... Respondents
.....	
Mr. S. G. Thorat i/b Mr. V. S. Kokitkar for Applicants.	
Mr. A. P. Kulkarni for Respondent-insurance company.	
.....	

CORAM : K. K. SONAWANE, J.

DATE : 13th AUGUST, 2018.

P. C.:

1. Heard learned Counsel for the applicants-original claimants and learned Counsel for the respondent-insurance company.
2. The applicants moved the present application seeking permission to withdraw the compensation amount deposited before the M.A.C.T. Gadhinglaj in M.A.C.P. No. 20 of 2014.
3. Learned Counsel for the respondent-insurance company raised objection and submits that the insurance company has

already preferred appeal against the impugned judgment and award passed by the Tribunal. According to the learned Counsel for the insurance company, the Tribunal has granted exorbitant and excessive compensation amount without taking into consideration the factual aspects on record. He requested not to allow the applicants to withdraw the amount.

4. In view of reasons mentioned in the application and the findings of learned Tribunal, I do not find impediment to allow the applicants to withdraw at least lumpsum amount of Rs.14,00,000/- deposited in the M.A.C.T. Gadhinglaj. Definitely, it would subserve the purpose in the interest of justice.

5. Accordingly, civil application stands allowed partly. The applicants No. 1 to 3 are permitted to withdraw lumpsum amount of Rs.14,00,000/- from the compensation amount deposited on behalf of respondent-insurance company in M.A.C.T. Gadhinglaj in this matter. The applicants shall furnish undertaking that they would refund the amount so withdrawn forthwith, in case any contingency arises in the appeal. Rest of the balance decretal amount be deposited in any nationalised bank in FDR account for

a period of two years or till decision of appeal on merit, whichever is earlier with liberty to renew the FDR in future, if required.

6. It is stipulated that out of total sum of Rs.14,00,000/- allowed to be withdrawn, a sum of Rs. 7,00,000/- be paid to the applicant No.1 – Smt. Vimal Gangaram Patil and Rs.3,50,000/- each be paid to the applicant No.2-Shri. Sudhir Gangaram Patil and applicant No.3-Shri. Swapnil Gangaram Patil. It is to be noted that the learned Tribunal did not hold the applicant No.4 entitled for any compensation in this matter.

7. The Registry of M.A.C.T. Gadhinglaj to take requisite steps for disbursement of the compensation amount in favour of applicants No. 1 to 3 as directed above and forward report of the same to this Court.

8. Accordingly, civil application stands disposed of in above terms.

(K. K. SONAWANE, J.)