

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

**CIVIL APPLICATION NO. 3428 OF 2018
IN
FIRST APPEAL NO. 1159 OF 2016**

Smt.Nilam Suhas Nimbalkar & Ors. ... Applicants

In the matter between

The Divisional Manager,

The New India Assurance Co. Ltd. ... Appellant

V/s.

Smt.Nilam Suhas Nimbalkar & Ors. ... Respondents

- Mr.Sudhakar Pandaram i/b. Mr.Milind Vasant More for the Appellant.
- Mr.Dilip Bodake for the Applicants/Org. Respondent Nos.1 to 3.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 26th SEPTEMBER, 2018.

P.C. :

1] Heard learned counsel for the Applicants/Org.
Respondents and learned counsel for the Appellant.

2] This is an application for withdrawal of the amount of compensation deposited by the Appellant in the Tribunal. The Application is made by the original claimants. The total amount of compensation deposited is Rs.52,22,879/-.

3] According to the Applicants, the amount is required for the household expenses and also for education of Applicant No.2, who is minor and medical treatment of Applicant No.3, who is old mother of the age of 67 years.

4] Hence, considering the requirements of the Applicants, this Application deserves to be allowed. However, having regard to the order passed by the Tribunal to keep the amount of Rs.15,00,000/- in the fixed deposit in any Nationalized Bank in the name of Applicant No.2 for the period till he attains age of his majority; whereas the amount of Rs.10,00,000/- in the name of Applicant No.1 and Rs.5,00,000/- in the name of Applicant No.3 in the fixed deposit in any Nationalized Bank for five years and also considering that the claim was resisted on the ground of contributory negligence and also on the ground of quantum of compensation, the Applicants-claimants are permitted to withdraw the amount of Rs.20,00,000/- only with liberty to apply as and when need arises. The withdrawal of the amount is subject to furnishing of usual undertaking that in case the decision of the appeal goes against them, they will return the entire amount with interest thereon.

5] The Civil Application is disposed off in above terms.