

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

**CIVIL APPLICATION NO. 2607 OF 2018
IN
FIRST APPEAL STAMP NO. 25787 OF 2017**

Smt. Saraswati Sadashivan Nair and others ... Applicants
IN THE MATTER OF
The New India Assurance Company Limited ... Appellants
Versus
Saraswati Sadashivan Nair and others ... Respondents

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Jeeni A. Antony for Applicants in civil application.
Mr. S. Pandaram i/b Milind V. More for respondents.

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CORAM : K. K. SONAWANE, J.

DATE : 24th JULY, 2018.

P. C.:

1. Heard learned Counsel for applicants-original claimants and the learned Counsel for respondents-insurance company. Perused the application filed on behalf of original claimants, seeking permission to withdraw the decretal amount of compensation deposited in the M.A.C.T. Thane in M.A.C.P. 611 of 2007. The applicants are the wife and children of the deceased Sadashiv Krushnkunj Nair.

2. In view of nature of the subject matter and the reasons mentioned in the application including the grounds raised on behalf of the appellant-insurance company for filing appeal, there is no any impediment to allow the applicants to withdraw some part of the decretal amount. Definitely, it would subserve purpose to provide solace to the applicants. Hence, application deserves to be allowed on certain terms and conditions.

3. Accordingly, application stands allowed. The applicants are permitted to withdraw lumpsum amount of Rs. 8,00,000/- from the decretal amount deposited before the learned trial Court on behalf of appellants-insurance company on condition that the applicants shall furnish undertaking that they would refund entire amount so withdrawn in case, any contingency arises in the appeal. Rest of the balance decretal amount shall be invested in FDR account in any nationalised bank for a period of two years or till decision of present appeal, whichever is earlier with liberty to renew the FDR in future, if required.

4. It is further stipulated that from the total sum of Rs.8,00,000/- allowed to be withdrawn by the applicants-claimants, the total sum of Rs. 4,00,000/- be kept in FDR account in the name of applicant No.3 – Miss Nisha Sadashivan Nair for a period of five years or till settlement of her marriage, whichever is earlier. Rest of Rs. 4,00,000/- be allowed to be withdrawn by the applicants-claimants on furnishing aforesaid undertaking.

5. Accordingly, civil application stands allowed and disposed of in above terms. The Registrar of the M.A.C.T. Thane shall do the needful to facilitate for disbursement of the amount in favour of the applicants-claimants as mentioned above.

(K. K. SONAWANE, J.)

Shridhar
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