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

**CIVIL APPLICATION NO. 1089 OF 2017
IN
FIRST APPEAL NO. 1656 OF 2016**

Mrs. Namdeo Kaluram Dhotre & Anr. .. Applicants

In the matter between

United India Insurance Co. Ltd. .. Appellant

Vs.

Mr. Namdeo Kaluram Dhotre & Ors. .. Respondents

Mr. Sharad T. Bhosale for the Applicants.

Mr. Amol Gatne for the Respondent-original Appellant..

CORAM : K. K. SONAWANE, J.

DATE : 26th JULY, 2018.

P. C. :

1. Heard learned Counsel for applicants-original claimants and learned Counsel for respondent-Insurance Company. Perused application.
2. The applicants moved the present application seeking permission to withdraw decretal amount of Rs.33,17,208/- before the Motor Accident Claim Tribunal in M.A.C.P. No. 188 of 2012. Learned Counsel for the respondent-Insurance Company raised objection and submit that the deceased was 22 years old doing business of construction. He was diploma holder of Civil Engineering. Learned Trial Court calculated his income at the rate of Rs.25000/- p.m. which is exorbitant and excessive. The multiplier adopted by the Trial Court is erroneous and therefore he may not be allowed for withdrawal of decretal amount.
3. Admittedly, the applicants-original claimants are old aged parents of the deceased who succumbed to injuries caused in the accident. It is true that he was not a degree holder in Civil Engineering but he had possessed

diploma. In such circumstances, considering the future prospects of the deceased, there is no impediment to allow the applicants at least 50% of the decretal amount deposited in this Court. Definitely, it would subserve purpose to provide relief to the applicants as well as the balance amount kept reserved would protect the interest of respondent-Insurance Company. In such circumstances, the application deserves to be allowed.

3. Accordingly, the application stands partly allowed.

4. The applicants-original claimants are permitted to withdraw 50% of the decretal amount deposited before the learned M.A.C.T., Solapur in M.A.C.P No. 188 of 2012 subject to condition that the applicants-original claimants shall furnish an undertaking that they would refund the amount so withdrawn forthwith in case any contingency arises in the appeal. Rest of the balance of 50% of the decretal amount be invested in FDR account in any nationalized bank for a period of two years or till disposal of the appeal whichever is earlier with liberty to renew the FDR in future, if required.

5. Accordingly, the civil application is hereby disposed of in above terms.

6. The Registrar of the M.A.C.T., Solapur shall do the needful for disbursement of the compensation amount to the applicants-original claimants as mentioned above.

Arjun
Machhindra
Kadam

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by Arjun
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Date: 2018.07.31
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[K. K. SONAWANE, J.]