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

**CIVIL APPLICATION NO. 2509 OF 2018
IN
FIRST APPEAL (STAMP) NO. 33727 OF 2017**

Smt. Lata Bandu God & Ors. .. Applicants

In the matter between

The New India Insurance Co. Ltd. .. Appellant

Vs.

Smt. Lata Bandu God & Ors. .. Respondents

Mr. Nagesh Y. Chavan for the Applicants.

Mr. Milind V. More for the Respondent-Appellant.

CORAM : K. K. SONAWANE, J.

DATE : 26th JULY, 2018.

P. C. :

1. Heard learned Counsel for the applicants-original claimants and learned Counsel for the respondent-Insurance Company.
2. The applicants-original claimants moved the present application for seeking permission to withdraw amount of compensation of Rs.16,20,773/- deposited before the learned Trial Court i.e. Commissioner of Employees Compensation and Judge Labour Court, Sangli in Application (ECA) No. 37/B-9/2015. Learned Counsel for the respondent-Insurance Company raised objection and submits that the learned Commissioner did not appreciate the entire facts and circumstances on record in its proper perspective and committed error by awarding the exorbitant and excessive

amount in favour of claimants. Learned Counsel for the Insurance Company much more emphasized on the employer-employee relations as well as the income of the deceased to ascertain loss caused to the applicants-original claimants in the present petition.

3. In view of the nature of subject matter and the grounds raised on behalf of the respondent-Insurance Company, I find it justifiable to allow the applicants-original claimants to withdraw at least 75% of the decretal amount deposited on behalf of the respondent-Insurance Company before the learned Trial Court. Definitely, it would subserve the purpose to provide some relief to the widow, children as well as parents of the deceased who caused hardship and loss of earning following the death of the deceased in a mishap. Hence, the application deserves to be allowed on certain terms and conditions.

4. Accordingly, the Civil Application stands allowed partly. The applicants are permitted to withdraw lumpsum amount of Rs.12 lakhs from the decretal amount deposited before the Commissioner for Employees Compensation and Judge, Labour Court, Sangli in Application (ECA) No. 37/B-9/2015 on condition that the applicants-original claimants shall furnish an undertaking that they would refund the amount forthwith in case any contingency arises in the proceeding of appeal filed on behalf of the Insurance Company. Applicant No.1-widow of the deceased Bandu God is at liberty to file an undertaking on behalf of her minor children being a legal guardian. Rest of the decretal amount be deposited in the Fixed

Deposit account in any nationalized bank for a period of two years or till the decision of the appeal whichever is earlier with liberty to get the FDR renewed in future, if required.

5. It is further stipulated that out of Rs.12 lakhs allowed to be withdrawn by the applicants-original claimants a sum of Rs.1 lakh each be disbursed in favour of applicant No.4-Sou. Janabai Manikrao God and applicant No.5-Shri Manikrao Shrirang God, parents of the deceased. From the rest of the balance amount allowed to be withdrawn, the sum of Rs.3 lakhs each be kept reserved in FDR account in the name of applicant No.2-Kum. Sakshi Bandu God and applicant No.3-Kum. Sayali Bandu God till they attain the age of majority. Rest of the balance amount of Rs.4 lakhs be disbursed in favour of applicant No.1-widow of the deceased i.e. Smt. Lata Bandu God. The Registrar of the learned Trial Court i.e. Commissioner for Employees Compensation to do the needful for disbursement of compensation amount in favour of applicants-original claimants as directed above and file compliance report in this Court.

6. Accordingly, the Civil Application stands disposed of in above terms.

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.]