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

**CIVIL APPLICATION NO. 2740 OF 2018
IN
FIRST APPEAL (STAMP) NO. 14200 OF 2017**

Smt. Dipti Nitin Sankpal & Ors. .. Applicants

In the matter between

Reliance General Insurance Co. Ltd. .. Appellant

Vs.

Smt. Dipti Nitin Sankpal & Ors. .. Respondents

Mr. T. J. Mendon for the Applicants.

Mr. Nikhil Mehta I/b KMC Legal Venture for the Appellant-Insurance Company.

CORAM : K. K. SONAWANE, J.

DATE : 10th AUGUST, 2018.

P. C. :

1. Heard learned Counsel for applicants-original claimants and learned Counsel for appellant-Insurance Company.
2. The applicants-original claimants moved present application seeking permission to withdraw compensation amount deposited on behalf of appellant-Insurance Company in the proceeding of Claim Application No. 2799 of 2012 before M.A.C.T., Mumbai. Learned Counsel for appellant-Insurance Company raised objection and submits that the learned Trial Court did not appreciate the evidence on record in its proper perspective and awarded exorbitant and excessive compensation amount. The income of the deceased calculated by the Tribunal is erroneous, illegal

and not as per the principle of law. The Trial Court also granted excessive amount under the other heads. Therefore, the learned Counsel requested not to allow the applicants-original claimants for withdrawal of the amount and place the appeal for final hearing on merits at the earliest.

3. In view of nature of subject matter and the findings recorded by the learned Trial Court, I am not in agreement with the learned Counsel for the appellant-Insurance Company for not allowing the withdrawal of the compensation amount by the claimant, till adjudication of the appeal on merit. Admittedly, the applicants-original claimants are widow, children and widowed mother of deceased Nitin Shankar Sankpal, who succumbed to injury caused in the vehicular accident. He was 40 years old at the time of death and employed as lecturer in the college. Obviously, there was loss of income caused to the family of the claimants. In such circumstances, I find it justifiable to allow the applicants-claimants to withdraw at least 75% of the compensation amount deposited before the M.A.C.T., Mumbai in Claim Application No. 2799 of 2012. Definitely, it would subserve the purpose to provide some sort of solace to the applicants-claimants who are pursuing the claim petition since 2012.

4. Accordingly, the application stands allowed partly.

5. The applicants-original claimants are hereby permitted to withdraw lumpsum amount of Rs.75 lakhs from the compensation amount deposited before the learned M.A.C.T., Mumbai in Claim Application No. 2799 of 2012 subject to condition that the applicants-original claimants shall

furnish undertaking that they would refund the amount so withdrawn, if any contingency arises in the appeal. Applicant No.1-Smt. Dipti Nitin Sankpal is authorised to furnish the undertaking on behalf of her minor children. Rest of the balance decretal amount remained deposited before the M.A.C.T., Mumbai be deposited in FDRs in any nationalized bank for a period of two years or till decision of the appeal whichever is earlier with liberty to renew FDR in future, if required.

6. It is further stipulated that out of total sum of Rs.75 lakhs allowed to be withdrawn by the applicants-claimants, the sum of Rs.30 lakhs be invested in the FDR in the name of applicant No.3 Kum.Srushti Nitin Sankpal for a period of 15 years or till settlement of her marriage whichever is earlier. A sum of Rs.20 lakhs be invested in the FDR in the name of applicant No.4-Kum.Dhruv Nitin Sankpal till he attain age of majority. Applicant No.2-Smt. Savita Shankar Sankpal is hereby allowed to withdraw Rs.5 lakhs and rest of the balance amount of Rs.20 lakhs be paid to the widow applicant No.1-Smt. Dipti Nitin Sankpal.

7. The Registrar of the M.A.C.T., Mumbai to take requisite steps for disbursement of the amount as directed in favour of the applicants-original claimants and file compliance report to this Court.

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

Arjun
Machhindra
Kadam

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by Arjun
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Kadam
Date: 2018.08.16
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[K. K. SONAWANE, J.]