

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

**CIVIL APPLICATION NO. 2513 OF 2018
IN
FIRST APPEAL NO. 1133 OF 2017**

Miss Bhakti Vishnu Khetle and another ... Applicants

In the matter of

Reliance General Insurance Co. Ltd. ... Appellant

Versus

Miss Bhakti Vishnu Khetle and others ... Respondents

.....

Mr. T.S. Ingale for applicants.

Mr. Nikhil Mehta i/b KMC Legal Venture for respondent-insurance company.

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CORAM : K. K. SONAWANE, J.

DATE : 24th JULY, 2018.

P. C.:

1. Heard learned Counsel for the applicants-original claimants and the learned Counsel for the respondent-insurance company.

No one else appeared on behalf of rest of the respondents.

2. The present application is filed seeking permission to withdraw decretal amount of Rs. 74,45,266/- deposited on behalf of the appellant-insurance company. Learned Counsel for the appellant-insurance company raised the objection and submits

that the Tribunal did not appreciate the circumstances of contributory negligence of the drivers of both vehicles involved in the accident and unilaterally imposed the monetary liability on the insurance company. He also put in controversy the quantum of compensation determined by the Tribunal in favour of the applicants-claimants.

3. Taking into consideration the nature of objection raised on behalf of appellant-insurance company, it would justifiable to allow the applicants-claimants to withdraw at least 50% of the compensation amount deposited before the M.A.C.T. Mumbai on certain terms and conditions. Definitely it would subserve the purpose in the interest of justice.

4. Accordingly, civil application stands partly allowed. The applicants are hereby permitted to withdraw 50% of the compensation amount deposited before the M.A.C.T. Mumbai in M.A.C.P. No. 126 of 2011, subject to condition that the applicants shall furnish undertaking that they would refund the amount so withdrawn forthwith in case of any contingency arises in the appeal.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 the present First Appeal, whichever is earlier. The Registrar of the M.A.C.T. Mumbai shall do the needful to facilitate the applicants-claimants for disbursement of the compensation amount in favour of applicants-claimants, as referred above.

5. Accordingly, Civil application stands disposed of in above terms.

(K. K. SONAWANE, J.)

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