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

**CIVIL APPLICATION NO. 4289 OF 2016
IN
FIRST APPEAL NO. 1114 OF 2014**

Mrs. Sarita Mohan Ghadge & Anr. .. Applicants

In the matter of

United India Insurance Co. Ltd. .. Appellant

Vs.

Smt. Sarita Mohan Ghadge & Anr. .. Respondents

Mr. A. M. Gokhale for the Applicants.

Mr. Ketan Joshi 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. Perused application.

2. The applicants-original claimants moved the present application seeking permission to withdraw compensation amount of Rs.6,18,000/- deposited before the M.A.C.T., Pune in M.A.C.P. No.166 of 2005. Learned Counsel for appellant-Insurance Company submits that the driver of the offending vehicle did not possess a valid license at the time of vehicular accident. Therefore, the appellant-Insurance Company is not liable to indemnify the loss caused to the owner of the offending vehicle. He has no any objection to allow the applicant for withdrawal of 75% of the amount deposited before the Tribunal.

3. In view of submission on the part of the appellant-Insurance Company as well as the findings of the Tribunal, I do not find any

impediment to allow the applicant No.2-claimant to withdraw lumpsum amount of Rs.4.50 lakhs from the compensation deposited in this matter. It is to be noted that the learned Trial Court has held that applicant No.1-married daughter is not entitled for the compensation and therefore no any sort of compensation was allowed to be paid to applicant No.1-married daughter. Definitely, it would subserve the purpose to provide some sort of solace to applicant No.2-claimant.

4. Accordingly, the application stands allowed partly.

5. Applicant No.2-claimant is hereby permitted to withdraw lumpsum amount of Rs.4.50 lakhs from the compensation amount deposited before the learned M.A.C.T., Pune in M.A.C.P. 166 of 2005 subject to condition that the applicant No.2-original claimant shall furnish undertaking that he would refund the amount so withdrawn forthwith, if any contingency arises in the appeal. Rest of the balance compensation amount remained lying before the M.A.C.T., Pune be invested in FDRs in any nationalized bank for a period of two years or till the decision of the appeal whichever is earlier with liberty to renew FDR in future, if required.

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

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

Arjun
Machhindra
Kadam

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by Arjun
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2018.08.16
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[K. K. SONAWANE, J.]