

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.720 OF 2018
IN
FIRST APPEAL NO.1029 OF 2017**

M/s.Modison Metal refiner & Ors. ... Applicants

IN THE MATTER OF:

M/s.Oriental insurance Co. Ltd. & anr. ... Appellants

Vs.

M/s.Modison Metal Refiner & Ors. ... Respondents

Mr.Ravi Agarwal for the Applicants

Ms.Ruchika Dave i/b Asim Vidyarthi, for Respondent /
Org.Appellant in FA.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: FEBRUARY 21, 2018**

P.C. :

1. This application is filed for withdrawal of the amount of compensation deposited by the Insurance company pursuant to the judgement and decree dated 1.10.2015 passed by the learned judge of the Bombay City Civil Court, in L.C. Suit No.8124 of 1986. The learned Counsel for the applicants / original plaintiffs submits that they be permitted to withdraw the entire amount as they are the decreeholders. It is submitted that they had filed the suit in the year 1986 and since then, they are waiting for the relief. The learned Counsel submitted that the applicants had insured the

silver jewellery which is manufactured in the applicants' factory. The respondents have accepted the silver jewellery block policy under the insurance scheme. There was theft of the silver jewellery and the applicants suffered total loss of silver to the tune of Rs.3,40,582.78. So, the applicants filed civil Suit to recover the insured the amount which was refused by the respondents to pay. He submits that now the said amount is deposited by the respondent/insurance company pursuant to the judgment and decree passed by the civil Court.

2. The learned Counsel for the respondent/insurance company submits that it is a commercial entity and the amount, if allowed to be withdrawn, it is to be indemnified.

3. Considered the submissions and perused the impugned judgment. For the reasons stated in the Civil Application, the applicants / original plaintiffs are allowed to withdraw the principal amount with interest accrued thereon by furnishing bank guarantee in the like amount.

4. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)