IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 368 OF 2017
IN
FIRST APPEAL NO. 259 OF 2016

Prataprao Anandrao Shinde & Anr. ....Applicants
<u>In the matter between :-</u>
Bajaj Allianz General Insurance Co. Ltd. & Anr. ....Appellants
V/s.
Prataprao Anandrao Shinde & Anr. ....Respondents

Mr. Shah Kayval P. for the applicants.
Mr. Milind M. Sathaye for the appellant / insurance company.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 04th APRIL, 2018.

<u>P.C.:</u>

. By this application, the applicants, who are the original claimants have sought withdrawal of the amount deposited by the appellant / insurance company before the MACT, Satara.

2. Heard Mr. Shah Kayval P., learned counsel for the applicants and Mr. M.M. Sathaye, learned counsel for the appellant / insurance company.

3. The applicants herein are the parents of the deceased Sachin who expired on 21st June, 2007. By judgment and award dated 10th July,

2013 in MACP No. 14 of 2008, the MACT, Sarata after considering the evidence adduced by the respective parties, had awarded compensation of Rs.36,30,900/- to the petitioners alongwith interest accrued thereon @ 9% per annum from the date of petition till realization of the amount.

4. The appellant / insurance company has challenged the said judgment and award dated 10th July, 2013 and during the pendency of filing of the aforesaid appeal, deposited an amount of Rs.49,89,088/- which is inclusive of interest.

5. It is pertinent to note that the applicants are the parents of the deceased, their only son who had expired in an motor vehicle accident. The claimants have the medical records which indicates that they are suffering from several medical ailments and have to incur huge medical expenses. Under such circumstances, the claimants who are senior citizens, cannot be deprived of the compensation. Suffice to say that non-release of the compensation will expose the applicants to serious prejudices.

6. Mr. M.M. Sathaye, learned counsel for the appellant / insurance

company submits that the insurance company is not liable to pay the amount in view of the breach of the terms and conditions of the policy. He has further submitted that the amount awarded is exorbitant particularly considering the fact that only the applicant no.2 is considered as a dependent.

7. Considering the aforesaid facts and circumstances, 50% of the total compensation alongwith appropriate interest accrued thereon (after adjusting an amount of Rs.6,00,000/-, received earlier) is ordered to be paid to the applicants. The Tribunal to deposit the balance amount in the names of the respective claimants in any nationalized bank till the disposal of appeal.

8. It is made clear that the payment is subject to final outcome of the appeal. The applicant nos.1 and 2 shall give an undertaking before the Tribunal that they will abide by the order that may be passed in the appeal.

9. Civil Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)