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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**964 REVIEW APPLICATION (CIVIL) NO.50 OF 2019  
IN CA/224/2019**

TUKARAM MADHAV WAKCHAURE AND ORS  
VERSUS  
BRANCH MANAGER, THE NEW INDIA INSURANCE CO. LTD.  
AND ANR

...

Advocate for Applicants : Mr. Shermale K. N.  
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar

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**CORAM : P.R. BORA, J.  
DATED : 20<sup>th</sup> March, 2019.**

**PER COURT:-**

1. Heard Shri Shermale, the learned counsel appearing for the applicants. The applicants are seeking review of the order passed by this Court on 05.02.2019 in the application filed by the present applicants seeking withdrawal of the amount of compensation deposited by the respondent-insurance company in the appeal filed by it in this Court.

2. This Court after having heard the learned counsel appearing for the applicants and the learned counsel appearing for the respondent-insurance company had passed the order thereby permitting applicant no.1 i.e. original claimant no.1 to withdraw the amount of

Rs.7,11,308/- with interest accrued thereon. It is observed by this Court, the amounts which are directed to be invested in Fixed Deposit Receipt in the names of minors cannot be permitted to be withdrawn till the disposal of the appeal or till the minors attain the age of majority and having considered the objections raised by the appellant-insurance company in exception to the impugned judgment, 50% of the amount which was falling to the share of applicant no.1 was permitted to be withdrawn. The review of the said order is sought by the applicants.

3. It is the contention of the learned counsel that the appellant-insurance company does not have any case on merits. It is further contented that in the companion appeal arising out of the same accident, the insurance company has satisfied the award and though same issues arise in the present appeal were involved in the said matter, has not preferred any appeal against the said judgment and award. In the circumstances, according to the learned counsel, the entire amount which is payable to applicant no.1, can be permitted to be withdrawn.

4. The learned counsel has tendered across the bar, the copy of the judgment in M.A.C.P. No.39 of 2014. The

learned counsel has relied upon the judgment of the Hon'ble Apex Court in the case of "**A.V. Padma and Ors Vs. R. Venugopal and Ors, (2012) 3 SCC 378**", and the judgment in the case of "**Jayantilal Ambalal Parmar Vs. The Gujarat State Road Transport Corporation and Anr, AIR 1995 Guj 98**". The learned counsel submits that his review application, therefore, deserves to be allowed.

5. Shri S.G. Chapalgaonkar, the learned counsel appearing for the insurance company submits that he will take instructions as about the further progress in M.A.C.P. No.39 of 2014 since, at present he is not having any such instructions. Apart from the fact as aforesaid, it appears to me that the contentions raised and the facts brought to my notice by the learned counsel may not be a ground for review of the order passed by this Court on an application seeking withdrawal of amount by the present applicants. It has to be stated that, in the earlier application nothing was contended which now has been submitted by the present applicants. In the circumstances, it cannot be said that any patent error has been committed by this Court in passing the aforesaid order. The review application, therefore, deserves to be dismissed and is accordingly dismissed.

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6. The learned counsel for the applicants then prayed that hearing of the appeal be expedited. Since, this Court is not holding the said assignment, the said request can be made by the learned counsel before the Court holding the said assignment.

**(P.R. BORA, J.)**

Mujaheed//