

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 150 OF 2018

**FUTURE GENERALI INDIA INSURANCE
CO. LTD., THR. THE LEGAL OFFICER,
SANTOSH MORE.,**

... Appellant

Versus

**FLORIN D'SOUZA E MENEZES AND 5
ORS.,**

... Respondents

Ms. G.P. Borkar, Advocate for the Appellant.

**Mr. Emerico Estevam Afonso, Advocate for Respondent Nos.1 to
5.**

**Coram:- R. D. DHANUKA &
PRITHVIRAJ K. CHAVAN, JJ.**

Date:- 24th April 2019

P.C.:

Misc. Civil Application No. 174/2019.

By this application, the applicants seek withdrawal of the amount deposited by the appellant during the pendency of this appeal.

2. Heard learned Counsel appearing for the parties. Learned Counsel appearing for the appellant states that the appellant has no objection if the respondent Nos. 1 to 5 are allowed to withdraw 50% of the amount at this stage on condition to the

effect that if the appeal filed by the appellant stands allowed fully or partly, the respondent Nos. 1 to 5 would return the said amount on such condition. Statement is accepted.

3. The respondent Nos. 1 to 5 are permitted to withdraw 50% of the amount deposited by the appellant pursuant to order dated 27.12.2018 upon the respondent Nos. 1 to 5 furnishing an undertaking to this Court to the effect that in the event if the appellant succeeds in this appeal and if any amount is directed to be returned to the appellant, the respondent Nos. 1 to 5 would return the said amount with such rate of interest as may be directed by this Court.

4. Office is directed to permit the respondent Nos. 1 to 5 to withdraw 50% of the said amount deposited by the appellant.

5. It is made clear that in so far as the claims made by the minors are concerned, the respondent No.1 shall deposit the shares of these minors in fixed deposits in nationalised bank for a period of three years initially and shall renew the same for a like period after obtaining orders from this Court.

6. The Misc. Civil Application is disposed of on the above said terms. There shall be no order as to costs.

7. It is made clear that respondent No. 1 would be entitled to withdraw interest on such fixed deposit for the purpose of welfare and maintenance of these minors.

8. Office to act on the authenticated copy of this order.

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A perusal of the office note indicates that notices issued to respondent Nos. 6(a) to 6(c) are returned unserved on the ground that they are not residing at the given address for the past 2 to 3 years and are residing in Goa. Appellant is accordingly directed to serve the respondent Nos. 6(a) to 6(c) by publication in local as well as Thane, Maharashtra newspapers at the last known address.

2. Publication shall be issued within four weeks from today and affidavit of service shall be filed within one week thereafter.

3. Place the matter on board for admission on 24.06.2019.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.

MF/-