

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

**CIVIL APPLICATION NO.383 OF 2017
IN
FIRST APPEAL NO.2568 OF 2011**

Sushila Narayan Kapade & Anr. .. Applicants

In the matter between

The New India Assurance Co. Ltd. .. Appellant

Vs.

Sushila Narayan Kapade & Anr. .. Respondents

Mr.Yuvraj D. Patil for the applicants/orig. respondent nos.1 to 5.

Mr.Rakesh K.Singh a/w Ms.Shivani Soni for the appellant.

Mr.Chandrakant N.Chavan for the respondent no.8.

CORAM : R.D.DHANUKA, J.

DATE : 16th December 2019

P.C.:

. The applicants seek withdrawal of the amount deposited by the appellant and also seek to make an application for withdrawal of the amount that is deposited by the respondent no.8 before the MACT, Kalyan. Learned counsel for the applicants states that since the records and proceedings are transmitted to this Court, the applicants are not able to make such application.

2. Office is directed to transmit the trial Court's proceedings before MACT, Kalyan expeditiously and not later than four weeks from the date of communication of this order. Upon transmission of the

records and proceedings, the applicants would be at liberty to make an application for withdrawal of the amount that is deposited by the respondent no.8 before the MACT, Kalyan. If any such application for withdrawal is made, the same would be considered on its own merit.

3. It is made clear that the appellant has already deposited the entire amount admittedly. The stay of the impugned judgment and award which was in force on the date of dismissal of the first appeal to stand restored. It is however, made clear that merely because this Court has granted stay of the impugned judgment and award, that would not preclude the applicants to make an application for withdrawal of the amount.

4. Civil application is disposed of on aforesaid terms. No order as to costs. Parties as well as the MACT, Kalyan to act on the authenticated copy of this order. The Tribunal to transmit the records and proceedings to this Court after disposal of the application for withdrawal.

R.D.DHANUKA, J.