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

**CIVIL APPLICATION NO. 355 OF 2019
IN
FIRST APPEAL (STAMP) NO. 15701 OF 2017**

Smt. Sharada Tukaram More & Ors. .. Applicants

In the matter between

The New India Assurance Co. Ltd. .. Appellant

Vs.

Smt. Sharada Tukaram More & Ors. .. Respondent

Mr. Yuvraj P. Narvankar for the Applicants.

Mr. Sudhir Pandaram I/b Milind More for the Appellant-Respondent.

CORAM : K. K. TATED, J.

DATE : 20th MARCH, 2019.

P. C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application, the Applicant-original Claimants are seeking permission to withdraw the amount deposited by the Appellant-Insurance Company.
3. Learned Counsel Shri Narvankar for the Applicants submits that in the present proceeding, the Motor Accident Claim Tribunal, Kolhapur by its Judgment and Award dated 07.12.2016 in Motor Accident Claim Petition No. 60 of 2006 held that the Claimants are entitled sum of Rs.2,98,367.90 with interest @ 7.5% by way of compensation. Learned Counsel for the Applicants submits that the Applicants have no source of income. Hence, they require the said amount.

4. On the other hand, learned Counsel appearing on behalf of Appellant-Insurance Company vehemently opposed the present Civil Application. He submits that the Appellant-Insurance Company disputed before the Trial Court that the death of Tukaram More was due to accident which occurred on 07.11.2003. Therefore, there is no question of payment of any compensation to the Claimants.

5. I heard both the sides. It is to be noted in the present proceeding that the Claimant lost her husband in the accident. At present, she does not have any source of income. Considering the submissions made by learned Counsel for Applicants, I am satisfied that both the Applicants have made out case for allowing them to withdraw certain amount deposited by the Appellant-Insurance Company. Hence, following order :

- (i) Applicant No.1-Smt. Sharada Tukaram More is permitted to withdraw 25% amount deposited by the Appellant-Insurance Company without furnishing any security but subject to outcome of the First Appeal.
- (ii) Applicant No.2-Shri Kailash Tukaram More is also permitted to withdraw 25% amount deposited by the Appellant-Insurance Company without furnishing any security but subject to outcome of the First Appeal.
- (iii) The Civil Application stands disposed of accordingly.

[K. K. TATED, J.]