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

**CIVIL APPLICATION NO. 2849 OF 2018
IN
FIRST APPEAL (STAMP) NO. 34492 OF 2017**

Smt. Nilofar Ebrahim Khan & Ors. .. Applicant

In the matter between

Reliance General Insurance Co. Ltd. .. Appellant

Vs.

Smt. Nilofar Ebrahim Khan & Ors. .. Respondents

Mr. Yuvraj P. Narvankar for the Applicant.

Mr. Rahul Mehta I/b KMC Legal Venture 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 Applicants-Claimants are seeking permission to withdraw the amount deposited by the Appellant-Insurance Company pursuant to order dated 23.04.2018 passed by this Court in Civil Application.
3. Learned Counsel for the Applicants submits that Applicant No.1 lost her husband in accident. He submits that considering the evidence on record the Tribunal held that the Claimants are entitled for compensation of sum of Rs. 26,29,000/- with 9% interest. Learned Counsel for the Applicant submits that the Applicant has no source of income. In any case, she has to maintain her minor children i.e. Applicant Nos.2, 3 & 4.

He further submits that even Applicant Nos.5 and 6 are staying with her only.

4. In support of his contention, learned Counsel for the Applicant relies on paragraphs 9 and 10 of the Civil Application. He submits that in the interest of justice, the Hon'ble Court may please be allowed the Applicants to withdraw the amount deposited by the Appellant-Insurance Company.

5. On the other hand, learned Counsel for the Insurance Company vehemently opposed the present Civil Application. He submits that, if the entire amount is withdrawn, nothing would survive in the First Appeal.

6. Considering the submissions made by learned Counsel for Applicant and as the Applicant is require amount to maintain her minor children as well as father-in-law and mother-in-law, I am of the opinion that the Applicants have made out case for allowing them to withdraw the amount.

Hence, following order :

- (i) Applicant No.1-Smt. Nilofar Ebrahim Khan is permitted to withdraw 20% amount deposited by the Insurance Company without furnishing any security but subject to outcome of the First Appeal.
- (ii) Applicant No.5-Smt. Najmabi Mohammad Hanif Khan is permitted to withdraw 5% amount deposited by the Insurance Company without furnishing any security but subject to outcome of the First Appeal.
- (iii) Applicant No.6-Mr. Mohammad Hanif Khan is permitted to withdrawn 5% amount deposited by the Insurance Company without furnishing any security but subject to outcome of the First Appeal.

- (iv) The Civil Application stands disposed of accordingly.

[K. K. TATED, J.]