

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

**CIVIL APPLICATION NO. 1636 OF 2016
IN
FIRST APPEAL (ST.) NO. 26538 OF 2014**

Raj Mohinder Pal Verma & Ors.

....Applicants

In the matter between :-

The New India Assurance Co. Ltd.

....Appellant

V/s.

Raj Mohinder Pal Verma & Ors.

....Respondents

Mr. Avinash Gokhale for the appellant in FA 928/2014 and for respondent nos.1 to 3 in CAF 819/2015, CAF 1637/2016, CAF 4413/2014 and for applicant in CAF 1636/2016.

Mr. D.R. Mahadik for the applicant in CAF 819/2015 in CAF 1637/2016, CAF 4413/14 and for the appellant in FAST 26358/2014 and for R.No.2 in FA 928/2014.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 27th FEBRUARY, 2019.**

P.C.:

. Heard the learned counsels for the respective parties.

2. By this application, the applicants have sought to withdraw the amount deposited by the appellant / insurance company before the MACT, Mumbai.

3. By judgment and award dated 04/12/2013 passed by the Member, MACT, Mumbai in Application No.3241 of 2006, the

respondent / insurance company and the insured were directed to pay jointly and severally compensation of Rs.30,28,600/- inclusive of no fault liability with interest @ 7.5% per annum from the date of filing of the petition till realization of the amount.

4. The respondent / insurance company has deposited the entire decretal amount in compliance with the order dated 07/04/2015. By the said order dated 07/04/2015, the applicant nos.1 and 2 being the parents of the deceased were allowed to withdraw an amount of Rs.1,25,000/- each without furnishing any security. The learned counsel for the applicant has submitted that the applicant nos.1 and 2 have already withdrawn the total amount of Rs.2,50,000/-. He submits that the applicants are in need of money and hence, they be paid the balance amount. The respondent / insurance company has challenged the quantum of compensation. He has further stated that the MACT, Mumbai has not considered the aspect of contributory negligence.

5. Considering the grounds stated in the application and the grounds raised in the appeal, in my considered view, the withdrawal is allowed as under :-

(i) 10% of total compensation alongwith proportionate interest accrued thereon is ordered to be paid to the applicant no.1-Raj Mohinder Pal Verma (father).

(ii) 20% of the total compensation alongwith proportionate interest accrued thereon is ordered to be paid to the applicant no.2 – Rani Verma (mother).

(iii) 20% of the total compensation alongwith proportionate interest accrued thereon is ordered to be paid to the applicant no.3 – Meenakshi Rupendra Verma (widow). The Tribunal to invest the balance amount in any nationalized bank till the disposal of the appeal.

6. It is made clear that the payment is subject to the final outcome of the appeal. The applicants shall give an undertaking before the Tribunal that they shall abide by the order that may be passed in the appeal.

7. Civil Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)