

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO. 3447 OF 2017****IN****FIRST APPEAL NO. 153 OF 2017****Smt. Sunanda Kisan Gadhave & Ors. Applicants****IN THE MATTER OF****National Insurance Company Limited Appellant****VERSUS****Smt. Sunanda Kisan Gadhave & Ors. Respondents**

Mr.S.S.Dwivedi for the Appellant.

Mr.Yuvraj P. Narvankar for the Respondent nos. 1 to 5 and for the Applicant in CAF/3447/2017.

CORAM : R.D. DHANUKA, J.**DATE : 28th NOVEMBER, 2019****P.C.**

By a separate order passed by this court, First Appeal No.153 of 2017 is admitted. There appears to be dispute about the quantification in respect of the claim. After hearing learned counsel appearing for the parties and considering the reasons recorded by the Tribunal, in my view, interest of justice would be met with if the applicants are allowed to withdraw 50% of the amount deposited by the appellant upon filing an undertaking before the M.A.C.T. to the effect that if the appellant succeeds in the first appeal, the applicants would return the amount that would be withdrawn with interest at such rate as this court may direct. Such undertaking shall be filed within two weeks from today with a copy to be served upon the appellant's advocate.

2. The M.A.C.T. to permit the applicants to withdraw the said amount on furnishing an authenticated copy of this order.
3. Undertaking to be filed before the concerned M.A.C.T.
4. M.A.C.T. is directed to invest the balance amount in the fixed deposit of a nationalized bank initially for a period of five years and for like period after obtaining further orders from this court depending upon the pendency of the first appeal.
5. If the undertaking is not furnished within the time prescribed, M.A.C.T. to invest the amount that is allowed to be withdrawn also in the fixed deposit of a nationalized bank initially for a period of five years and for like period after obtaining further orders from this court.
6. Civil application is disposed of in the aforesaid terms. No order as to costs.

[R.D.DHANUKA, J.]