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

**CIVIL APPLICATION NO. 2680 OF 2018
IN
FIRST APPEAL NO. 500 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Omkar Paranjape I/b A. M. Gokhale for the Applicant.
Mr. N. R. Bubna for the Respondent.

CORAM : K. K. TATED, J.
DATE : 3rd APRIL, 2019.

P. C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application, the Applicants-Claimants are seeking permission to withdraw the entire amount deposited by the Appellant pursuant to order passed by this Court.
3. Learned Counsel for the Applicants submits that in an accident occurred on 01.08.2014, Claimant No.1 lost her husband. Claimant Nos.2 and 3 are daughters taking education. He submits that Claimant Nos.4 and 5 are senior citizens who are parents of the deceased. He submits that at present they have no source of income. The Applicant has to maintain her father-in-law and mother-in-law who are senior citizen and also bears expenses for the education of daughters. The Applicants may be permitted to withdraw the amount deposited by the Appellant.

4. On the other hand, learned Counsel appearing for the Appellant submits that if the amount is withdrawn by the Applicants, then nothing will survive in the proceeding. They have good chance of success. If the First Appeal is allowed, then it will be very difficult to recover the amount from the Claimants. Claimants may be directed to give solvent security in the Court.

5. I heard both sides at length. It is to be noted in the present proceeding that Claimant No.1 has no source of income. She has to maintain two daughters and father-in-law and mother-in-law.

6. Considering this fact, I am of the opinion that the Applicants can withdraw some amount during the pendency of the present First Appeal without furnishing any security but subject outcome of the First Appeal. Hence, the following order:

- (i) Claimant No.1-Smt. Priyanka Jitendra Salunke is permitted to withdraw sum of Rs.5,00,000/- with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- (ii) Claimant No.2-Kum. Prajakta Jitendra Salunke and Claimant No.3-Kum. Swapnil Jitendra Salunke, Claimant No.4-Mr. Chintaman Laxman Salunke and Claimant No.5 Mrs. Usha Chintaman Salunke are entitled to withdraw sum of Rs.1,50,000/- with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- (iii) Civil Application stands disposed of accordingly.
- (iv) No order as to costs.

[K. K. TATED, J.]