

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

**CIVIL APPLICATION NO. 4450 OF 2018
IN
FIRST APPEAL (ST.) NO. 15757 OF 2018**

Usha Vijay Ramteke and anr.Applicants

In the matter between :-

United India Insurance Co. Ltd.Appellant

V/s.

Usha Vijay Ramteke and ors.Respondents

Mr. Amol Gatne for the applicant in CAF/4331/2018
and for the appellant in FAST/15757/2018.

Mr. Pritesh Bohade for the respondent nos.1 and 2
and for the applicant in CAF/4450/2018.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 02nd AUGUST, 2019**

P.C.:-

. The applicant herein has filed the application for withdrawal of the compensation awarded by the MACT, Nashik by judgment and award dated 07/12/2017 passed by the MACT, Nashik in MACP No.990/2010.

2. By the impugned judgment and award, the Claims Tribunal has directed the appellant – insurance company to pay to the original claimants an amount of Rs.3,40,000/- with interest @ 8% p.a. from the

date of petition till final realization with liberty to recover the said compensation from the respondent no.3 in the present application.

3. The appellant – insurance company has not challenged the quantum of compensation awarded in favour of the applicants (original claimants). The only challenge is to the direction of pay and recovery.

4. It appears that the dispute is basically between the insured and the insurer. Under the circumstances, there is no reason to deprive the applicants (original claimants) of the compensation awarded by the Tribunal. It is however made clear that in the event the appellant – insurance company succeeds in proving that it is not liable to indemnify the insured and/or to pay compensation to the applicants (original claimants) and recover it from the insured, the applicants shall be liable to refund the said amount to the appellant – insurance company.

5. Under the circumstances, the civil application is allowed. The applicants (original claimants) are permitted to withdraw the compensation along with the interest accrued thereon. The

withdrawal shall be subject to the final outcome of the appeal. The applicants / original claimants shall furnish an undertaking that they shall refund the compensation along with accrued interest in the event the appellant – insurance company is held to be not liable to indemnify the insured and/or to pay and recover the amount from the insured.

**Preeti
H.
Jayani**

Digitally signed
by Preeti H.
Jayani
Date: 2019.08.07
13:43:01 +0530

6. Civil Application No.4450/2018 stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)