**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 5305 OF 2020
IN
FIRST APPEAL NO.3027 OF 2019**

Surekha Bhagwan Desle
and another.
..APPLICANTS

-VERSUS-

The New India Assurance Co. Ltd.,
and others.
..RESPONDENTS

...

Mr.Mahesh H. Patil, Advocate for applicants.
Mr. M.R. Deshmukh, Advocate for respondent no.1.

...

CORAM: V.L. ACHLIYA,J.
DATE : 04.09.2020

ORAL ORDER:

The applicants-claimants have moved this application seeking withdrawal of amount of Rs.62,78,880/- deposited by the appellant-insurance company.

2. Heard learned counsel for applicants- claimants and Advocate representing the respondent no.1 - insurance company. Perused the judgment and award.

3. In brief, it is the contention of

the learned counsel for the appellant that the appellant has good case to succeed in appeal. The evidence on record clearly make out that the deceased has contributed for cause of accident. In view of the evidence on record, the Tribunal ought to have held the deceased responsible to the extent of 50% and ordered to deduct the compensation to that extent from the amount of compensation assessed by the Tribunal.

4. On the other hand, learned counsel for the applicants-claimants supported the judgment and award passed by the Tribunal. It is submitted that the reasons and findings recorded by the Tribunal are quite consistent with the evidence adduced in the case. The appeal filed is devoid of merit.

5. The Tribunal has passed the order of apportionment of compensation. Out of the compensation awarded, the Tribunal has directed to pay Rs.5,00,000/- to the applicant no.2 and Rs.7,00,000/- directed to be invested in the fixed deposit in the name of applicant no.2 for a period of three years with liberty to receive quarterly interest accrued thereon. The applicant no.1 directed

to be paid Rs.5,00,000/- and Rs. 30,00,000/- directed to be invested in fixed deposit in the name of applicant no.1 with any Nationalized Bank of her choice for a period of three years with liberty to receive the quarterly interest.

6. On due consideration of challenge raised in appeal and order of apportionment passed by the Tribunal, I am of the view, the order in following terms would meet the ends of justice :-

ORDER

(i) The applicants are permitted to withdraw the amount of Rs. 15,00,000/- out of the amount deposited together with interest. The amount be paid to the applicant nos.1 and 2 in equal proportion i.e. Rs.7,50,000/- each on execution of undertaking that in the event the award is set aside or modified they shall redeposit the amount within 8 weeks from the date of passing of order.

(ii) After making payment of Rs.15,00,000/- the remaining amount be invested in fixed deposit with State Bank of India initially for a period of three years with standing instructions to renew the same till further orders from the Court. Interest accrued over the amount invested in fixed deposit be paid to the applicant no.1 after regular interval of six months till further orders from the Court.

(iii) The payment of amount together interest shall be subject to outcome of the appeal.

(iv) Amount permitted to be withdrawn be paid by transferring the amount in the Savings Bank Accounts of the applicants.

(v) Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE

SGA