IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3851 OF 2019
IN
FIRST APPEAL STAMP NO. 17205 OF 2018

Shri. Dilip Manohar Jawalkar & Anr. … Applicants

In the Matter Between :

National Insurance Company Ltd. … Appellant
V/s.
Shri. Dilip Manohar Jawalkar & Ors. … Respondents

Ms.Amrin Khan i/by Avinash M. Gokhale for the Applicant/Respondent Nos.1 & 2.
Ms. Harshada Manohar Rane, for the Appellant.
Mr. D. R. Mahadik, for the Respondent No.5.

CORAM : R.D.DHANUKA,J.

DATE : 28th January, 2020.

P.C.:-

1] By this Civil Application applicants who are the parents of the deceased Shri. Amit Dilip Jawalkar who was 28 years at the time of accident have prayed for withdrawal of the amount deposited by the appellant. Appellant has deposited sum of Rs.20,38,329/- towards their contribution payable under the impugned Judgment and Award without prejudice to their rights and contention in the appeal filed by the appellant.

There appears to be dispute about quantification of the amount awarded by the Tribunal.

2] I have heard learned counsel appearing for the parties.

3] After considering the findings of the Trial Court, I am of the *prima facie* view that applicants may be permitted withdraw 50% amount deposited by the appellant alongwith accrued interest thereof at this stage upon the applicants filing an undertaking before the M.A.C.T., Thane within four weeks from today that if appellant succeeds in the First Appeal applicants would return such amount with interest at such rate as this court may direct by subsequent order.

4] Applicants are directed to file undertaking within four weeks from today with a copy to serve upon the appellant's advocate simultaneously. It is made clear that if the undertaking is not rendered within the time prescribed, order passed by this Court today, permitting to withdraw 50% amount to stand vacated without further reference to Court.

5] In that event, M.A.C.T., Thane, is directed to invest 50% of the amount deposited by the appellant in a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the First Appeal. The balance 50% amount shall be invested in Fixed Deposit in the similar manner mentioned aforesaid.

6] Civil Application is disposed of in aforesaid terms.

7] Parties as well as M.A.C.T., Thane to act upon authenticated copy of this order. No order as to costs.

[R.D.DHANUKA, J.]