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

**CIVIL APPLICATION NO. 3618 OF 2019
IN
FIRST APPEAL NO. 1329 OF 2017**

Smt. Vaishnavi Uttam Parit and Others ... Applicants

In the matter between :-

National Insurance Company Ltd. ... Appellant

V/s.

Smt. Vaishnavi Uttam Parit and Others ... Respondents

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Ms. Harshada M. Rane for the Appellant.

Mr. Shrikant H. Yadav for the Applicants in CAF/3618/2018 and Respondents in FA/1329/2017.

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**CORAM : R.D. DHANUKA, J.
DATE : 7th JANUARY, 2020.**

P.C.:

1. By this Civil Applicant, the applicants (original respondent nos.1 to 3) seeks liberty to withdraw sum of Rs.5,49,591/- deposited by the appellant with the M.A.C.T., Kolhapur.

2. Heard learned counsel for the applicants and the original appellant. By a separate order passed by this Court, First Appeal No.1329 of 2017 filed by the original appellant has been admitted.

3. The applicants had led evidence before the Tribunal. The appellant did not lead any evidence. The proceedings were proceeded with *ex-parte* against the original opponent nos. 1 to 3.

4. The Tribunal has directed the applicants (original opponent nos. 1 to 3) jointly and severally pay a sum of Rs.4,72,000/- to the applicants.
5. The Tribunal has rendered various *prima-facie* findings in favour of the applicants. The applicants have thus made out a case for withdrawal of 50% of the amount that would be deposited by the respondent on furnishing of an undertaking to the effect that if the appellant succeeds in the first appeal, they would return such amount with interest at such rate as this Court may direct by subsequent order. Such undertaking shall be filed within 4 weeks from today with a copy to be served upon the appellant's advocate simultaneously.
6. The balance 50% shall be invested by the M.A.C.T., Kolhapur in the fixed deposit of a nationalized bank initially for a period of five years and thereafter for a like period after obtaining further orders from this Court depending upon the pendency of the first appeal.
7. If the undertaking is not rendered within the time prescribed, this order of permitting the applicants to withdraw 50% of the amount with accrued interest to stand vacated. The M.A.C.T., Kolhapur to invest the said 50% of amount in the similar manner.
8. Civil Application is disposed off on aforesaid terms.
9. Office is directed to transmit the statutory deposit of Rs.25,000/- deposited by the appellant to the concerned M.A.C.T. expeditiously.

(R.D. DHANUKA, J.)