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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2169 OF 2019
IN
FIRST APPEAL NO.445 OF 2017

Smt.Sheetal B. Tribhuvan & Ors. ...Applicants

IN THE MATTER BETWEEN :

New India Assurance Co. Ltd. ...Appellant
V/s.
Smt.Sheetal B. Tribhuvan & Ors. ...Respondents

Mr.Yogesh Pande for the Applicants / Respondent Nos.1 to 5.

Mr.Himanshu Takke i/b Mr.Milind V. More for the Appellant.

Ms.Poonam Mital for the Respondent No.8.

CORAM : R.D. DHANUKA, J.
DATE : 25TH FEBRUARY, 2020.

P.C. :-

1. By this civil application, the applicants have prayed for withdrawal of the amount deposited by the appellant. The Tribunal had awarded a sum of Rs.43,41,000/- with interest and had directed two insurance companies to pay the said amount equally to the original applicants.

2. By a separate order passed by this Court in Civil Application No.2792 of 2018 in First Appeal No.1045 of 2017 which

was one of the vehicle arising out of the said accident committed by one of the vehicle who was jointly held liable to pay compensation along with the insurance company which is the subject matter of the First Appeal No.445 of 2017 pursuant to the said judgment and award, both the insurance companies have deposited 50% amount.

3. Since this Court has already permitted the applicants to withdraw 50% of the amount deposited by the insurance company in Civil Application No.2792 of 2018, the applicants in this case also can be allowed to withdraw 50% of the amount that is already deposited by the original appellant on the condition that the applicants would file an undertaking before the concerned M.A.C.T. to the effect that if the applicants fail in this First Appeal, they will return the amount with interest at such rate as may be directed by this Court at the time of disposal of the First Appeal. Such undertaking shall be filed within four weeks from today. Insofar as the applicant nos.3 and 4 are concerned, their shares shall be invested by the concerned M.A.C.T. in the fixed deposit of a nationalized bank initially for a period of five years or till they attain majority or till the date of disposal of the First Appeal, whichever is earlier. Upon attaining the age of majority by the applicant nos.3 and 4, they would be entitled to apply for withdrawal of the amount payable to them unless the First Appeal is disposed of prior to such date.

4. If an undertaking is not filed by the applicants within the time prescribed, the order passed today permitting the applicants to

withdraw the amount shall stand vacated without further reference to Court. If 50% amount is withdrawn by the applicants, the balance amount, if not invested so far, shall be invested by the concerned MACT in the fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the First Appeal.

(R.D. DHANUKA, J.)