

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

**CIVIL APPLICATION NO.2067 OF 2019
IN
FIRST APPEAL NO.564 OF 2018**

Akbar Khan Kale Khan Pathan & Ors. .. Applicants
In the matter between
ICICI Lombard General Insurance Co. Ltd. .. Appellant
Vs.
Akbar Khan Kale Khan Pathan & Ors. .. Respondents

Mr.Rahul D. Motkari for the applicants/orig. Respondent nos.1 to 3.
Ms.Raui Danawala i/by M/s.Res Juris for the appellant.

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

P.C.:

. Heard learned counsel for the parties. The applicants seek withdrawal of the amount deposited by the appellant.

2. The applicants have made out a case for withdrawal of 50% of the amount deposited by the appellant for the reasons recorded in paragraph 5 of the civil application on the condition that the applicants furnish an undertaking before concerned MACT, Nashik in MACP No.825 of 2010 within two weeks from today to the effect that if they do not succeed in this first appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order. Copy of the undertaking shall be served upon the

learned advocate appearing for the appellant within one week from the date of filing such undertaking. Amount would be withdrawn only after filing such undertaking.

3. It is made clear that if the undertaking is not furnished within two weeks from today, the order passed by this Court allowing the applicants to withdraw 50% of the amount deposited by the appellant to stand vacated without further reference to the Court. In that event, the concerned MACT shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

4. The concerned MACT is directed to invest the balance 50% of the amount in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

5. Civil application is disposed of on aforesaid terms. No order as to costs. Parties to act on the authenticated copy of this order.

R.D.DHANUKA, J.