IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2889 OF 2019
IN
FIRST APPEAL NO.1226 OF 2015

Anuja Santosh Shinde & Ors. .. Applicants
Vs.
The New India Assurance Co. Ltd. & Ors. .. Respondents

Mr.Yogesh Pande for the applicants.
Mr.D.S. Joshi for the respondent/appellant.

CORAM : R.D.DHANUKA, J.
DATE : 24th February 2020

P.C.:

. By this application, the applicants seek withdrawal of the amount deposited by the appellant pursuant to the interim order passed by this Court. No affidavit-in-reply is filed by the appellant.

2. Reasons for seeking withdrawal are recorded in paragraph 2(iv) of the civil application and are accepted.

3. The applicant no.1 (original claimant) is permitted to withdraw 30% of the amount deposited by the appellant with the MACT, Pune in MACP No.1025 of 2012, at this stage, upon furnishing an undertaking before concerned MACT within four 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from today to the effect that if they do not succeed in this first appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order.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 Amount would be withdrawn only after filing such undertaking.

4. It is made clear that if the undertaking is not furnished within four weeks from today, the order passed by this Court allowing the applicant no.1 to withdraw 30% 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 five years and thereafter for like period depending upon the pendency of the first appeal.

5. In so far as the applicant nos.2 and 3 are concerned, 10% each of the amount deposited by the appellant shall be invested in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period till they attain the age of majority or till the First Appeal is disposed of whichever is earlier.

6. The applicant no.1 is permitted to withdraw interest amount on such Fixed Deposit deposited by the appellant for the purpose of maintenance of the applicant nos.2 and 3 during the pendency of the First Appeal or till they attain the age of majority whichever is earlier. Upon attaining their age of majority, the respondent nos.2 and 3 are allowed to

apply for withdrawal of their respective shares or in case of appeal filed by the appellant is dismissed.

7. The concerned MACT is directed to invest the balance 50% of the amount, if not invested, in a 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.

8. Civil application is disposed of in aforesaid terms. No order as to costs. Parties as well as the concerned MACT to act on the authenticated copy of this order.

R.D.DHANUKA, J.