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

**CIVIL APPLICATION NO. 3931 OF 2019
IN
FIRST APPEAL NO. 617 OF 2019**

Smt. Shubangi Anil Bhadane and Others ... Applicants

In the matter between :-

National Insurance Co. Ltd. ... Appellant

V/s.

Smt. Shubangi Anil Bhadane and Others ... Respondents

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Mr. Rajan S. Pawar for the Applicant/Org. Respondent Nos. 1 to 5.

Mr. Amol Gatne for the Appellant

Mr. Sarfaroj J. Shaikh i/by Mr. Sachin Gite for the Respondent No.6.

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

P.C.:

1. By a separate order, First Appeal No. 617 of 2019 is admitted. By this Civil Application, the applicants have prayed for withdrawal of the amount deposited by the original appellant.

2. Heard learned counsel appearing for the applicants and learned counsel for the original appellant. The reasons for seeking withdrawal of the amount are set out in paragraphs 9 to 11 of Civil Application.

3. It was the case of the original appellant before the Tribunal that the finding of the Tribunal that it is not necessary to apportion the

compensation amount between the two tort – feasons recorded in paragraph 29 of the impugned judgment and award is erroneous.

4. The applicants have made out a case for withdrawal of 50% amount deposited by the original appellant with accrued interest upon filing of an undertaking before the M.A.C.T., Nashik to effect that if the appellant succeeds in the first appeal, the applicants would return such amount with interest at such rate as this Court may direct by subsequent order. The said undertaking shall be filed within 4 weeks from today with a copy to be served upon the respondents' advocates simultaneously.

5. If the said undertaking is not filed within 4 weeks from today, the order of permitting the applicants to withdraw the amount shall stand vacated without further reference to the Court.

6. The balance 50% shall be invested by the M.A.C.T., Nashik in the fixed deposit of a nationalized bank initially for a period of five years and thereafter for a like period depending upon the pendency of the first appeal.

7. Civil Application No. 3931 of 2019 is disposed of on aforesaid terms.

8. Parties as well as the M.A.C.T. to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)