

Chitra Sonawane

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

**CIVIL APPLICATION NO.2223 OF 2019
IN
FIRST APPEAL [STAMP] NO.14740 OF 2016**

Mehrul Nissa Isamuddin Khan & Ors.] ... Applicants.

IN THE MATTER BETWEEN:

Oriental Insurance Co.Ltd.] ... Appellant.

Vs.

Mehrul Nissa Isamuddin Khan & Ors.] ... Respondents.

.....

Miss Varsha Chavan Advocate for the appellant.

Mr.Sandeep S. Jinsiwale for the respondents.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED :12TH FEBRUARY, 2021.

P.C.

1. This is an application for withdrawal of amount of compensation amount deposited by the appellant/insurer before MACT, Mumbai.

2. Learned Counsel for the applicant submits that applicant no.1 is a widow who has to meet both ends and also look after the children. There is no other source of income.

3. On the other hand, the appellant/insurer objects withdrawal of amount by contending that it has a good case on merits especially, when there is a breach of policy condition, the claimants should not be permitted to withdraw the amount of compensation.
4. Having considered the submissions, at this stage, the applicants are permitted to withdraw 50% of the compensation amount with accrued interest.
5. At the time of withdrawal, applicant Nos.1 to 3 shall give an Undertaking that in case, the appeal is allowed, they shall refund the entire amount with interest as per the outcome of appeal.
6. If the applicants fail to give Undertaking at the time of withdrawal of amount, the MACT, Mumbai shall invest the amount in a Fixed Deposit in any Nationalized Bank for a period of one year.
7. Application is disposed of.

(PRITHVIRAJ K. CHAVAN, J.)