

Santosh

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

**INTERIM APPLICATION NO. 3369 OF 2021
IN
FIRST APPEAL NO. 1086 OF 2021**

**SANTOSH
SUBHASH
KULKARNI**

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2021.11.22
14:30:40 +0530

Mahadev Mhasku Vahkal & ors. ...Applicants
In the matter between
The Future Generali Insurance Co. Ltd. ...Appellant
Versus
Mahadev Mhasku Vahkal & ors. ...Respondents

Mr. Pritesh Bohade, for the Applicants in IA.
Ms. Deepika Prashala, i/b R&S Juris, for the Respondent in
IA/Appellant in FA.
Mr. Sugandh Deshmukh, a/w Iruin D'souza, for Respondent
nos.4 and 5 in FA.

CORAM: N. J. JAMADAR, J.

DATED : 22nd NOVEMBER, 2021

PC:-

1. Heard Mr. Bohade, the learned Counsel for the applicants and Ms. Prashala, the learned Counsel for the respondent/appellant – insurer.
2. This application is preferred for withdrawal of the amount deposited by the appellant – insurer in terms of the impugned judgment and award in MACP No.278 of 2015, dated 29th January, 2019, passed by the learned Member, MACT, Satara.
3. Applicant nos.1 and 2 – original claimant nos.1 and 2 are the parents of the deceased. There are averments in the application in support of the prayer for withdrawal of the

amount of compensation. Having regard to the age of the applicants, the fact that the applicants require the amount to meet the necessities of life, can hardly be disputed. The learned Counsel for the insurer submitted that since the appeal is primarily on the score of quantum, the appeal itself can be heard finally at an early date.

4. In the backdrop of the situation in life of the applicants, it would be expedient to allow the applicants to withdraw a portion of the amount of compensation, deposited by the appellant – insurer, subject to furnishing an undertaking, before the Tribunal.

5. Hence, the following order:

: O r d e r :

- (i) The application stands partly allowed.
- (ii) Applicant nos.1 and 2 are permitted to withdraw 50% amount of the compensation alongwith the interest accrued thereon, upon furnishing an undertaking, before the Tribunal that, in the event the appeal is allowed and it is held that the applicants are not entitled to compensation, the applicants will bring back the amount alongwith interest at such rate as may be decided by this Court.
- (iii) The application stands disposed of.

[N. J. JAMADAR, J.]