

Uday S. Jagtap

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

**INTERIM APPLICATION NO. 1099 OF 2019
IN
FIRST APPEAL (ST.) NO. 33954 OF 2017**

Smt. Mala Ashok Khetwani	.. Applicant
In the matter between	
The New India Assurance Co. Ltd.	.. Appellant
Vs.	
Smt. Mala Ashok Khetwani & Anr.	.. Respondents

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Mr. Nitesh V. Bhutekar a/w Ms. Ayodhya Patki for the applicant
Mr. D.S. Joshi for the appellant

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 5th MARCH, 2021

P.C.

1. By this application, the applicant seeks to withdraw the amount of compensation with accrued interest deposited by the appellant – insurer in M.A.C.T., Mumbai.
2. The M.A.C.T., Mumbai by a judgment and award dated 9th March, 2017 passed in Claim Application No. 2564 of 2009 awarded compensation of Rs. 47,31,000/- with interest at the rate of 9% p.a. to the claimant from the date of filing of the application till its realization.
3. The reasons for withdrawal of the amount of compensation are stated in paragraph 5 of the application.

4. Mr. Joshi, the learned Counsel for the appellant – insurer objects the prayer of the applicants.

5. However, considering the reasons, at this stage, the applicant is permitted to withdraw 50% of the amount of compensation with accrued interest. The applicant shall furnish an undertaking within two weeks that if the appellant - insurer succeeds in appeal, the applicant shall refund the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

6. If the applicant does not file an undertaking within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

7. If 50% amount is withdrawn by the applicant, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

8. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)