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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.786 OF 2019
IN
FIRST APPEAL (ST) NO. 10359 OF 2016**

Mrs. Phooldevi Rambaran Yadav ...Applicant
Versus
The New India Assurance Co. Ltd & Anr ...Respondents

Mr. Dyaneshwar Kale, with Mr. Bajirao Shelke i/b. Mr. Ashish Agarkar, for the Applicant.
Mr. Ketan Joshi i/b Mr. Davendranath Joshi, for Respondents.

**CORAM Madhav J. Jamdar, JJ.
DATED: 26th February 2022**

PC:-

**SONALI
MILIND
PATIL**

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1. The Applicant i.e. Respondent No.2 by the present Civil Application seeks withdrawal of the amount deposited by the New India Assurance Company Ltd in MACP No.131 of 2012.

2. By separate order passed today, i.e. on 26th February 2022, the First Appeal is admitted. In the First Appeal the challenge is to the judgment and award dated 8th September 2015 passed by the learned Member, MACT Thane granting

compensation of Rs.13,10,000/- including No Fault Liability Compensation, with interest @ 8% per annum from the date of Petition till realization of the amount. By order dated 27th September 2018 passed in Civil Application No. 2887 of 2016, the learned Single Judge has granted stay to the execution of the judgment and award on the conditions that the entire amount is deposited in the Tribunal. Mr. Ketan Joshi, the learned Advocate appearing for the original Appellant- the New India Assurance Company Limited, Mumbai states that the entire awarded amount is deposited before the learned Tribunal. He opposed the Civil Application for withdrawal of the amount.

3. However, it is to be noted that the Applicant is the mother of the deceased, the original claimants are the parents of the deceased. The deceased was of 26 years old and he was serving in hotel and was earning Rs.12,500/- per month when the accident took place. It appears that the parents were dependant on his income. The accident in question took place on 7th January 2012 and except N.F.L.C., nothing has been received by the Applicant.

4. In view of above, this Civil Application for withdrawal of amount deserves to be allowed partly. The Applicant-original claimant/mother of the deceased is allowed to withdraw 50% of the amount deposited before Tribunal along with accrued interest on the condition that Applicant files an undertaking in this Court that in the event, the First Appeal is allowed, the

entire amount withdrawn by the Applicant will be deposited in this Court as per the further directions passed by this Court in the First Appeal. The undertaking shall also be filed by the father of the deceased. The undertakings be filed within a period of two weeks from today. The learned Tribunal is directed to pay the said amount to the Applicant within a period of four weeks from today on the production of copy of undertaking filed by the Applicant in this Court.

5. Civil Application is disposed of accordingly.

(Madhav J. Jamdar, J)