

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

FIRST APPEAL NO. 45 OF 2020

M/s L and T General Insurance Company Limited ... Appellant
Versus
Smt. Radhadevi Yogesh Ojha and Ors. ... Respondents

**INTERIM APPLICATION NO. 1460 OF 2021
IN
FIRST APPEAL NO. 45 OF 2020**

Radhadevi Yogesh Ojha and Ors. ... Applicant

IN THE MATTER BETWEEN

M/s L and T General Insurance Company Limited ... Appellant
Versus
Smt. Radhadevi Yogesh Ojha and Ors. ... Respondents

Mr. Abhijit Purushottam Kulkarni, for the Appellant.

Smt. Varsha Chavan, for the Respondents and Applicants in IA No. 1460 of 2021.

CORAM : V. G. BISHT, J.

DATE : 3RD FEBRUARY, 2022.

PC:

The Applicants have moved the application for withdrawal of amount deposited by the original appellant pursuant to the judgment and order dated 27th August, 2019 passed by the learned Member, C.R. No.6, MACT, Mumbai in Claim Application No. 26 of 2013.

REKHA
PRAKASH
PATIL

Rekha Patil

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2 Heard learned counsel for both the parties.

3 Learned Counsel for the applicants/respondents submits that
respondent No. 7-Sharadadevi Rajnarayan Ojha is dead and since the
apportionment of the claim amount was made by learned Member,
MACT, Mumbai in the impugned judgment and order, in view of death of
respondent No.7, a fresh apportionment will have to be made out.

4 In view of submissions made by learned counsel for the applicants,
applicants are allowed to withdraw 50% of the compensation amount.
However, the learned Member MACT is directed to make a fresh
apportionment of the amount of award in view of the death of
respondent No.7. The applicants are directed to give an undertaking of
returning the said amount to be withdrawn in the event of appeal being
allowed with prevailing rate of interest.

5 The statutory amount of Rs.25,000/- deposited in this Court at the
time of filing of Appeal shall be transferred to the Motor Accident Claims
Tribunal, Mumbai. Rest of the amount to be deposited in the
nationalized bank.

6 Interim Application is allowed and accordingly disposed of.

7 Place the First Appeal for 'Admission' on **8th March, 2022.**

(V. G. BISHT, J.)