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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.30051 OF 2022
IN
FIRST APPEAL NO.11504 OF 2022

Niket Ashok Bhalekar & Ors. ...Applicants
In the matter between
National Insurance Co. Ltd. ...Appellant

Versus

Niket Ashok Bhalekar & Ors. ...Respondents

Ms. Poonam Mittal, for the Appellant.

Mr. Yogesh Pande for the Applicant in IA No.30051 of 2022 and for
Respondent in Appeal.

CORAM : R.I. CHAGLA J.

DATE : 13TH DECEMBER, 2022.

ORDER :

1. By this Interim Application, the Applicants are seeking permission to withdraw the amount deposited by the Appellant pursuant to the order dated 7th September, 2022 with MACT, Pune and by which, the execution and implementation of the impugned Judgment and award was stayed.

2. The Applicants state that, the Applicant Nos.1 and 2 are the sons of the deceased who lost their mother in vehicular accident on 30th December, 2016. The Applicant No.1 was a minor then who has now attained majority on the date of filing of the present Interim Application. The Applicant No.3 is the grand mother of Applicant Nos.1 and 2. The Applicants state that the deceased was sole bread earner of family. The Applicant Nos.1 and 2 had previously lost their father and hence the mother was the sole bread earner.

3. The First Appeal has been filed on the ground of quantum and non validity of driving license of offending car.

4. Having considered the averments as well as the averments in the Interim Application, a case is made out for withdrawal of 50% of the entire amount deposited by the Applicant pursuant to the order dated 7th September, 2022 passed by this Court. Considering that the entire amount has been deposited by the Appellant, the execution and implementation of the impugned judgment and order is stayed. Hence the following order:-

(i) The Applicants are permitted to withdraw 50% of the amount deposited by the Appellant with the concerned MACT

upon furnishing an undertaking against disbursement of the above amount that if the Appellant succeeds in the Appeal, the Respondents shall return the amount with interest at such rate determined by this Court.

(ii) If 50% amount is withdrawn by the Respondents, balance amount shall be invested by the MACT in a fixed deposit of a Nationalized Bank.

(iii) The Interim Application is accordingly disposed of.

5. At this stage, the learned Advocate for the Applicants states that the Applicant No.2 is currently a minor and that she may be permitted to withdraw the amount upon attaining majority. Considering, this submission, liberty is granted to Applicant No.2 to withdraw the amount deposited with the MACT in proportion of her share upon attaining majority.

[R.I. CHAGLA J.]