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

**INTERIM APPLICATION NO. 20261 OF 2022
IN
FIRST APPEAL NO. 112 OF 2017**

Samir Jagannath Lokhande
since deceased through Legal Heirs

.....Applicants

IN THE MATTER BETWEEN

The New India Assurance Company

....Appellant

Vs.

Samir Jagannath Lokhande
since deceased through Legal Heirs

.....Respondents

Mr. S. M. Dange for Applicant/Appellant.

Mr. Venkatesh A. Shastry for Respondent Nos. 1A to 1D.

Mr. Yuvraj Narvankar for Respondent No. 2.

**CORAM : K. R. SHRIRAM &
RAJESH S. PATIL, JJ.**

DATED : 3rd FEBRUARY 2023

P.C. :

1 Respondent Nos. 1A, 1B & 1D are present in the Court. This application has been made by Respondent No. 1C for withdrawal of sum of Rs. 24,00,000/- for surgical treatment of his grandsons through another son and not the deceased. The kind of treatment required to be made is explained in the application. Respondent Nos. 1A, 1B & 1D are present in Court. Respondent No. 1B is a

minor aged 15 years and is represented by his biological mother Respondent No. 1A. Mr. Shastry identifies Respondent Nos. 1A, 1B & 1D. The Court asked them in English as well as in Hindi whether they have any objection to the application. Respondent No. 1D and Respondent No. 1A for herself and on behalf of 1B stated that they have no objection if the Court grants prayer of withdrawal of Rs. 24,00,000/- from the amount deposited by appellant in the Tribunal.

2 Respondent Nos. 1A to 1D are the dependents of the deceased. Mr. Shastry states that each dependent will get 1/4th share from the compensation that they would be entitled to receive. Respondent No. 1D who is present in the Court informs Mr. Shastry that this Rs. 24,00,000/- which is being allowed to be withdrawn be deducted from the share of compensation that would go to Respondent No. 1C and 1D and in the event the Court allows the Insurance Company's appeal, Respondent No. 1C and 1D undertake to bring back the surplus amount, if any, that they would have withdrawn pursuant to liberty granted by the Court.

3 In view of the above, the Tribunal is directed to release a sum of Rs. 24,00,000/- to Respondent No. 1C and 1D i.e.

12,00,000/-, each by transferring the amount directly to the respective bank accounts of Respondent No. 1C and 1D. This has to be accomplished within one week of receiving the bank account details with a copy of this order authenticated by the Associate of this Court. Registry shall ensure that the bank account is that of Respondent No. 1C and 1D only and they may be sole account holders or jointly with each other or if jointly with anyone else, then Respondent No. 1C and 1D should be 1st name holder in the said account. Registry of the Tribunal will not insist on a certified copy though we hereby expedite issuance of a certified copy of this order.

4 Application accordingly disposed.

5 Appeal be listed for final hearing on 16th February 2023.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)