

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

**INTERIM APPLICATION NO.15918 OF 2023
IN
FIRST APPEAL NO.1147 OF 2018**

Shabana Afsar Sheikh & Ors. ..Applicants

IN THE MATTER BETWEEN

Future General India Insurance Co.
Ltd., Thane ..Appellant

Versus
Shabana Afsar Sheikh & Ors. ..Respondents

Ms. Rina Kundu, for the Applicants/Org. Respondent Nos.1 & 2.
Mr. D. R. Mahadik, for the Respondent/Org. Appellant.

CORAM : KISHORE C. SANT, J.

DATE : 17th JANUARY, 2024

PC.

1. This application is for withdrawal of the amount of Rs.12,36,330/- deposited by the Appellant with the Commissioner, Employees Compensation, Thane. The claim application of the present Applicants is already allowed.

2. Learned Advocate for the Respondent/Appellant vehemently opposes the application stating that there are legal grounds taken in the Appeal. The question is about the liability of the Respondent to pay the amount, as the driver at the time of

accident was not holding valid driving licence. Considering that the learned Commissioner has already allowed the claim application and directed the Respondent to pay the amount, this Court finds that in such condition the Applicants should not be deprived of the said amount when the Appeal is pending and it is not certain as to within how much period the Appeal would be decided.

3. Considering the above factors, the Application is partly allowed.

4. Applicants are entitled to withdraw 50% of the amount deposited along with interest if any accrued thereon on giving undertaking that in case the judgment in the Appeal goes against them, they shall redeposit the amount within six months.

5. With this, the Application stands disposed of.

[KISHORE C. SANT, J.]