

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13104 OF 2025

IN

FIRST APPEAL NO. 1305 OF 2025

Kavita Krishna Bhagwat And Ors.

... Applicants

In the matter between

Magma Hdi General Insurance Co.

... Appellant

Versus

Kavita Krishna Bhagwat And Ors.

... Respondents

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Mr. Mayur Tripathi i/b. Mr. Bhushan Walimbe, Advocate for the
Applicants.

Ms. Shalini Shankar, Advocate for Appellant-Insurance Company.

CORAM : R. M. JOSHI, J.

DATED : 20th NOVEMBER, 2025.

P.C. :

1. This application is for withdrawal of the amount deposited by the
appellant / Insurer in this Court.

2. At the outset, learned counsel for the applicants submits that he be
permitted to withdraw the amount except for sum of Rs.15 lakhs which is
directed to be kept in the fixed deposit by the Tribunal for three years.

3. Learned counsel for the appellant / insurer vehemently opposed the
application on the ground that the appellant has successfully proved the
breach of condition of policy by the insured by leading evidence before the

Tribunal. It is her submission that in such circumstances, it is not a case to permit the applicant / org. respondents to withdraw the amount.

4. This contention is opposed by the learned counsel for the applicant by pointing out that the Tribunal's order indicates that the pay and order has directed. In such circumstances he seeks withdrawal of 100% amount.

5. Applicant / original respondents are third party. Even if it is accepted that the insurer has proved breach of conditions of policy, there is order of pay and recover, in such circumstances the applicants deserves to be permitted to withdraw the entire amount. Hence following order.

ORDER

- (i) The applicants are permitted to withdraw entire amount except Rs.15,00,000/- along with the interest accrued thereon. Out of this amount 50% amount be permitted to withdraw on usual undertaking and 50% on solvent surety.

6. Interim Application is disposed of.

(R. M. JOSHI, J.)