

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1357 of 2017**

United India Insurance Company Limited Through Its Branch Manager, Branch Office Transport Nagar, Korba, District Korba, Chhattisgarh.

---- Appellant**Versus**

1. Meena Bai Wd/o Late Santosh Kumar Kashyap, Aged About 42 Years
2. Asha Kashyap D/o Late Santosh Kumar Kashyap Aged About 22 Years
3. Ramesh Kumar S/o Late Santosh Kumar Kashyap Aged About 20 Years Kashyap
4. Deepak Kumar S/o Late Santosh Kumar Kashyap Aged About 18 Years
5. Photo Bai Wd/o Late Mithhulal Kashyap Aged About 65 Years
All are Kashyap By Caste And R/o Village Heeragarh, Police Station And Tahsil Naeagarh, District Janjgir-Champa, Chhattisgarh.
6. Ashok Kumar S/o Shubhram Kesharwani R/o Village Kera, Police Station And Tahsil Navagarh, District Janjgir-Champa, Chhattisgarh.
7. Anand Kumar S/o Premshankar Shukla R/o Village- Barra, Police Station And Tahsil Navagarh, District Janjgir-Champa, Chhattisgarh

----Respondents

For Appellant	:	Mr. Dashrath Gupta, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/10/2017**

1. Heard on I.A. No.1, which is an application for condonation of delay.
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 47 days in filing the appeal stands condoned.
2. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 12.05.2017, passed by the Motor Accident Claims Tribunal, Janjgir-Champa, Chhattisgarh, in Motor Accident Claims Case No. 21/2016.

3. Vide the said impugned award the Tribunal, in a death case under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.30,62,334/- with interest @ 8% per annum from the date of application.
4. The challenge to the award by the Insurance Company is on the ground that the Mini Bus involved in the accident, which was insured by the present appellant was travelling with passengers beyond its sitting capacity. According to Mr. Gupta, sitting capacity of Mini Bus was 15+driver+conductor in all 17 and in the instant accident four persons had died and about 15-16 persons had sustained injuries. According to Mr. Gupta, the Insurance Company at best would be liable only to the 15 passengers for whom premium has been paid and not beyond that.
5. At this juncture, Counsel for the Insurance Company was not in a position to submit as to whether any other claim case is pending or there are more than 15 cases filed in respect of the same accident.
6. In view of the same, as of now, since the Insurance Company is liable to indemnify the claim, so far as the 15 passengers are concerned, the liability for the Insurance Company cannot be absolved at this juncture.
7. The grounds of challenge raised by the Insurance Company are not strong enough calling for an interference with the impugned award. The appeal of the Insurance Company thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge