

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 896 of 2017**

I C I C I Lombard General Insurance Co. Ltd. through its legal Manager, Lal Ganga Shopping Mall, 3rd Floor, G. E. Road, Raipur, Chhattisgarh .....  
(Insurer/ Respondent No.3)

**---- Appellant****Versus**

1. Smt Pramila Bai Dhritlahre W/o late Shri Krishnaram Dhritlahre, aged about 38 years R/o Telibhandha, Post Office Ravigram, Thana Telibhandha, District Raipur, Chhattisgarh .....(Claimant No.1)
2. Hemant Dhritlahre S/o late Shri Krishnaram Dhritlahre, aged about 20 years R/o Telibhandha, Post Office Ravigram, Thana Telibhandha, District Raipur, Chhattisgarh .....(Claimant No.2)
3. Yogendra Dhritlahre S/o Shri Krishnaram Dhritlahre, aged about 16 years, Minor through Respondent No.1 Smt. Pramila Bai Dhritlahre (Mother), R/o Telibhandha, Post Office Ravigram, Thana Telibhandha, District Raipur, Chhattisgarh .....  
(Claimant No.3)
4. Kumari Suman Dhritlahre D/o Shri Krishnaram Dhritlahre, aged about 15 years, Minor through Respondent No.1 Smt. Pramila Bai Dhritlahre (Mother), R/o Telibhandha, Post Office Ravigram, Thana Telibhandha, District Raipur, Chhattisgarh .....(Claimant No.4)
5. Vivek Dhritlahre S/o Shri Krishnaram Dhritlahre, aged about 13 years, Minor through Respondent No.1 Smt. Pramila Bai Dhritlahre (Mother), R/o Telibhandha, Post Office Ravigram, Thana Telibhandha, District Raipur, Chhattisgarh .....  
(Claimant No.5)
6. Ludgi Bai Dhritlahre W/o Late Shri Udayram Dhritlahre, aged about 70 years, R/o Telibhandha, Post Office Ravigram, Thana Telibhandha, District Raipur, Chhattisgarh .....(Claimant No.6)
7. Harish @ Hari Joshi S/o Shri Radheshyam Joshi, aged about 32 years, R/o Village Gatapaar, Tehsil and Thana Abhanpur, District Raipur, Chhattisgarh .....(Non-Applicant No.1/ Driver of Mini Bus No. C.G.04 E 0209)

8. Maninder Singh Gurudatta S/o Shri Kawaljeet Singh Gurudatta, R/o near M.C.Auto Center, Thana and Tehsil Abhanpur, District Raipur, Chhattisgarh .....(Non-Applicant No.2/ owner of Bus No. C.G.04 E 0209)

---- Respondents

---

For Appellant : Shri Amrito Das, Advocate

---

**Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**03/07/2017**

Heard on I.A. No.01/2017, for condonation of delay.

2. Though there is substantial delay in the filing of appeal i.e. 297 days, considering the reasons assigned in the said application and finding them to be satisfactory, I.A. No.01 is allowed and the delay of 297 days in filing the appeal stands condoned.

3. Heard on admission.

4. The present appeal has been filed assailing the order dated 09.05.2016 passed by the 9th Additional Motor Accident Claims Tribunal, Raipur in Claim Case No. 26/2013. The Court below, vide impugned award, in a claim case filed under Section 166 of the Motor Vehicles Act has awarded an amount of Rs.8,74,828/- to the claimants.

5. The claim was filed by the claimants on the death of Krishnaram who is the husband of respondent no.1, father of respondents 2 to 5 and respondent no.6 is the mother of the deceased.

6. The challenge in the present appeal primarily is that the Tribunal has failed to appreciate the fact that the Insurance Company had clearly laid evidence before the Tribunal that the insurance policy was applicable only for 22 people at a time for travelling in the mini bus which met with an accident

and if the case of the present claimants is considered it would exceed the number of passengers which were otherwise covered under the policy.

7. This Court on perusal of the record finds that so far as the case of 22 people is concerned, the same is claimed to have been settled outside the Court, there was no adjudication or evidence in this regard whereas in the instant case, it is a categorical finding of the Tribunal itself that the Insurance Company has not been able to establish its case by leading cogent evidence so far as any breach of policy condition is concerned. Further what is established from the record is the fact that the Tribunal has also taken into consideration the wage to be Rs.4,500/- per month and has calculated the compensation accordingly and the multiplier also seems to have taken into account in accordance with the schedule as laid down in the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**.

8. In view of the same, there is no merit in the present appeal and the same is accordingly dismissed.

**Sd/-  
(P. Sam Koshy)  
JUDGE**