

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.1606 of 2015**

1. Smt. Sheela Khare W/o Late Shri Ramesh Kumar Khare, Aged About 40 Years R/o Ward No. 14, Ramanujganj P. S. Ramanujganj, Revenue And Civil District Balrampur Ramanujganj (Chhattisgarh)
2. Divyanshu Khare S/o Late Ramesh Kumar Khare, Aged About 12 Years Minor, Through Natural Guardian Of Mother Namely Smt. Sheela Khare, W/o Late Shri Ramesh Kumar Khare, R/o Ward No. 14, Ramanujganj P. S. Ramanujganj, Revenue And Civil District Balrampur Ramanujganj (Chhattisgarh)
3. Rishika Khare D/o Late Ramesh Kumar Khare, Aged About 9 Years Minor, Through Natural Guardian Of Mother Namely Smt. Sheela Khare, W/o Late Shri Ramesh Kumar Khare, R/o Ward No. 14, Ramanujganj P. S. Ramanujganj, Revenue And Civil District Balrampur Ramanujganj (Chhattisgarh).....(Claimants)

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1. Ramesh Kumar Paswan S/o Late Ramdatt Paswan, Aged About 26 Years Occupation Driver, R/o Village Bidhamganj, Revenue And Civil District Sonbhadra (U. P.) Non Applicant No. 1).....(Driver)
2. Mo. Firoj Khan S/o Mo. Sharif Khan, Aged About 50 Years Occupation Owner Of Vehicle, R/o Village Mahamaya Road, Jarhagarh, Post Ambikapur, Revenue And Civil District Surguja (Chhattisgarh) (Non Applicant No. 2) Through M/s Shri Balaji Metal And Mineral Private Limited Company, T. P. Nagar Korba (Chhattisgarh) At Present Address Village Kudaridih Mainpath, Revenue And Civil District Surguja (Chhattisgarh).....(Owner)
3. The Future General Insurance Company Limited, Through Branch Manager, Balaji Metal And Mineral Private Limited, B. M. 23, Area Branch Revenue And Civil District Raipur (Chhattisgarh).....(Insurer).....(Non Applicant No. 03)

---- Respondents

For Appellants	: Shri Arvind Sinha, Advocate
For respondent No.3	: Shri Shokie Yadav, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****15.3.2017**

Perused IA No.04/17 for taking document on record, which is the publication of notice to respondents 1 & 2 on daily News

paper Nav Bharat dated 08.02.2017 circulated in Surguja area as per Order dated 15.9.2016. In the said publication, respondents 1 & 2 were directed to appear before this Court today either in person or through their representative as per Rules.

2. With this respondents 1 & 2 are deemed served despite service through paper publication, but they are not represented today. This fact is recorded.

3. Also heard on IA No.01/15 for condonation of delay in filing the appeal as the same has been filed after 726 days of its limitation.

4. Learned counsel for the appellants would submit that on account of untimely death of Ramesh Kumar Khare, husband of appellant No.1, who was bread earner of the family, they preferred the instant appeal after 726 days of its limitation. The delay is bonafide, same may be condoned and the matter may be heard on its merits.

5. Perused the copy of award dated 05.9.2013. It appears that this is not a copy received to the appellants under the provisions of Section 168(2) of the Motor Vehicles Act, 1988, but the same has been subsequently applied and received from the Copying Section of Office of District and Sessions Judge, Ambikapur. There is no disclosure regarding the fate of execution of the award dated 05.9.2013. The appellants are expected to satisfy the delay and in the present matter, the appellants were duly represented despite death of Shri Ramesh

Kumar Khare on 06.01.10, also the appellants duly contested the said MACC before the Court below.

6. On due consideration, as the appellants failed to demonstrate the delay of 726 days, IA No.01/15 for condonation of delay in filing the appeal, is hereby dismissed as not maintainable.

7. As a consequence, the appeal too is dismissed as time barred.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE