

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 97 of 2018**

Bajaj Allianz Company Limited (Correct Name- Bajaj Allianz General Insurance Co.Ltd.), Vidhansabha Road, Pandri, Raipur, Tehsil And Post Raipur, District : Raipur, Chhattisgarh

---- Appellant**Versus**

1. Leela Bai Jhadi W/o Late Emaiya Jhadi Aged About 35 Years
2. Ku. Naam Devi D/o Late Emaiya Jhadi, Aged About 20 Years
3. Charnamrit S/o Late Emaiya Jhadi, Aged About 19 Years
4. Yagyamrit S/o Late Emaiya Jhadi, Aged About 17 Years

Respondent No.4 a Minor Represented Through His Natural Guardian Mother Leela Bai Jhadi,

All are R/o Papanpal, Thana Bijapur, District Bijapur, Chhattisgarh (Claimants)

5. Avinash Thakur S/o Komal Singh Thakur, Aged About 20 Years R/o Kathmandu Camp, Bacheli, Thana Bacheli, Currently Residing At Sanjay Para, Bijapur, P.S. And Tahsil Bijapur, District Bijapur, Chhattisgarh (Driver)
6. D. Usanna S/o Late D. Lingaiya, R/o Depo Para, Bijapur, P.S. And Tehsil Bijapur, District Bijapur, Chhattisgarh (Owner)

----Respondents

For Appellant	:	Mr. Utsav Mahiswar, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/01/2018**

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 86 days in filing the appeal stands condoned.
2. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 17.07.2017, passed by the Additional Motor Accident Claims Tribunal, Dantewada, District South Bastar, Dantewada, Chhattisgarh, in Claim Case No. 182/2014.

3. Vide the impugned award, the Tribunal in a death case has awarded a compensation of Rs.14,60,000/- with interest @ 10% per annum.
4. The ground of challenge is the fact that the vehicle involved in the accident was carrying much more number of passengers than its stipulated sitting capacity. It is submitted that the Insurance Company has also led the evidence of one Lambodar Kashyap, Head Constable of Police Station Dhamtari, District Bastar.
5. The perusal of record would show that there are Exhibit D-4 & D-5, which are the statements of two persons, who were traveling in the other vehicle accompanying the vehicle in which the deceased was traveling.
6. However, the statements of these two persons also do not reflect the exact number of passengers traveling in the vehicle involved in the accident, neither does there appears to have been any evidence produced by any of the parties to establish the fact that the Bolero Jeep was not being used for private purpose or was being used as a commercial vehicle.
7. In the absence of any such cogent evidence led by the Insurance Company, this Court does not find any strong case made out by the appellant- Insurance Company to interfere with the impugned award.
8. The appeal thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge