

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(227) No. 736 of 2019**

The New India Assurance Company Limited Through Divisional Manager,
Divisional Office, Post Box No. 35, First Floor, Madina Building, Jail Road,
Raipur Chhattisgarh (Insurer Of Vehicle Bus Bearing Registration No.
Cg/04/e/3134) ---- **Petitioner**

Versus

1. Santosh Sahu S/o Shri Dukalu Ram Sahu Aged About 45 Years R/o Village Dunda, Police Station Tikrapara, Tahsil And District Raipur, Chhattisgarh,
2. Puna Ram Sahu S/o Shri Santosh Sahu Aged About 22 Years R/o Village Dunda, Police Station Tikrapara, Tahsil And District Raipur, Chhattisgarh
3. Lalaram Sahu S/o Shri Santosh Sahu Aged About 20 Years R/o Village Dunda, Police Station Tikrapara, Tahsil And District Raipur, Chhattisgarh
4. Soniya Sahu D/o Shri Santosh Sahu Aged About 25 Years R/o Village Dunda, Police Station Tikrapara, Tahsil And District Raipur, Chhattisgarh,
5. Raju Nagaranji S/o Santosh Nagar Aged About 23 Years Occupation Bus Driver, R/o Chhattisgarh Nagar Near Haribhumi Office, Behind H.P. Gas, Police Station, Tikrapara, District Raipur Chhattisgarh. (Driver Of Alleged Vehicle Bus Bearing Registration No. Cg/04/e/3134),
6. Sakur Mohammed S/o Shri Sunhar Mohammed Aged About 45 Years Occupation Transporter, R/o Kalibadi Chowk, Nehru Nagar, Police Station City Kotwali, District Raipur, Chhattisgarh. (Owner Of Alleged Vehicle Bus Bearing Registration No. Cg/ 04/ E/ 3134) ----**Respondents**

For Petitioner:	Shri HB Agrawal, Sr. Advocate along with Shri BN Pandey, Advocate.
For Respondents No.1 to 4:	Shri CR Sahu, Advocate.
For Respondents No.5 & 6.	None, though served.

Single Bench: Hon'ble Shri Deepak Kumar Tiwari J
Order On Board

20.12.2021

1. This Petition has been filed under Article 227 of the Constitution of India to set aside the award dated 09.03.2019 passed by the National Lok Adalat in M.A.(C) No.1137/2017 and consequentially to restore the same to its original number.

2. Learned Counsel for the Petitioner submits that on the account of oversight, the said award passed by the National Lok Adalat is non-est in the eye of law, which suffers a judicial error and is contrary to the law applicable to the facts and circumstances of the case. Since there would be no compromise between the parties, the award passed by the 7th Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.545/2015 has exonerated Non-Applicant No.3/Insurance Company from the liability of payment of compensation and the said finding has attained finality as the same was not challenged before the High Court by Non-Applicants No.1 & 2. Therefore, inadvertently, a mistake has occurred in the award passed by the National Lok Adalat dated 09.03.2019 wherein, the Applicants have also not pointed out the same. Non-Applicant No.3 is only a formal party in the Appeal and the liability has been fastened upon it and it has already been exonerated.

3. Respondents No.1 to 4 have filed enhancement Appeal, which was placed in the National Lok Adalat. Inadvertently, during compromise between the claimants and the Appellant/Insurance Company, in the award passed, the Insurance Company was already exonerated by the Claims Tribunal. The said mistake committed was *bona fide*, it is a human error, therefore, the Respondents have no objection if the impugned award dated 09.03.2019 based on erroneous compromise is set aside and M.A(C) No.1137/2017 is restored for further hearing.

3. Considering the submissions made by the learned Counsel for the parties and also considering the fact that vide award dated 11.05.2017 passed by the 7th Additional Motor Accident Claims Tribunal, Raipur, the Insurance Company has already been exonerated against which, no Appeal

has been preferred, therefore, it has attained finality and the enhancement Appeal I.e. M.A(C) No.1137/2017 was listed before the National Lok Adalat, inadvertently, a settlement has arrived at between the Insurance Company and the Appellants/claimants, therefore, it is just and equitable also, there would be no compromise between the parties as the Insurance Company, which is a formal party in the Appeal, has already been exonerated and therefore, the award passed by this Court in the National Lok Adalat, which is under challenge, is hereby set aside and M.A(C) No.1137/2017 is restored to its original number.

4. Let fresh notice be sent to Respondents No.5 & 6, who are Non-Applicants No.1 & 2 in M.A(C) No.1137/2017 through ordinary as well as registered mode.
5. Registrar (Judicial) is directed to proceed further.
6. With the aforesaid direction, the instant Petition stands disposed of.

Sd/-

(Deepak Kumar Tiwari)
JUDGE