What is the difference between a Public Trust and a Private Trust?

Under a public charitable trust the members who benefit are uncertain and a fluctuating body.

A trust for the benefit of employees of a company however numerous would not be considered as public charitable. For example, an industrialist who creates a trust for the benefit of his 5,000 people, their spouses and children is considered private because who the beneficiaries are known.

While a public trust is set up for what is called ‘uncertain and fluctuating body of persons’ please note that you can create a sectarian or communal trust as a public charitable trust. There are trusts which are only for specific religious communities. Do note, that you will not get your 12A registration under the Income Tax Act, 1961, that is you won't be a tax-exempt organization.

Take the case, where I set up an organization where only family members are trustees - does it become public or private. The question under law is not who manages the Trust but who the beneficiaries are. If they are public it is a public charitable trust. No one questions the management though good governance suggests a diverse board. It may not be a good idea having only family members because the home ministry department has put guidelines that not more than 50 % blood relatives should comprise the board. Credibility Alliance has recommended the same. Under law you can register your trust and get registered Income Tax Charity Commission in Maharashtra even if you have 100% family members.