(2005) 07 KAR CK 0066

In the Karnataka High Court

Case No : M.F.A. No. 4998 of 2001

National Insurance Co. Ltd. APPELLANT

Vs

Bramaranbike and Others RESPONDENT

Date of Decision : 08-07-2005

Acts Referred:

Road Regulations, 1989 — Regulation 28

Citation : (2006) ACJ 671 : (2005) 4 KCCR 2359 : (2006) 2 RCR(Civil) 394

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Advocate : O. Mahesh and Veena O. Mahesh, for the Appellant; M.B. Chandra Choda and K.V. Satish, for the Respondent

Final Decision : Allowed

Judgement

K. Sreedhar Rao, J.—The deceased in M.V.C. No. 162 of 1999 was travelling in the tractor sitting on the mudguard. On account of rash and negligent driving, the death occurred. Petitioners are the legal representatives of the deceased. Claims Tribunal has awarded a compensation of Rs. 3,68,600 with interest at 9 per cent per annum from the date of petition till payment and directed the driver, owner and the insurer of the tractor to pay the compensation. The insurer is in appeal seeking avoidance of liability.

2. The provisions of regulation 28 in Appendix 2 pertaining to the Rules of the Road Regulations, 1989, formulated under Motor Vehicles Act, categorically declares that the driver when driving a tractor shall not carry or allow any person to be carried on the mudguard of a tractor. The effect of the regulation makes any person travelling in a tractor apart from the driver as illegal and would be an unauthorised passenger. The policy of insurance issued does not cover the risk of an inmate of the tractor. The permitted seating capacity for the tractor is only that of a driver and no other person. In the instant case, the vehicle being only a tractor at the time of accident, there is no legal possibility of coverage of the risk of an inmate of a tractor. In that view of the matter, the award passed by the

Tribunal against the insurer is illegal.

3. Accordingly, the appeal is allowed. The amount deposited by appellant to be refunded to the appellant. Compensation awarded shall be paid by the owner and driver.

