

(2005) 12 KAR CK 0013
In the Karnataka High Court

National Insurance Co. Ltd.

APPELLANT

Vs

Sayyadama and Another

RESPONDENT

Date of Decision : 16-12-2005

Acts Referred:

Karnataka Motor Vehicles Rules, 1989 — Rule 28

Citation : (2007) 2 ACC 692

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Judgement

K. Sreedhar Rao, J.—The petitioners in M.V.C. No. 1369 of 2001 are awarded compensation for the death of their son Hussain Walikar in a sum of Rs. 2,90,100.

Tribunal directed the owner and insurer to pay the compensation. The insurer is in appeal seeking avoidance of the liability.

2. The deceased is said to be coolie travelling in the tractor at the relevant time. Rule 28 of the Karnataka Motor Vehicles Rules permits only the driver to be seated in the tractor, if trailer is attached to the tractor then the coolies or labourers employed in connection with operation of the tractor-trailer can travel. But in the case of tractor, driver alone is permitted. The carriage of any passengers in a tractor is prohibited. The policy of insurance does not cover the risk of coolies carried in a tractor without a trailer. In that view the award made against the insurer is bad in law. The same is set aside. The appeal is allowed.

3. However, the compensation shall be payable by the owner.

4. The amount in deposit to be refunded to the appellant.