

(1960) 07 KAR CK 0005
In the Karnataka High Court
Case No : Regular Appeal (M) No. 101 of 1956

The Premier Life and General Insurance Co. Ltd.	APPELLANT
Vs	
H. Krishna Sheet and Others	RESPONDENT

Date of Decision : 22-07-1960

Acts Referred:

Motor Vehicles Act, 1939 — Section 96 (2)

Citation : AIR 1962 Kar 171

Hon'ble Judges : Narayana Pai, J;A.R. Somnath Iyer, J

Bench : Division Bench

Advocate : N. Bheemachary, for the Appellant; K. Vittal Rao, N.T. Raghunathan and M. Gopalakrishnasetty, for the Respondent

Judgement

1. The appellant Company did not choose to intervene in the proceedings in the Court below although admittedly notice of their institution was given to it. Mr. Bheemacharya's contention that the company can in this appeal question the correctness of the finding of the Court below that the accident happened in the manner pleaded by the plaintiff or its estimate of the damages awarded to him, it clearly opposed to the provisions of Section 96 (2) of the Motor Vehicles Act which exhaustively enumerate the grounds on which the company could have defended the action in the Court below and could sustain its appeal in this Court.
2. Nor can Mr. Bheemacharya's contention that the company should be absolved from liability to pay damages on the ground that the motor vehicle was being driven by an unlicensed driver succeed, since it entirely failed to establish that there was any condition attached to the contract of insurance prohibiting the driving of the motor vehicle by a person who was not duly licensed. No policy of insurance incorporating any such condition was produced by the company at any stage of the proceedings and not even in this Court . This appeal is therefore dismissed with costs of the plaintiff.
3. Appeal dismissed.