

REPUBLIC OF KENYA

IN THE HIGH COURT

AT MOMBASA

Civil Suit 181 of 2008

ABDULRAB VIRJEEPLAINTIFF

VERSUS

HABARI INSURANCE BROKERS LTD1ST DEFENDANT

FIRST ASSURANCE COMPANY LTD.2nd DEFENDANT

R U L I N G

I have considered the application and the submissions. Under the Insurance (Third Party Risks) Act Cap 405 Section 10, it is the insurer who is called upon to indemnify the insured to satisfy any decrees/judgments against the insured. It is never the agent or broker. This is a clear statutory provision and this court does not even have to delve into the question of agency.

There is no course of action against the 1st defendant. I do hereby strike out the claim against the 1st defendant with costs.

Dated and delivered at Mombasa this 19th day of November 2009.

M. K. IBRAHIM

J U D G E

Delivered in open court in the presence of:

Mr. Buti for the defendants and

Mr. Lijoodi h/b Kadima for plaintiff/Respondent.