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Press and Information

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Judgment of the Court of Justice in Case C-537/03

Katja Candolin and Others v. Vahinkovakuutusosakeyhtio Pohjola and Jarno Ruokoranta

**A SYSTEM OF COMPULSORY MOTOR VEHICLE INSURANCE WHICH
REFUSES OR LIMITS, IN A DISPROPORTIONATE MANNER, COMPENSATION
FOR A PASSENGER WHO HAS CONTRIBUTED TO THE OCCURRENCE OF THE
DAMAGE OR INJURY INFRINGES COMMUNITY LAW**

*The fact that the passenger is the owner of the vehicle the driver of which caused the accident
is irrelevant*

In 1997 Mrs Tanja Candolin, the mother of Katja Candolin, was travelling together with Mr Viljaniemi and Mr Paananen in Mr Paananen's car, which was driven on that occasion by Mr Ruokoranta. During the journey an accident occurred, causing the death of Mrs Candolin as well as serious injuries to the other passengers. The driver and all the other passengers were drunk.

Mr Ruokoranta was sentenced to a term of imprisonment and ordered to pay compensation to Ms Candolin, Mr Viljaniemi and Mr Paananen. Taking the view that the passengers should have noticed that the driver was drunk, the courts hearing the dispute decided, however, that none of them had the right under the Finnish Law on motor vehicle insurance¹ to compensation by the insurance company.

In that context, the Finnish Supreme Court asked the Court of Justice of the European Communities whether Community law precludes national rules which refuse or limit compensation paid by the compulsory motor vehicle insurance on the basis of the passenger's contribution to the occurrence of the damage or injury he suffered, and whether the answer is different where the passenger is the owner of the vehicle.

The Court held, first of all, that the directives on civil liability insurance² **do not seek to harmonise the rules of the Member States on civil liability** and that, as Community law

¹ Law 279/1959 of 26 June 1959.

² Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability (OJ, English Special Edition 1972 (II), p. 360); Second Council Directive

stands at present, the Member States are free to determine the rules of civil liability applicable to road accidents.

Member States must, however, exercise their powers in compliance with Community law and, in particular, with those directives, whose aim is to ensure that compulsory motor vehicle insurance allows all passengers who are victims of an accident caused by a motor vehicle to be compensated for the injury or loss they have suffered.

National provisions which govern the compensation of road accidents cannot, therefore, deprive those provisions of their effectiveness.

Such would be the case, specifically, where, solely on the basis of the passenger's contribution to the occurrence of his injuries, national rules, on the basis of general and abstract criteria, either denied the passenger the right to be compensated by compulsory motor vehicle insurance or limited such a right in a disproportionate manner.

It is only **in exceptional circumstances that the amount of the victim's compensation may be limited** on the basis of an assessment of his particular case.

The determination of whether those circumstances exist and whether the limit on the compensation is proportionate is a matter for the national court. **The fact that the passenger seeking compensation is the owner of the vehicle the driver of which caused the accident is irrelevant.**

Unofficial document for media use, not binding on the Court of Justice.

Languages available: DE, EN, FR, NL, FI

The full text of the judgment may be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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