**NBC Holding Corporation v Mauya and another**

**Division:** Court of Appeal of Tanzania at Tanga

**Date of judgment:** 3 June 2005

**Case Number:** 36/04

**Before:** Munuo, Msoffe and Kaji JJA

**Sourced by:** LawAfrica

*[1] Civil procedure – Decree in appeal – Failure to include a decree that is signed by one of the judges*

*–Effect of such failure.*

**Editor’s Summary**

The appellants filed an appeal against the decision of the High Court ordering it to pay retrenchment benefits to the respondent. The issue of the decree filed then arose.

**Held –** The appeal lacks a valid decree per the provisions of Order XXXIX, rule 35(4) of the Civil Procedure Code of 1966 and so the invalid decree renders the appeal incompetent. (*Mugo* (*Administrator of the Estate of the late John Mugo Maina*) *v Mollel* Civil appeal number 2 of 1990 (UR); *Ole Saibul v Ole Saibul* Civil appeal number 68 of 1998 (UR); *Tanganyika Cheap Stores v National Insurance Corporation Ltd* Civil appeal number 37 of 2001 (UR) followed) Regarding pending appeals not yet scheduled for hearing, the parties would be well advised to resort to rule 92(3) of the Court of Appeal Rules of 1979 to rectify defects and regularise the same, in conformity with the law.

Appeal struck out.

**Cases referred to in judgment**

(“**A**” means adopted; “**AL**” means allowed; “**AP**” means applied; “**APP**” means approved; “**C**” means

considered; “**D**” means distinguished; “**DA**” means disapproved; “**DT**” means doubted; “**E**” means

explained; “**F**” means followed; “**O**” means overruled)

*Ole Saibul v Ole Saibul* civil appeal number 68 of 1998 (UR) – **F**

*Mugo* (*Administrator of the Estate of the late John Mugo Maina*) *v Mollel* Civil appeal number 2 of 1990

(UR) – **F**

*Tanganyika Cheap Store v National Insurance Corporation Ltd* Civil appeal number 37 of 2001 (UR) –

**F**

“. .