

Insurance - India

Delays in notification of motor vehicle theft are fatal to insurance claims

Contributed by **Tuli & Co**

February 17 2015

Facts Decision

On December 4 2013 the National Consumer Disputes Redressal Commission ruled that any delay in notifying the police or an insurer after a vehicle has been stolen is fatal to a claim.⁽¹⁾

Facts

The insured informed his insurer that his vehicle had been stolen three months after the theft. He had informed the police of the theft two days after the event. The insurer repudiated the claim on the grounds that the significant delay in notification was a violation of the insured's policy.

The insured filed a complaint before the district forum, which granted his claim on a non-standard basis, by applying the principle laid down in *Amalendu Sahoo v OIC*.⁽²⁾ In *Amalendu Sahoo* the Supreme Court held that only 75% of a claim will be paid where a vehicle registered for private use is used for commercial purposes and gets into an accident. The Rajasthan State Commission upheld the district forum's order. The insurer appealed to the national commission.

Decision

The national commission held that any delay in informing the police of the theft of a vehicle is fatal to a claim, as this information must be provided immediately. According to the national commission, 'immediately' means "within a reasonable time having due regard to the nature and circumstances of the case".

The national commission relied on the Supreme Court judgment in *OIC v Parvesh Chander Chadha* ⁽³⁾ to hold that the delay had deprived the insurer "of its legitimate right to get an inquiry conducted into the alleged theft of the vehicle and make an endeavour to recover the same".

Further, the national commission noted that even a minor delay justifies the denial of a claim, in accordance with one of its previous judgments, in which it had found that "a delay of 2 days in lodging the FIR and delay of 9 days in reporting the matter to the Insurance Company was fatal".

Finally, the national commission criticised the district forum's reliance on *Amalendu Sahoo*, holding that it was "clear that the facts of that case were entirely different because the violation relates to the nature of use of the vehicle only".

The state commission's judgment was subsequently overturned.

For further information on this topic please contact **Neeraj Tuli** at Tuli & Co by telephone (+91 11 4593 4000), fax (+91 11 4593 4001) or email (n.tuli@tuli.biz). The Tuli & Co website can be accessed at www.tuli.biz.

Endnotes

(1) *HDFC ERGO General Insurance Co v Bhagchand Saini*.

(2) AIR 2010 SC 2090.

(3) Civil Appeal 6739/2010.

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at www.iloinfo.com.

Author

Neeraj Tuli



Online Media Partners



© Copyright 1997-2015
Globe Business Publishing Ltd