

Motor Vehicle Insurance – how does it work?

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Scope of Compulsory Insurance

- S.4(1) Motor Vehicles Insurance (Third Party Risks) Ordinance
- Requires:
 - Valid 3rd party insurance; or
 - Relevant security in respect of 3rd party risks



- Exceptions to S.4:
 - Person authorized by the Hong Kong Government
 - Police
 - Public Officer
 - Cross-Harbour Tunnel Officer
 - Employee of the MTR
 - Owner deposits HK\$2,000,000 with Director of Accounting Services



- Liabilities required to be covered:
 - In respect of death / bodily injury to any person
 - Arising out of the use of a motor vehicle on a road
 - For not less than HK\$100 million any one event



Exclusion of employees

- Section 6(1)(b)(i) of the Ordinance:
 - Policy does not need to cover liability in respect of death / bodily injury sustained by employee of person insured, if
 - Death / injury arises out of that employment



Standard Forms of Cover

Limitations on use

- Social, domestic and pleasure purposes
- Defined by recognizing whether the use falls inside or outside its ambit



● Example:

- Private car used for the purpose of negotiating a business deal
- Used private car because it is a more comfortable and convenient way to travel
- Are these ‘social, domestic and pleasure purposes’?



Use in connection only with the assured's
business

- Must be used for the assured's business
 - Includes employee of a permitted driver



- Car parking services
 - Rendlesham v Dunne

- Permitted driver clause
 - Any other person driving the assured's car at the order / with permission of assured



Cover: extent of cover afforded to permitted driver

- Covers legal liability to any person:
 - Assured's injuries covered e.g. if driven by chauffeur
 - Death of assured does not necessarily destroy cover



- Employees not included as permitted drivers?
 - Motor policy will not automatically cover employees individually
 - Absence of individual cover for employees not a breach of assured's statutory duty



Duties of the Assured under a Motor Policy

Vehicle not to be driven in an unsafe or unroadworthy condition

- If driven in an unsafe or unroadworthy condition:
 - Insurers not liable
 - Onus of proof on insurer



- Unsafe / unroadworthy when the car set out on its journey?
 - Test of objective fact

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Safeguarding the vehicle from loss or damage

- Rendlesham v Dunne
- - Learner driver drives car with assured's permission
- - No other qualified driver present
- - Accident involving third party
- Held that the loss or damage only refers to the physical state of the car and not to the damage caused by a person's negligent driving



Other obligations

- Influence of drugs or alcohol

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- Usage in contravention of the motor policy i.e.
- - unlawful purposes
- - Race, trial, test or contest
- - Use as hire car (unless policy so provides)
- Driver education course (unless policy so provides)
- Tow / carry dangerous substances



The Claim

- Notice / communications with insurer:
 - Made in writing
 - Immediately notify insurer's after accident with full particulars



- Theft / criminal
 - Immediately notify police
- Assured cannot give indemnity / admit liability on behalf of insurer

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Rights of the Assured under a Comprehensive Motor Policy

Insurance against loss or damage to the motor car

- Covers against:
 - Loss of or damage to the car / accessories / spare parts
 - Accidental / malicious damage
 - Storm flood or fire



- Insurer may choose to:
 - Repair, reinstate or repay an equivalent amount
 - Limited to reasonable market value at the time of loss or damage



Indemnity against medical expenses of owner/driver

- Payment of reasonable medical expenses incurred:
 - In connection with any bodily injury sustained by the insured or passengers
 - Usually a capped amount



Rights of the Victim of the Assured

Third parties' right under a motor policy

- Third parties have direct right of action against insurers if:
 - Assured found liable for injuries suffered by third parties; and
 - Assured insolvent



- Section 10 of the Ordinance:
 - Certificate of insurance issued in favour of the assured
 - Obligation to pay any person entitled to benefit from a judgment coming within the provision



Motor Insurers' Bureau (“M.I.B.”)

- Incorporated on 10 December 1980
- Membership compulsory for
 - All insurance companies; and
 - Lloyd's underwriters authorized by law to conduct motor insurance in Hong Kong
- 2 Funds



- First Fund:

- Satisfaction of unsatisfied judgments, hit and run?
- In respect of liability arising out of death or bodily injury to any third party

- Second Fund:

- Claims by traffic accident victims which remain unpaid as a result of the insolvency of the insurer



Policy Provisions

- Clause (2)(c)(e) Insured Driver
- Clause (3), (4), (5)(a) & (7)(b) Cover
- (9), (12)(A)(b), (14), (15) & (17)(B)
- Endorsement VPI (6)



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Q & A Session

PLEASE NOTE

The law and procedure on this subject are very specialised. This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

請注意

本題目之法律及程序十分專門。此文章只屬一般性之解釋，供你參考，而不應被依賴為關於任何特定事件之法律意見。如需法律意見，請與我所律師聯絡。

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