

INSURANCE INSIGHT

Leaving the ignition key is not a violation of insurance policy

Burden is on the insurance company to prove that there is failure on the part of
vehicle owner in carrying due diligence regarding driving license

Authorized dealer can be held liable for contributory negligence if unregistered
vehicle is delivered after the assurance that the vehicle was duly registered



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The Hon'ble National Consumer Disputes Redressal Commission in the case of Ajit Singh v. Reliance, Revision Petition no. 1566 of 2018 set aside the order of the Learned State Consumer Disputes Redressal Commission and held that leaving ignition turned on of a car, at the time of theft was not a violation of the policy condition that warranted the insurer to take reasonable steps and safeguard the vehicle.

The Hon'ble National Consumer Disputes Redressal Commission relied upon the judgment of the Hon'ble Supreme Court in the case of Ashok Kumar v. New India Assurance Company Ltd., AIR 2023 SC 3622 wherein it was also stated that leaving ignition key on for a short period is not a fundamental breach of policy condition.

Burden is on the insurance company to prove that there is failure on the part of vehicle owner in carrying due diligence regarding driving license

The Hon'ble Supreme Court of India in the case of IFFCO Tokyo General Insurance Company Ltd. v. Geeta Devi and Ors., Special Leave Petition (C) 19992 of 2023 reiterated that once a seemingly valid driving licence is produced by a person employed to drive a vehicle, unless such licence is demonstrably fake on the face of it, warranting any sensible employer to make inquiries as to its genuineness, or when the period of the licence has already expired, or there is some other reason to entertain a genuine doubt as to its validity, the burden is upon the insurance company to prove that there was a failure on the part of the vehicle owner in carrying out due diligence regarding

driving license before employing that person to drive the vehicle. The Hon'ble Supreme Court also held that the insurance company cannot blithely claim that the vehicle owner did not conduct due diligence while employing the driver, by now insisting upon a condition (verification of the driving license) which was neither prescribed in the statute nor in the insurance policy.

Authorized dealer can be held liable of contributory negligence if unregistered vehicle is delivered after the assurance that the vehicle was duly registered

The Hon'ble National Consumer Disputes Redressal Commission in the case of Future Generali India Assurance Co. Ltd. v. Chotelal Prasad & Anr., R.P. No. 1309 of 2018, reiterated that non-registration of a vehicle at the time of theft of the vehicle amounts to breach of an essential condition of the Motor Vehicles Act and the insurance claim can be repudiated on the same ground however it was also held that the authorized dealer of the vehicle can be held liable for contributory negligence if it is found that an unregistered vehicle was delivered, despite the assurance of the authorized dealer that the vehicle was duly registered.

In the present case, vehicle was stolen while it was kept at the residence of the complainant. The authorized dealer delivered custody of the vehicle to the complainant on the assurance that it had been both insured and registered. Upon lodging the complaint for the theft and making a claim for the insurance, it was found that the vehicle was not registered in the first place and therefore, the insurance company repudiated the claim.



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