ST. PAUL FIRE AND MARINE INSURANCE COMPANY v. U. C. SMITH

5-5993 482 S.W. 2d 122

Opinion delivered July 10, 1972

INSURANCE—COVERAGE IN ACCIDENT POLICY—LOSS CAUSED BY VEHICLES. —Coverage in a policy for "loss resulting from actual physical contact of a vehicle" *held* to include a detached wheel from a passing automobile.

Appeal from Garland Circuit Court, *Henry M. Britt,* Judge; affirmed.

Wright, Lindsey & Jennings, by: *William R. Wilson Jr.,* for appellant.

Robert D. Ridgeway, for appellee.

CONLEY BYRD Justice. The front wheel came off a passing automobile and caused $253.90 damages to appellee U.C. Smith's building. Appellant St. Paul Fire and Marine Insurance Company, for reversal of a summary judgment in favor of Smith, contends that Smith's building was not struck by a "vehicle" within the policy definition.

The policy issued by appellant of Smith provided extended coverage to Smith ". . .against direct loss by. . .vehicles,. . .except as hereinafter provided." The provision of the policy applicable to vehicles provides:

> "The term 'vehicles,' as used in this endorsement means vehicles running on land or tracks. . .Loss by aircraft or by vehicles shall include only direct loss resulting from actual physical contact of an aircraft or a vehicle with the property covered herein or with the building(s) containing the property covered hereunder, except that loss by aircraft includes direct loss by objects falling therefrom. . ."

Since the policy insures only against "direct loss resulting from actual physical contact of. . .a vehicle," appellant argues that there is no indication of coverage for loss from damage by a detached wheel. As we read the language of the policy that "loss resulting from actual contact of . . .a vehicle" obviously includes, at least, those substantial and integral parts of an automobile necessary to its propulsion while being propelled along a highway. See Annotation 12 A.L.R. 2d 598, as to meaning of "Vehicles" within exception or coverage of insurance policies. icies.

In its reply brief appellant argues that the mention of detached objects with regard to airplanes, coupled with the lack of such mention with regard to vehicles, clearly implies that the policy provides coverage in the one case (airplane objects) but excludes coverage in the other (vehicle objects) which is here involved. The fallacy in this argument is that the policy language does not refer to items becoming detached from an airplane but only to objects falling from a plane. In view of such cases as *Brown* v. *Life & Casualty Ins. Co.*, LA. App., 146 So. 332 (1933), this language was necessary to provide coverage for cargo falling from an airplane.

Affirmed together with the allowance of an additional attorney's fee of $500.