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SECTION 32. Jurisprudence.

SUBJECTS OF COMPULSORY INSURING CARRIER'S CIVILIC RESPONSIBILITY

Abstract: In this article subject of compulsory insuring carrier's civil responsibility in this type of insuring as carrier, insurer, passenger, victim and benefiter's rights and obligations are analyzed. The author has clarified the particular aspects of compulsory insuring carrier's civil responsibility in the point of view insuring the separate type of insurance's civil responsibility relating to its subjects. The author has also revealed extremely big significance of this type of insurance in the carrying process.

Key words: carrier, insurance, insurer, civil-legal accountability, insuring subjects, passenger, benefiter, insuring fund, insuring fee, insuring compensation, insuring reward.

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Introduction

Legal attitudes one of its basic elements, people who have entered to these attitudes with their willingness, marked shared rights and obligations and who has to act in these spheres are considered as legal attitude subjects. In the citizenship right "persons" term is considered as general and folding term which belongs to civil right's all subjects. As persons citizens can be (physical persons), judicial persons and state civil-legal attitude participants. As long as persons participate in the process of civil-legal attitude, persons may mark this attitude's containing content's right and accountability and may get subjective right and accountability for themselves. This case is used in contractive attitudes too.

Materials and Methods

In insuring contracts too insurance legal attitude subjects are insurer and insurance maker. Surely, in this order insurance process subjects and particular types of insurance should be distinguished. According to the Republic of Uzbekistan's "About insurance activity" law's 5th article 2nd part, insurers, insurance middlemen, adjusters, actors, insurance surveyors, similarly assistants are professional participants of insurance market [1].

These subjects are considered as persons who can take part in insurance market, also establishing

insurance service. They may also have legal relationship with directly-insurance-makers. In contrast, in the particular sort of insurance, particularly, in compulsory insuring carrier's civil accountability subjects' sphere is marked comparatively clearly and at the same time these subjects are considered as contract's sides too.

In accordance with the Republic of Uzbekistan's "About compulsory insuring carrier's civil accountability" law 5th article 2nd part carrier, insurer, passenger, victim and benefiter are compulsory insuring subjects of carrier's civil accountability [2].

In this norm, we will separately see participation of counted subjects in the process of compulsory insuring carrier's civil accountability and their rank in this process:

1. Carrier – according to this contract, the person who is ranked as insurance maker. The aspect of his or her characterization as this attitude subject is marked in this law's 3rd article last line. According to this, carrier – the person who holds the certain allowance (license) to carry passengers and their property based on commercial is considered as the judicial person who can carry them in city passenger transport, railway, air, automobile, water transport and other transports [3].

As it is marked in the "Rules of carrying passengers and load luggage in automobile" law

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which was indicated in 6th line and approved in 2003, 4 November, 482nd decision by the Ministry office of the Republic of Uzbekistan, carrier – based on property right or other material rights owner of auto transport, servicer of passenger, load based on commercial also the judicial person who holds certain allowance (license) for this [4].

Adaptation of arranging carrying process in Uzbekistan and the legal system in this field which is directed to providing profits of passengers should be stated particularly. In sum, at the moment in our country “About city commuter transport” (1997 year 25 April), “About railway transport” (1999 year 15 April), “About traffic safety” (1999 year 19 August) laws and many under law documents are put in action.

Simultaneously with this, in 2007 in Tashkent province governorship’s department which is responsible for licensing and adaptation for all types of passenger transport movement was organized. Although this department is inner section of Tashkent province governorship, the organization of this department is done as an experiment. Department’s main focus and tasks catalogue includes adaptation of all types of passenger carrying transports’ movement, arranging direction sets and making them acceptable, functioning as a customer by licensing passenger carrying activity with commuter carrying rights in Tashkent province, similarly, in the sphere of Tashkent province functioning as passenger carrying in cities, around cities and inter cities and organizing open tenders to place directions can be pointed out separately [5].

Transport servicing has gained leading positions in production area of social services, not only its change in proportion of common inner product, but also analyzing its natural appearance in activity points has a big significance. Since the development in transportation system is directly connected to economical and social areas’ other fields, by these fields its carrying size and quality of passenger and load together with its requirements, field’s self-development opportunities, in other words getting sufficient income and attracting financial assets to the field are required. The increase of carrying speed and quality, transport service cost’s cheapening inspires the transport economic communication development, and brings to the better life style and attendance of population [6].

According to the information of automobile and water transport agency, in our Republic during the last 15 years the number of passenger carrying directions which are in activity is increased to nearly 2322, at the moment this number is reached to 4326. Their 995 are city, 2712 are around city and 619 are inter city directions.

In reality, together with having unique place in meeting populations’ cultural and financial demands and country’s economy, auto transport vehicles, they

are considered as an unnecessary source of danger too, the auto transport vehicle may damage to the properties, lives and health of citizens, or property-rights of judicial persons. Therefore, the high degree of technical development of auto transport vehicle as an unnecessary source of danger too is out of control of a human being or it is impossible to fully control them, this is why there is a risk of high damaging by auto transport vehicles to the life and health of a human being or to the financial beneficiaries [7].

According to the 26th article of “About automobile transport” law the carrier is considered as a responsible if he/she can not prove that injury during the carrying process happened because of an unbeatable power. In this case the injury is considered as a revenge of the victim [8].

Civil codex counts followings as fundamentals of accountability of carrier (auto transport vehicle): carrier’s not giving transport vehicle (719th article of CC), passenger’s departure delaying (720th article of CC), lose or less of load and bringing damaged load (broken down) (721st article of CC. In these cases the accountability of carrier is marked in regulations and Codex.

Considering today’s huge number of passenger carrying directions and serving of many passenger carriers, it clearly shows how the compulsory insuring carrier’s civil accountability place is. That is why, those who are ranked as carrier, in other words any person who is serving as a carrier according to the laws should have a compulsory insurance before passenger carrying.

2. Insurer – according to the 1st part of 6th article of “About insuring activity” law, in order to make relevant type of insurance judicial persons who have license for this and have a commercial organization which takes the obligation of doing payment called insurance fee according to the insuring contract are considered as insurer.

Based on Regulations in 2002, 27 November resolution numbered 413 which was approved by the Ministry office of the Republic of Uzbekistan and which is called “About licensing insurance activity of insurer and insurance broker” people who have relevant license and according to the Regulations in 2003, 20 August resolution numbered 357 which was approved by the Ministry office of the Republic of Uzbekistan and which is called “Registering business subjects to state, putting into account and legalizing order of allowing documents” persons who have enrolled to the state may act as an insurer.

According to the law which is called “About compulsory insuring carrier’s civil accountability”, insurer – the person who has a commercial organization and the judicial person who has rights to make compulsory insuring.

According to the Regulations’ lines of resolution numbered PR-618 of the President of the Republic of Uzbekistan which was approved in 2007,

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April 10 which is called “About professional participants of insurance market” and resolution numbered PR-1544 of the President of the Republic of Uzbekistan which was approved in 2011, 31 May and called “About additive plans to improve insurer’s financial stability” in order to fulfill the activity of compulsory insuring carrier’s civil accountability the least amount which is marked for acting compulsory insuring insurers must account to 3 million euro from 2014, July 1.

Truly, as a result of globalization of the world’s insurance market national insurance organizations have been becoming stronger by increasing their regulation fund. Similarly, insurance organizations which could not meet the need has gathered together to make single and strong insurance organization. Consequently, financial stability of insurance organizations has become stronger than it used to be.

As a result of globally gathering reestablished insurance organizations in 1990-1999 the amount of insurance fee had increased more than 1,04 trillion USD. In the sphere of Europe Union the Rome contract was built in 1957, based on this contract the single insurance market and law and order was built. The main purpose of this process was to insure extremely expensive enterprises [9].

By the impact of this case, insurers who have to insure civil accountability act as judicial persons who have to have certain license and their organizing

legal shape can be various. Presently, majority of acting insurance companies in Uzbekistan are working for various types of holding societies.

3. Passengers – the physical person who uses the service of carrier. According to the contract of carrying passenger the carrier is obliged to bring the passenger to the chosen destination. Similarly, bringing the load of the passenger is also included in the contract. The contract of carrying passenger is done in written form. In this case the evidence of the existence of carrying contract is ticket for the passenger and the load. One thing should be stated that, this type of contract is publicized in its own type [10].

4. Victim and benefiter. Victim – the passenger whose health and property is damaged therefore can get the insurance fund, whereas the benefiter – when the passenger is dead in insurance occasion, he/she can get the insurance fund.

Conclusion

Generally taking, subjects of compulsory insuring carrier’s civil responsibility have certain rights and obligations, if the carrier is responsible for paying the insurance fee, when the insurance occasion is occurred; he has rights to require for the insurance fund. When the passenger is injured, he has rights to require insurance fund to the recovery.

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