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A REVIEW OF THE LITERATURE DEDICATED TO CASCO AUTO INSURANCE

Y. KULYNA,
studentă la Universitatea Națională „Academia de Drept din Odesa”

SUMMARY

The article reviews the literature dedicated to transport insurance and Casco auto insurance. The research into stages of development and the review of the literature dedicated to Casco auto insurance should be carried out taking into account the fact that the first car in the world was built only in 1885. Another important moment to remember is the circumstance that this type of auto insurance originated from the oldest type of insurance, i.e. Casco vessel insurance.

REZUMAT

Articolul este o revistă a literaturii privind asigurarea de transport și asigurarea auto Casco. Cercetarea etapelor de dezvoltare și analiza literaturii cu privire la asigurarea Casco a mijloacelor de transport trebuie să fie efectuate ținând cont de faptul că primul automobil din lume a fost construit în 1885. Alt moment important ce trebuie reținut este că acest subtip de asigurare își are originea în cel mai vechi tip de asigurare a navelor maritime Casco.

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В статье проводится анализ литературы посвященной транспортному страхованию и страхованию автотранспортных средств каско. Исследование этапов развития и анализ литературы, посвященной страхованию автотранспортных средств каско, следует проводить с учетом того факта, что первый автомобиль в мире был построен только в 1885 году и того обстоятельства, что данный подвид страхования получил свое развитие из самого старого вида страхования морских и водных судов каско.

For some time national researchers of the civil law were not interested in Casco auto insurance. Though this type of insurance is not a new one and despite its own stages of formation and development in the national legislation and in the modern civil law, people paid little attention to this type of auto insurance.

The literature dedicated to Casco auto insurance was reviewed using two methods: 1) literature about the research on property insurance; 2) literature about the research on auto insurance as such; 3) literature about the research on Casco auto insurance.

Property insurance in the pre-revolutionary literature is contrasted against personal insurance and also involves liability insurance (this type of insurance got

separated only after the law of Ukraine “On insurance” was adopted). However, the research on Casco auto insurance cannot be carried out without the literature that is dedicated to property insurance, as Casco auto insurance is one of its types.

While studying the question of transport insurance, it is worth mentioning that the literature dedicated to this question deals first of all with general issues of marine insurance and other types of insurance. The marine insurance is the oldest and the first type of insurance in history.

The pre-revolutionary literature does not take into account this Casco auto insurance. We can find the explanation in history, i.e. the first car was built by Karl Benz, a German inventor, in 1885 [1].



Thus, the background of the formation and development of Casco auto insurance should be reviewed taking into account this amendment and the fact that it originated from the oldest type of insurance, i.e. Casco vessel insurance.

Thus, it is quite obvious that I. Stepanov, a famous pre-revolutionary researcher of insurance, and such specialists in civil law as D.I. Meyer, K. Kavelin and P.P. Tsitovich do not mention vehicles as objects insured [2, 3, 4, 5].

It is worth mentioning that while studying the main stages of insurance in capitalist societies and accident insurance by means of personal insurance, V.K. Raicher, one of the leading scientists in the field of insurance during the Soviet times, mentioned that liability insurance was first invented in France in 1825. It was related to horse transport insurance against accidents [6]. We can guess quite surely that it was not only just a step in liability insurance development, but a factor that influenced the creation of Casco vessel insurance after the first car was invented.

Despite the fact that K.G. Voblyi mentions in his works transport insurance as a type of property insurance, at the same time it presents difficulties to establish the moment when we first heard about Casco auto insurance.

Moreover, while carrying out a classification of property insurance and personal insurance, professor S.A. Rybnikov, reviewed transport insurance as a type of property insurance. Depending on the fact whether the insurance covers losses related to death or cargo damage or not, then it is called cargo insurance, and marine hull insurance or car insurance are called Casco insurance [8].

The history of national insurance remembers times when insurance was doomed to non-existence, and the insurance business was declared to be the state monopoly [9]. We can find in literature of that time the fact that in order for insurance to serve interests and not to be means of private profit and gambling, the Soviet government organized the State Insurance Monopoly by a decree as of October 6, 1921 [10]. The relations were formed in such a way: policy holders, cooperative organizations and citizens from one side and the insurer represented by the State Insurance Body (Derzhstrakh) of the Financial Council of People's Commissars of the USSR (Main Department of State Insurance). This situation prevented the development of the insurance system and, thus, it was completely different from systems in other foreign countries.

However, there is some evidence in the Soviet literature that along with the denial of such thing as vehicle insurance some steps were indeed made towards the research of completely voluntary land-based vehicles insurance.

Thus, along with the description of voluntary household goods insurance and voluntary animal insurance, G. Yefimov wrote one chapter dedicated to voluntary vehicle insurance. The author even called this work a booklet as it was really short. There were some losses mentioned according to which State Insurance Body paid insurance compensation and insurance payment when covering vehicles, bikes, sailing craft, motor craft, and cutters. Moreover, it mentioned the responsibilities of a policy holder [11].

According to Yu.G. Ginzburg, the main goal of his book is to

introduce property insurance and vehicle insurance to general public. That is why he briefly touches upon questions of the amount of money within insurance compensation and issues related to the responsibilities of a policy holder. The main goal of the author was not the comprehensive research of these issues [12]. At the same time, in his earlier work "Voluntary property insurance of workers" Yu. G. Ginzburg dedicated a separate chapter to voluntary vehicle insurance together with voluntary household good insurance and animal insurance. He also reviewed the role of voluntary insurance and natural disasters. Again the chapter is only two pages long and is supposed to inform readers about objects insured and conditions, responsibilities of a policy holder, payment of compensation, handling procedures of voluntary vehicle insurance, namely a car, a motorcycle, a motor and sailing craft [13].

Likewise, P.P. Bagrov, A.P. Plieshkov and P.S. Sharov studied some aspects of vehicle insurance along with insurance of buildings, farm animals and household goods in their mutual work [14]. The same mistakes can be found in separate works dedicated to property insurance [15].

K.O. Grave and L.A. Lunts in their major work "Insurance" classify voluntary insurance according to the nature and type of property insurance that acts as an object insured. They single out insurance of buildings, animals, agricultural plants, household goods and vehicles in a separate paragraph [16].

The foundation of the voluntary property insurance system of that time was formed by: a decree by the Central Executive Commit-



tee and the Council of People's Commissars of the USSR "On Voluntary Insurance" as of July 27, 1934, a decree by the Central Executive Committee and the Council of People's Commissars of the USSR as of September 17, 1935 "On addition and changes to the decree of the "Central Executive Committee and the Council of People's Commissars of the USSR "On Voluntary Insurance" as of July 27, 1934", a decree by the Council of People's Commissars of the USSR "On state property insurance in companies, organizations and institutions" as of February 3, 1938 and a decree by the Council of People's Commissars of the USSR "On voluntary insurance of agricultural plants, animals and vehicles" as of July 4, 1912.

Judging by the analysis of evidence about vehicle accident rate, O.L. Aleksieiev and V.O. Sierov prove the necessity to insure vehicles that belong to citizens. In a user friendly way authors analyze materials on procedures for the conclusion of a contract, depreciation loss of vehicles and the amount of insurance in accordance with efficient for that time "Rules of insurance" as of January 1, 1978. Moreover, they study the ways to determine and compensate for the damaged vehicle including the repair techniques according to effective price lists for spare parts and costs of repair [17]. However, their work is addressed toward employees of financial authorities not lawyers.

Despite the importance of questions analyzed by authors, the works mentioned above by A.P. Plieshkov and O.L. Aleksieiev are mainly dedicated to voluntary vehicle insurance, i.e. duly regis-

tered vehicles (including the ones with a trailer), motorcycles, snowmobiles (aerosani), scooters, micromobility, mopeds, sea craft (motor, rowing and sailing craft, except inflatable ones), cutters, motor and sailing yachts, and motor sailing yachts. However, these works do not study voluntary vehicle insurance separately.

In his latest work "Private vehicle insurance" O.L. Aleksieiev pays more attention and reviews Casco auto insurance. He discusses such issues as vehicle insurance system description, ways of concluding and renewal of an insurance agreement, insurance amount, and insurance payment. He singles out legal obligations of parties if an insured event occurs, handling of documents in order to pay insurance, definition of actual damage, estimation and payment of compensation, transfer of right of exoneration to Derzhstrakh (the author calls it the right of recourse). The appendices in the book include tables with cost evaluation of national and foreign manufacturers, extra charges and price cuts for a list of specified equipment [18].

As to the works of A.P. Plieshkov, who laid the foundation of compulsory vehicle insurance [19], he was interested in general vehicle insurance in the USSR and in peculiarities of insurance in foreign countries along with the research of public liability insurance. Moreover, one of the first studies dedicated to issues of vehicle insurance belongs to A.P. Plieshkov [20, 21, 22]. The author studies conditions for state voluntary insurance of vehicles that belong to citizens with the right of ownership, handling of documents, benefits provided to policy

holders, preparation procedures for acts to determine the damage and the amount of compensation if a car is destroyed, damaged or stolen and all allowed violations that can be made by a policy holder while using a vehicle.

More and more insurance issues are solved now. A.G. Bykov and D.I. Polovinchyk dedicated their work to the basics of vehicle law study, and first of all, studied legal organization for driving a vehicle and motor service legal regulation [23].

We can state that V.K. Raikher and V.I. Serebrov'skyi were the most distinguished scholars who studied insurance during that time. They made a weighty contribution into the research of insurance, especially into property insurance and vehicle insurance. Works by K.A. Grave, L.A. Lunts [16] and M.Ya. Shyminova [26, 27] also mean a lot in the field of insurance law, though their works were published much later. Many researchers continue to use works by these authors, as they facilitate an in-depth study of legislative materials and a wide-range of issues of the Soviet and foreign law of insurance.

However, all the works mentioned above that deal more or less with vehicle insurance were written in the Soviet period. Nowadays they present only the academic interest to understand the historical stages of formation and development of Casco auto insurance in our country.

In the light of the above, we can state that Casco auto insurance in our country has been used for a couple of decades. It means it has both its own history and traditions that are specific to Soviet insurance period when it was formed



and developed within those social, economic and legal conditions of the USSR and the modern tendency of development conditioned by Ukrainian integration into the world community.

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