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# ENFORCEMENT OF INSURANCE CLAIMS IN NIGERIA: A CASE STUDY OF THE CORVETTE STINGRAY AND THE JEEP CHEROKEE CAR CRASH AT EKO ATLANTIC, VICTORIA ISLAND LAGOS

## WHAT DOES INSURANCE ENTAIL IN NIGERIA?

An insurance policy is a legal contract between a policyholder and an insurance company, whereby the insurer agrees to provide financial compensation or protection against specified future losses and risks faced by the policyholder. The primary objective of insurance is to indemnify policyholders by restoring them to the financial position they were in before the loss occurred. Before an individual can take out an insurance policy, they must have an insurable interest. Insurable interest has been defined by the Black's Law Dictionary<sup>1</sup> as "a legal interest in another person's life or health or in the protection of property from injury, loss, destruction, or pecuniary damage."

In Nigeria, insurance is governed by the Insurance Act, 2003<sup>2</sup> and regulated by the National Insurance Commission (NAICOM), except for the NDIC which is statutorily established as the insurer of deposits in the custody of financial institutions in Nigeria.

## WHAT ARE THE INSURABLE RISKS

1. Property damage
2. Health risks and expenses arising from injury, illness or disability
3. Risks associated with injuries or damages to third parties, including general liability, product liability, professional liability)
4. Automobile risks
5. Risks associated with the death of an individual
6. Business interruption
7. Travel risks
8. Cyber risks

<sup>1</sup> 8<sup>th</sup> Edition [2004]

<sup>2</sup> CAP 4, LFN 1990

## **WHAT QUALIFIES A POLICYHOLDER FOR INDEMNITY:**

1. There must be an insurable interest<sup>3</sup>
2. There must have been a payment of insurance premium<sup>4</sup>
3. A damage or loss must have occurred, and it must be a loss or damage that has been covered by the insurance policy<sup>5</sup>.
4. The policyholder must report the loss or damage within the timeframe specified in the insurance policy<sup>6</sup>.
5. The policyholder must comply with all the terms and conditions outlined in the insurance policy<sup>7</sup>
6. the policyholder must provide evidence or proof of such loss or damage
7. the policyholder must have taken reasonable steps to prevent such loss or damage

## **WHAT ARE THE LIMITATIONS TO THE INDEMNITY OF A POLICYHOLDER?**

1. Underinsurance and any other form of misrepresentation
2. Insurance policy exclusions<sup>8</sup>
3. Failure to pay insurance premium<sup>9</sup>

Common exclusions may include:

- (i) Deliberate damage or fraudulent practice
- (ii) Wear and tear or maintenance-related issues
- (iii) Acts of God or natural disasters

## **HOW INDEMNITIES ARE TO BE PAID**

Depending on the terms of the contractual agreement between the policyholder and the insurance company, indemnity may be paid in the form of cash, by way of repairs or by replacement.

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<sup>3</sup> Insurable interest is defined as the assured's pecuniary interest in the subject matter of the insurance- Law Union and Rock Ins. v. Omuoha (1998) 6 NWLR (Pt. 555) 576. See also Jumbo United Co. Ltd. v. Leadway Ass. Co. Ltd. (2016) 15 NWLR (Pt. 1536) 439

<sup>4</sup> Section 50 of the Insurance Act, 2003

<sup>5</sup> For instance, in Jumbo United Co. Ltd. v. Leadway Ass. Co. Ltd. (2016) 15 NWLR (Pt. 1536) 458, Para A, the court held that a marine insurance contract must be covered by a policy and if not so covered or embodied, it is not admissible in evidence.

<sup>6</sup>For instance, in Leadway Ass. Co. Ltd. v. Zeco (Nig.) Ltd. (2004) 11 NWLR (Pt. 884), the insurance contract stated that a claim should be made within 21 days after the occurrence of a loss or damage. An oral report was held to be valid since it was made within the prescribed 21 days.

<sup>7</sup> ibid

<sup>8</sup> Jumbo United Co. Ltd. v. Leadway Ass. Co. Ltd. (2016) 15 NWLR (Pt. 1536) 458, Para A

<sup>9</sup> Section 50 of the Insurance Act, 2003



## **WHETHER AN INSURANCE CLAIM CAN BE BROUGHT WHERE THERE IS A CASE OF CONTRIBUTORY NEGLIGENCE:**

Contributory Negligence occurs when the plaintiff fails to take reasonable precautions for their own safety or to protect the property insured under the policy. Contributory negligence can prevent or reduce a plaintiff's compensation if their actions contributed to the accident. Insurance companies which are often the Defendants usually raise this as a defence, as compensation is adjusted based on the plaintiff's degree of fault or the percentage of their contributory negligence.

## **THE ALLEGED CIRCUMSTANCES BEHIND THE CORVETTE STINGRAY AND CHEROKEE JEEP CRASH AT VICTORIA ISLAND<sup>10</sup>?**

On Saturday, 14<sup>th</sup> of September 2024, a 2022 model of Corvette Stingray and a 2015 Cherokee Jeep were involved in a high-velocity driving competition (car racing) when a Dodge Challenger unexpectedly entered the roadway. This sudden entry (despite alleged signals by the Corvette to the driver of the Dodge Challenger) obstructed the Corvette's path, preventing it from continuing in its lane and resulting in a collision between the vehicles, which ultimately led to a multi-car accident. There were fortunately no fatalities, but the driver sustained some injuries and is now allegedly facing a staggering debt exposure of over N400million (Four Hundred Million Naira). The accident not only destroyed the Corvette and the Jeep but also caused significant property damage.

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<sup>10</sup> AutoJosh 'Nigerian Asks For Financial Help After Crashing Rented Chevrolet Corvette During Drag Race', <<https://autojosh.com/nigerian-asks-for-financial-help-after-crashing-rented-chevrolet-corvette-during-drag-race/>>

## **IF THESE EVENTS OCCURRED AS PRESENTED IN THE MEDIA, WHO WOULD BE HELD LIABLE IN THIS CASE?**

Section 68(1) of the Insurance Act and Section 3(1) of the Motor Vehicles (Third Party Insurance) Act provide that “no person shall use or cause or permit any other person to use a motor vehicle on a road unless a liability which he may thereby incur in respect of damage to the property of third parties is insured with an insurer registered under the Act.

These sections require every vehicle owner in Nigeria to obtain a third-party insurance policy to cover damages that may be caused to others. Consequently, the owners of the Corvette Stingray and Cherokee Jeep are presumed to likely secure such insurance cover as required by law.

In the scenario under review<sup>11</sup>, the damage was allegedly inflicted by a YouTube Influencer named “Trammania,” who rented the car and negligently drove it by engaging in a car racing. In analysing this scenario, the car owner will likely be absorbed from liability if:

- a. With respect to the damage caused to the Dodge car belonging to a bystander, there is a third-party motor insurance policy cover.
- b. With respect to damage caused to the Corvette Stingray, there is a comprehensive insurance cover.

Notably, the insurance company might refuse to indemnify the vehicle owner or policyholders under the following conditions:

- a. There has been default in the payment of Premium<sup>12</sup>
- b. There was suppression of material fact such as non-disclosure of the purpose which the vehicle would be used for, such as car racing. This is on the basis that a risk prone adventure would attract higher premium under a policy cover.
- c. The Corvette Stingray was used for a purpose other than for that which it was registered upon taking up the insurance cover.
- d. There was negligence or contributory negligence on the part of the policy holder probably because the accident occurred in an area not designated for car racing and that the driver over spade.
- e. The car was driven by an unqualified driver.

## **THE TYPICAL INSURANCE COVERAGES FOR VEHICLES IN NIGERIA**

1. Third-party car insurance: this type of insurance covers any losses or injuries sustained by third parties in an accident occasioned by the policyholder. In Nigeria, it is a legal

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<sup>11</sup> Gistreel ‘Man crashes N400M sports car in illegal drag race, begs for funds, <  
<https://www.gistreel.com/man-crashes-n400m-sports-car-in-illegal-drag-race-begs-for-funds/> >

<sup>12</sup> Section 50 of the Insurance Act, 2003

requirement for all vehicle owners<sup>13</sup>. However, this insurance does not extend coverage to damages sustained by the policyholder's own vehicle.

2. Comprehensive car insurance: this type of insurance provides coverage for damages incurred by both the third parties and the policyholder's vehicle, in the event of the risk insured against. Additionally, this coverage extends to protection against risks such as theft, fire, natural disasters and other hazards.

## **THE OPTIONS AVAILABLE TO THE VEHICLE DRIVERS IN THE INSTANT SCENARIO?**

1. Prove that they were not negligent- In **N.B.C. Plc. v. Borgundu**<sup>14</sup>, Negligence is defined as the omission to do something which a reasonable man would do or the doing of something which a reasonable man would not do. The burden of proof falls upon the plaintiff alleging it. The policy holders can succeed if they can demonstrate by compelling evidence that the drivers were not negligent during the course of the accident. They could assert that they reasonably acted under sudden and unexpected situation- the drivers could present evidence to demonstrate that the circumstances were beyond their control, and they acted appropriately given the situation.
2. Invoke the defence of comparative negligence- the drivers could invoke this defence where applicable. Comparative Negligence implies that liability is distributed between the plaintiff and the defendant based on their respective degrees of fault. This means that both parties' actions are evaluated, and compensation is adjusted according to the percentage of responsibility each bear for the incident.
3. The drivers could agree to pay the claimed amount (allegedly N400 Million) to settle the claims and cover the cost of repairing damaged vehicles or procuring a new one for the owner.

Notably, the drivers will not be able to make an insurance claim to the insurance company because there is no privity of contract between the insurance company and the drivers. It is only the insurer that has the privity and locus standi to maintain an action under the insurance policy if any exists.

*Please note that the foregoing is not in any way intended as a legal advice. Please contact the underlisted if you require any legal advice.*

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<sup>13</sup> Section 68 of Insurance Act, 2003

<sup>14</sup> (1999) 2 NWLR (Pt. 591) 408