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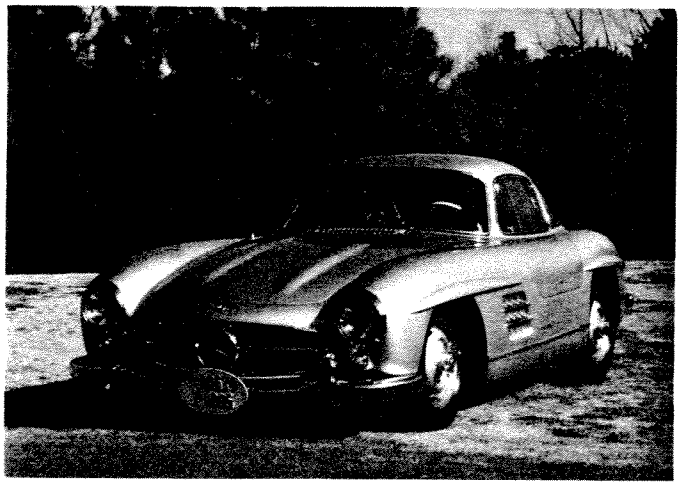
Insuring That You Are Covered



"NOT COVERED"

Most everyone who owns or works with collector cars knows that it is a good idea to protect their investment by obtaining insurance against damage or loss. But it is important to know exactly what your policy does and does not cover. While in general a court will interpret ambiguous policy language in favor of the insured, some courts have ruled that, in the circumstances before them, a particular vintage vehicle was *not* covered.

Was There A Contract?

The first question is whether a contract for insurance was entered into at all. This was the issue in *Scott* v. *Dickson Insurance Agency*, decided by the Tennessee Court of Appeals in Nashville on August 10, 1990.

Archie Scott owned a "classic" 1956 Chevrolet which he had purchased in poor condition and had spent several months repairing. The vehicle was subsequently involved in an accident.

Scott, who prior to the accident had brought the vehicle to the agency and discussed it with some of their employees, sued the agency and won. Reversing the decision at trial, the Court of Appeals ruled in the agency's favor. The court found that the agency had never agreed to insure the vehicle, was not negligent, and was not barred from denying coverage. The court ruled that prior informal and oral business dealings between the parties involving coverage of other vehicles, and vague and preliminary oral discussions involving the Chevrolet, did not create a contract of insurance or a "duty" with regard to that car which the agency could have breached.

Did The Contract Cover The Vehicle?

Assuming that there *is* an insurance policy in effect, the second question is whether it covered the vehicle in question.

This was the issue in *Robertson* v. *Nationwide Mutual Insurance Company*, decided by the Appellate Court of Connecticut on February 6, 1990.

Ernest Robertson owned a 1957 Mercedes Gullwing. He and others had formed an antique car restoration business, intending to restore the vehicle and exhibit it for promotional purposes. The car was kept, disassembled, in Robertson's garage. When the business failed, one of his associates allegedly took the car to California.

Robertson claimed the vehicle as a loss under his homeowner's insurance policy. The policy, while covering personal property, specifically excluded motor vehicles, except those in "dead storage." It limited losses of business property to $500. Robertson claimed that the vehicle was personal property or, in the alternative, a vehicle in dead storage. The insurer disclaimed all liability.

Robertson brought a lawsuit to enforce the policy. A state trial referee ruled that, while the car was a motor vehicle and excluded from coverage as personal property, it qualified as business property used in a business. The referee thus awarded Robertson the $500 maximum under the policy. Robertson appealed the decision to the Appellate Court, which upheld the decision.

As noted by the higher court, the referee had found that the terms of the policy were not vague or ambiguous. The referee had decided that the car, even disassembled, met the definition of an excluded "motor vehicle" set forth in the policy, as it was designed for highway travel and would have been subject to registration for such use. (Robertson apparently did not expressly appeal and the decision did not discuss the applicability of the "dead storage" exception.) The referee had further observed that Robertson had failed to notify the insurer that he was holding a particular item of personal property of considerable value, as he was obligated to do under the policy.

Conclusion

While courts in other jurisdictions might come to different conclusions than the rulings discussed here, the message of these cases is a valuable one. If you want to rest assured that your valuable collector car is properly insured, make sure that your policy clearly and specifically provides the protection you desire.

Lawrence Savell is a graduate of Cornell University and the University of Michigan Law School and practices with Chadbourne & Parke in New York City. This column provides general information and is not intended as a substitute for consulting an attorney.