

## A Policy Decision

### How Much Are You Covered?

by Lawrence Savell

As we have discussed in prior columns, insurance companies have recognized the particular needs of collector car owners by creating specialized collector car policies. While these policies reflect such considerations as the often-more-limited usage of such vehicles, questions may remain as to the breadth of the coverage these policies provide.

Such questions were raised in *Turner vs. St. Paul Property & Liability Insurance Company*, decided on May 16, 1996 by the Supreme Court of New Hampshire.

Carl E. Jensen owned an antique automobile insurance policy which St. Paul had issued on Jensen's 1931 Ford Model A roadster. On May 14, 1993, Jensen was riding not in his Model A but on a lawn mower. He was tragically struck and killed by a motorcycle driven by Ralph Lingard.

Rose-Anna Turner, the executrix of Jensen's estate, recovered the liability limits of \$25,000 under Lingard's policy. She then brought a declaratory judgment action against St. Paul, seeking a ruling from the court that the estate was entitled to underinsured motorist benefits under Jensen's St. Paul policy. St. Paul made a motion for summary judgment, asking the court to dismiss the case. The trial court granted St. Paul's motion, ruling that the St. Paul policy did not provide underinsured motorist coverage under these circumstances. Turner appealed.

The Supreme Court of New Hampshire affirmed the ruling for St. Paul.

The court concluded that the uninsured motorist coverage of the policy required Jensen to have been occupying the Model A at the time of his accident in order to recover benefits. (The liabil-

ity section of the policy similarly tied coverage to the Model A; under the definition of "insured," coverage was provided "for the ownership, maintenance or use of 'your covered auto.'")

Next, the court turned to—and rejected—Turner's argument that the New Hampshire uninsured motorist statute required coverage beyond what was described in the St. Paul policy. The court noted that the statute "requires that uninsured motorist coverage be provided with the same monetary limits as are provided under a policy for general liability coverage. It is intended to allow policy holders to protect themselves against injury from an uninsured motorist to the extent they protect themselves against liability." The court further noted that the statute is silent as to who must be provided uninsured motorist coverage other than "persons insured"; it observed that "'persons insured' refers to persons specified in the insurance policy."

The court explained: "The plaintiff essentially asks us to find that the statute mandates coverage for the named insured whenever and however he is injured by an uninsured motorist. No evidence exists that the legislature intended the statute to sweep so broadly. Nothing in the statute requires uninsured motorist coverage for persons not occupying the vehicle described in the policy when injured. Where the legislature has desired to require coverage for specific classes of individuals, it has done so explicitly; it has not seen fit to require that uninsured motorist coverage run to the person insured in any and all circumstances. Rather, the requirement that all automobile liability policies include

uninsured motorist coverage assures that such coverage runs at a minimum to the vehicle insured. . . We are unable to discern a legislative purpose to require more."

It concluded that "the insurance company remains free to limit its liability through clear and unambiguous policy language." That is precisely what St. Paul did in the antique auto policy it issued to the decedent: it plainly limited uninsured motorist protection to persons occupying vehicle. And such a limitation comports with the reasonable expectations of the policyholder. The St. Paul policy was simply not intended by either party to insure the decedent's regular mode of transportation. We uphold the trial court's ruling denying coverage."

Although other courts in other jurisdictions interpreting other collector car policies under other state laws might come to different conclusions, this case illustrates an important point. You should make sure you fully understand the terms and coverage of any insurance policy you consider—as well as any other legal agreement into which you enter. The potential savings of a policy narrowly tailored to your particular vehicle should be considered in light of any potential narrowing of the scope of protection it may provide.



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