

# Insurer must pay \$10k after losing \$5k battle

## Kenso Leasing proves it was unaware a policy was taken out under its name

BY CHRISTOPHER TAN  
SENIOR CORRESPONDENT

A MOTOR insurer has been ordered to pay \$10,000 in legal costs after it took a "customer" to court over a \$5,000 dispute and lost.

This is because Kenso Leasing, which India International Insurance (III) sued, proved it was not aware that an insurance policy for a truck was taken out under its name.

The Nissan Cabstar was among 60 vehicles acquired by used car dealer and rental company Auto & Carriage. They were financed by Kenso Leasing. Auto & Carriage bought coverage for the truck through insurance brokers Conrad & Sons, but Kenso was listed as the insured.

However, Kenso - which has legal rights over the vehicle as collateral for the loan - was never made aware of this.

Problems arose in December 2006, when the truck, which Auto & Carriage rented out, was involved in an accident with two other vehicles.

Third-party claims were filed with III, which paid up. The insurer then claimed the excess - a contractual amount that an insured must pay in a claim - from Kenso, amounting to \$5,000.

Kenso Leasing director Anthony Lim said: "I told them I had no case to answer and that they're going after the wrong guy. Because these policies were bought behind my back."

The court concurred. In a judgment delivered on Aug 31, District Judge Loo Ngan Chor said "there was no evidence that the defendant even knew what the (insurance) brokers had set about doing".

The judge also noted that III had not called the brokers to give evidence. But even if they had been called, it "would have made no difference to my finding" that III "had failed to prove" that it transacted with the brokers, or that it acted on the instructions of the brokers.

Explaining why it went after Kenso, III manager P. K. Modi told The Straits Times that "as far as Land Transport Authority

records are concerned, ownership of the vehicle is with Kenso Leasing and the name of insurer is India International Insurance".

As to why III did not call the insurance brokers to give evidence, Mr Modi said that Conrad & Sons had merged with AON and the people involved in the case had left the company. He revealed that there are other claims pending that involve other vehicles in the fleet of 60 held by Auto & Carriage.

Judge Loo said he found III's evidence "so unsatisfactory and unreliable that they have not discharged their burden of proof". He ruled in favour of Kenso, which was represented by Parwani & Co, and ordered the insurer last Tuesday to pay the company \$10,000 in legal costs.

III said it has not got the bill from its own lawyers, Khattar Wong. Mr Modi added that it was awaiting legal advice before deciding what step to take next.

Industry players said such insurance mix-ups do happen but are rare. They can arise when a used car dealer is stuck with vehicles it cannot sell, and decides to rent them out instead.

Used vehicle traders have been renting out their unsold stock since 2006, when the Land Transport Authority lifted a three-decade ban on such a practice.

christian@sph.com.sg