Case law news in Latvia: the Senate adopts a judgement in a case on the amount of compensation for damages caused by a road traffic accident

In its judgment of 15 March 2023 in case No. SKC-11/2023, the Senate of the Supreme Court has ruled on the determination of the amount of compensation for damages caused in a road traffic accident.

The Regional Court's judgment in the case upheld the company's claim against its employee for damages for the value of the automobile and semi-trailer, as well as evacuation and other costs incurred in the aftermath of the accident. The insurance claim was refused on the ground of material breach of the terms of the insurance contract.

The claimant in the case stated that it had paid both the purchase price and the value added tax on the purchase of the automobile, and that the defendant should therefore be reimbursed not only for the value of the automobile itself, but also for the value added tax, and that the defendant had not provided evidence that the value added tax paid by the claimant had been reimbursed by the State. The semi-trailer was disposed of by the applicant in return for payment for its residual value, but it was submitted in the application that the question of the value of the scrap automobile and whether it was technically and economically more advantageous to rebuild the semi-trailer was irrelevant to the present proceedings, since its disposal to the defendant could be dealt with after the damages awarded in the judgment had been paid. The Regional Court also shared that view.

The defendant, pointing to substantial breaches of procedural law and incorrect application of substantive rules of law, lodged a cassation appeal against the judgment of the Court of Appeal, inter alia, arguing that the Regional Court had wrongly imposed on the defendant the burden of proving the reimbursement of value added tax to the claimant in relation to the determination of the amount of damages recoverable, since such evidence could be in the possession of the claimant alone. In addition, the defendant submits that, in ordering the defendant to pay the full value of the case, the Court of Appeal failed to take into account the residual value of the car and the possibility of restoring the vehicle, thus only recovering the repair costs from the defendant.

The Senate of the Supreme Court, when considering the case in the cassation appeal, stated that the tax paid on goods purchased and used in the performance of economic activity is included as input tax in the tax return to be submitted by the company, deducted from the amount of tax payable to the budget. The applicant itself is in a position to take the steps reasonably expected of any trader in order to recover the tax paid to the State. Therefore, according to the Court of First Instance, the Court of Appeal was wrong to conclude that the defendant had failed to prove that the input tax paid by the applicant for the purchase of the automobile unit had been recovered from the State, since the defendant was not obliged to reimburse the value added tax paid by the applicant for the vehicles involved in the accident as damages to the applicant.

The Senate emphasises that if the property has been completely destroyed in the accident or its restoration is not possible, the amount of the damage shall be determined according to the value of the object at the time of the damage, whereas if the damage does not reach that level and repairs are possible, the amount of the damage shall be the cost of the necessary repairs. In the light of the above, the judgment is set aside in part and the case is remitted for a retrial.

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