

IFIC FLARE



Spanish courts rule that motor insurer has to pay for property damage after a car, used 24 hours earlier, spontaneously combusts in the garage

In the case *Linea Directa v Segurcaixa* the EU Court of Justice found in favour of a property insurer following a fire which erupted 24 hours after the policy holder had driven his car into his garage and parked. The policyholder's property insurer pursued his motor insurer for recovery costs. The question that arises in these matters falls to the use of the vehicle at the time of the loss.

The facts suggest that the car had been in use, then driven into the property owner's garage where it remained stationary for more than 24 hours. The fire cause was later determined to have been electrical in nature.

In this case it appears that the courts have taken the view that because the vehicle had been used and driven into the garage, any possible fault that occurred was due to that use. This broad interpretation that the car was 'in use' resulted in the insurers, Linea Directa paying a 45,000 euro claim.

Like any fire investigation, the investigation of car fires is complex. Plastic used in the construction of a car will burn vigorously and produce copious amounts of smoke, temperatures in excess of 800°C can be reached. The damage in many cases can be total and if confined within an enclosure such as a garage or a car park there will be spread to the confining structure and adjacent vehicles.

For any fire to develop and continue to burn there must be a sufficiency of heat, fuel and oxygen. If these components are present the fire will continue to burn until all fuel is consumed; however the availability of oxygen is not uniform in a car fire. Whilst we may see flames at opening such as windows, the conditions within the vehicle compartments may differ with less oxygen, for example at the footwells and flaming combustion may be less severe or non-existent. The possibility of evidence being discovered in these areas remains and with careful examination can often be found.

Like any fire the resulting flame, heat and smoke will leave witness marks that can aid the determination of where the fire originated, this could be outside the vehicle, inside the engine compartment, the passenger space or the boot. A careful analysis of these spaces will often pay dividends and evidence may be found from which an origin and cause hypothesis can be developed.

In this case the fault appears to have been with an electrical system. Whilst this may be the case it is essential to establish if the owner has modified the vehicle and ascertain if these modifications were proximate to cause, thus establishing grounds upon which a claim may be defended.

The identification of 3rd party involvement or manufacturing defect may also be factors that can not only assist the insurer to defend the claim, but present prospects for a recovery action.

Whilst the implications of this judgement for UK courts remains to be seen, without a proper investigation these opportunities may be missed.

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