

Motor Insurance / Uninsured Claims Update:

Lewis v. Tindale, MIB and Secretary of State for Transport [2018] EWHC 2376 (OB)

1. This important decision confirms the extension of the liability of the MIB to meet uninsured motor accidents occurring on private land.
2. The background facts were that Mr Lewis suffered grievous injuries as a result of a motor collision whilst he was a pedestrian on private land. The driver of the vehicle (Mr Tindale) the MIB and Secretary of State were all named as Defendants.
3. Mr Tindale's full liability for the accident was not disputed, but the MIB maintained that it had no contingent liability to Mr Lewis pursuant to the Uninsured Driver's Agreement 1999, because the accident was not caused by or arising out of the use of a vehicle on a road or other public place (Section 145 of Part VI of the RTA 1988).
4. The decision firstly confirms that any judgment Mr Lewis may obtain against Mr Tindale is not a liability which is required to be insured under Part VI of the 1988 Act. This was not a surprising conclusion, given the wording of Section 145.
5. Thereafter, the Hon. Mr Justice Soole was required to determine two further issues namely:
 - i. Whether the MIB was otherwise obliged to satisfy any such judgment Mr Lewis may obtain, pursuant to the 2009 EU Motor Directive; and
 - ii. Whether the provisions of the relevant Directive have direct effect against the MIB.
6. The Hon. Mr Justice Soole answered both these questions in the affirmative.
7. By way of background, Article 3 of the 2009 Directive imposes an obligation on member states to take all appropriate measures to ensure the compulsory insurance "*in respect of the use of vehicles normally based in its territory*".

8. According to Hon. Mr Justice Soole, “*the CJEU has made it unequivocal that the obligation of compulsory insurance extends to the use of vehicles on private land. This is implicit in Vnuk and explicit in subsequent decisions*” (Paragraph 96).
9. The Hon. Mr Justice Soole next considered a number of recent decisions, and placed particular reliance upon the CJEU decision in Farrell v Whitty [2017] EUECJ C-413/15 (Farrell 2).
10. Importantly, he next goes on to confirm:
 - “*the MIB is an emanation of the state for the full measure of the Article 3 obligation*” (paragraph 101), and
 - That both in the current case, and in Farrell, “*... there has been an incomplete implementation of the obligation placed on member states by Article 3. In my judgement in each case the effect of European law is to treat the designated compensation body as if the obligation imposed on the state had been delegated to it in full*” (paragraph 131).

Summary

11. So in summary, the provisions of the relevant Directives do have direct effect against the MIB, and the MIB are obliged to satisfy judgments pursuant to the 2009 Directive, despite the liability not requiring insurance pursuant to Part VI of the RTA 1988.
12. However, Mr Justice Soole points out in the final paragraph of his judgment that the “*minimum requisite cover*” is EUR 1M per victim (see paragraph 134).
13. Clearly this is an important decision, which significantly extends the liability of the MIB.

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