

Czech Republic

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Facts of the Case

- The insurer paid, based on vehicle liability insurance for damage, only the insurance premium in the amount of the cost of the repair and the cost of the substitute vehicle.
- The claimant sought compensation for damage resulting from the reduction in the value of his vehicle, since even after the repair was carried out, the value of the vehicle did not reach the original market price.

Decision of the lower courts

- Both courts of lower instance rejected the claim
- The claimant shall be entitled to compensation for damage corresponding to the difference between the normal (market) price of the vehicle and the price of the damaged vehicle. However, upon receiving the costs of repair, the injured party consumes his claim and shall not be entitled to any further compensation.

Decision of the lower courts

- General approach:
 - Combining both approaches of compensation, ie by awarding the difference between the original value of the item and its value after the repair, would take into account facts unrelated to the damage event.
 - Opinion based on Supreme Court's case law (25 Cdo 3118/2012)

Decision of the Supreme Court

- Usual price within the meaning of Sec 2969 (1) of the Civil Code represents the price at which a substitute item of the same quality can be obtained in a given place and time and under normal business conditions.
- It also takes into account the "merchantability" of the item.

Decision of the Supreme Court

- It is not sufficient simply to restore the functional or technical value of the thing. This would restrict the ability of the owner to deal with the thing in a lawfully protected and economically rational manner (eg to sell it) to the same extent and under the same conditions as the damage to the thing.

Comments

- The present case is a result of a long-term discussion between the Supreme Court and the Constitutional Court
- The Constitutional Court: compensation must be provided in the broadest sense, taking into account any types of aggravation of the position of the injured party.

Comments

- Constitutional Court (II US 795/16):
 - If the injured party behaves in an economically rational and proportionate manner, eg in the present case by having the vehicle repaired in an authorized service centre (to restore its functional value) and by seeking compensation for the difference between market values (to restore the market value), it cannot be perceived as unfair if he claims damages in full.

Comments

- The Supreme Court accepted for the first time the opinion of the Constitutional Court and changed its previous case law so that the case law of the Supreme Court and the Constitutional Court are consistent.
- The end of discussion? No ...