SPC Guiding Case No. 19: Zhao Chunming et al. v. Yantai Fushan District Automobile Transport Company and Wei Deping et al. (Motor Vehicle Traffic Accident Liability Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Civil / motor vehicle traffic accident / liability / duplicate license plate / joint and several liability

Holding

Where the owner or manager of a motor vehicle lends the vehicle's license plate to another person for use on a duplicate-plated vehicle, or knows that another person is using its motor vehicle license plate on a duplicate-plated vehicle and fails to stop it, and a traffic accident caused by the duplicate-plated motor vehicle causes damage to others, the owner or manager of the motor vehicle shall bear joint and several liability with the owner or manager of the duplicate-plated motor vehicle.

Basic Facts

At about 05:30 on November 25, 2008, the defendant Lin Zedong, driving a duplicate-plated truck with license plate number Lu F41703, collided with a passenger bus traveling in the same direction driven by the defendant Zhou Yaping on a section of the Tongsan Expressway; the two vehicles plunged down the roadbed, and the bus rolled over, causing the passenger Feng Yongju inside to die on the spot. The traffic police department determined that the truck driver Lin Zedong bore primary responsibility, the bus driver Zhou Yaping bore secondary responsibility, and Feng Yongju bore no responsibility for the accident. The plaintiffs Zhao Chunming, Zhao, Feng, and Hou were respectively the husband, son, father, and mother of the deceased Feng Yongju.

The truck registered under license plate number Lu F41703 with the vehicle administration department was not the truck involved in the accident; the owner of the truck registered under that plate was the defendant Yantai Fushan District Automobile Transport Company ("Fushan Company"), the actual owner was the defendant Wei Deping, and the truck was covered by motor vehicle third-party liability compulsory insurance with the defendant Yong'an Property Insurance Co., Ltd. Yantai Central Sub-branch ("Yong'an Insurance").

The actual owner of the duplicate-plated truck using license plate number Lu F41703 (the truck involved in the accident) was the defendant Wei Guanghui, and Lin Zedong was a driver hired by Wei Guanghui. According to the registration information of the vehicle administration department, the truck registered under license plate number Lu F41703 had, from April 26, 2004 to July 2, 2008, been applied for reissuance of the license plate and vehicle license a total of 15 times on the grounds of damage or loss. On the application form dated August 23, 2007 for Wei Guanghui's application for reissuance of the vehicle license, there was the seal of Fushan Company. After the accident, Fushan Company sent personnel to the traffic police department to handle related matters. During the trial, Wei Guanghui stated that Wei Deping was aware of the duplicate-plating and collected a duplicate-plating fee, and that after the accident Wei Guanghui also borrowed from Wei Deping the insurance policy of the truck registered under license plate number Lu F41703 to handle the accident, and the policy was still in Wei Guanghui's possession.

The registered owner of the passenger bus involved in the accident was the defendant Zhu Rongming, but the vehicle had changed hands several times and the actual owner was now Zhou Yaping; Zhu Rongming

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neither controlled the bus nor benefited from its operation. The defendant Shanghai Tengfei Construction Engineering Co., Ltd. ("Tengfei Company") was Zhou Yaping's employer, but at the time of the accident Zhou Yaping was not performing his duties. The bus was covered by motor vehicle third-party liability compulsory insurance with the Shanghai Branch of the People's Insurance Company of China ("PICC Company").

Judgment

On May 18, 2010, the Baoshan District People's Court of Shanghai rendered Civil Judgment (2009) Bao Min Yi (Min) Chu Zi No. 1128: (1) the defendants Wei Guanghui and Lin Zedong shall compensate the four plaintiffs a total of RMB 396,863 for funeral expenses, emotional distress damages, death compensation, transportation expenses, lost work expenses, accommodation expenses, dependent living expenses, and attorney fees; (2) the defendant Zhou Yaping shall compensate the four plaintiffs a total of RMB 170,084 for funeral expenses, emotional distress damages, death compensation, transportation expenses, lost work expenses, accommodation expenses, dependent living expenses, and attorney fees; (3) the defendants Fushan Company and Wei Deping shall bear joint and several liability for the compensation obligation in item (1) of the above judgment; the defendants Wei Guanghui, Lin Zedong, and Zhou Yaping shall bear joint and several liability for the compensation obligations in items (1) and (2) of the above judgment; and (4) dismissing the four plaintiffs' remaining claims. After the judgment was pronounced, Wei Deping appealed. On August 5, 2010, the Shanghai No. 2 Intermediate People's Court rendered Civil Judgment (2010) Hu Er Zhong Min Yi (Min) Zhong Zi No. 1353: dismissing the appeal and affirming the original judgment.

Reasoning

The effective judgment held: According to the liability determination of the traffic accident in this case, the truck driver Lin Zedong involved in the accident bore primary responsibility, while Wei Guanghui was the actual owner of the truck involved in the accident and also Lin Zedong's employer; therefore, Wei Guanghui and Lin Zedong should jointly and severally bear the primary liability for compensation for the accident losses. The truck Lu F41703 insured by Yong'an Insurance was not the actual truck involved in the accident, and Yong'an Insurance did not know that the license plate number Lu F41703 had been duplicated for use on the truck involved in the accident; therefore, Yong'an Insurance bore no liability for compensation in this case. According to the liability determination of the traffic accident, the bus driver Zhou Yaping in this case bore secondary responsibility for the accident, and Zhou Yaping was also the actual owner of the bus; therefore, Zhou Yaping should bear secondary liability for compensation for the accident losses. Although Zhu Rongming was the registered owner of the bus, the bus had changed hands several times, and Zhu Rongming neither controlled the vehicle nor benefited from its operation; therefore, he bore no liability for this case. Although Zhou Yaping was employed by Tengfei Company, Zhou Yaping was not performing duties for Tengfei Company at the time of the accident; therefore, Tengfei Company also bore no liability in this case. As for the PICC Company insuring the bus, since the deceased Feng Yongju was a person inside the vehicle, motor vehicle traffic accident liability compulsory insurance did not apply in accordance with law; therefore, PICC Company bore no liability in this case. In addition, although the liability proportions to be borne by Wei Guanghui and Lin Zedong on the one hand and Zhou Yaping on the other differed, the occurrence of the accident was caused by the joint tortious acts of both parties; therefore, Wei Guanghui and Lin Zedong should bear joint and several liability for Zhou Yaping's share of liability, and Zhou Yaping should bear joint and several liability for the share of liability of Wei Guanghui and Lin Zedong.

Fushan Company, the registered owner of the truck Lu F41703, and Wei Deping, the actual owner, knew that Wei Guanghui and others were duplicating their motor vehicle license plate yet did not stop it, and instead provided convenience and connived at the duplicate-plated truck driving on the road. The acts of Fushan Company and Wei Deping already amounted to lending the motor vehicle license plate to others for use, which violated the Road Traffic Safety Law of the People's Republic of China and other laws on motor vehicle administration. Lending a motor vehicle license plate to others for duplicate-plate use would connive

at motor vehicles that do not meet safety technical standards traveling on the road through duplicate plates, increasing the danger of road traffic and endangering public safety. Where a duplicate-plated motor vehicle causes a traffic accident and damage, the plate lender is likewise at fault, and for the liability for compensation to be borne by the duplicate-plated vehicle party involved in the accident, the plate lender shall bear joint and several liability. Therefore, Fushan Company and Wei Deping should bear joint and several liability for the share of liability for compensation of Wei Guanghui and Lin Zedong.

Relevant Legal Provisions

Article 8 of the Tort Liability Law of the People's Republic of China.

Article 16 of the Road Traffic Safety Law of the People's Republic of China.

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