

# Insurance firm told to pay up

## Appeals court rules in favour of widow who said husband's car was stolen

By NURBAITI HAMDAN  
nurbaiti@thestar.com.my

**PUTRAJAYA:** The Court of Appeal here has awarded RM85,000 to a woman who filed a claim against an insurance company over the loss of her late husband's car three years ago.

A three-judge panel unanimously ruled that the High Court had erred when it affirmed a Magistrate's Court's decision that rejected the claim by 38-year-old Loh Swee Liang, who filed the claim together with her father-in-law Tay Boon Hui, 75.

Justice Mohamad Zabidin Mohd Diah, who chaired the panel, said

that based on the circumstances of the case, it was established on the balance of probability that the car had been stolen and the respondent did not provide evidence to the contrary.

"Therefore, we find the policy is engaged and the respondent is liable to pay the agreed insured value.

"We allow the appeal and set aside the High Court order dated Feb 19 which affirmed the decision by the Magistrate's Court. We allow the appellants' claim as prayed for in the statement of claim," he said in an online proceeding here yesterday.

The court also awarded the appellants RM30,000 in costs.

Other judges on the panel were Justices S Nantha Balan and Darryl Goon Siew Chye.

Earlier, the court heard from Loh's lawyer James Ee that his client was not with her husband when he drove the car out on July 3, 2018.

"No way she would have known the whereabouts of the car. The grounds of this repudiation is unprecedented. If their (High Court and Magistrate's Court) decisions are not reversed, this sets a precedent in the insurance industry and nobody will be able to make this (theft) insurance claim," Ee said.

Meanwhile, lawyer Datuk SS Gill argued that the appellants had only pleaded that the car was missing

and not stolen.

Loh and Tay were appealing the lower courts' decisions that dismissed their claim against AmGeneral Insurance Bhd.

The legal action was initiated in October 2019 after Loh failed to get compensation from AmGeneral for the vehicle, which went missing around the time of her husband's death.

According to court documents, Loh's husband, Tay Guan Song, 37, drove the car to a condominium that was left vacant and passed away at the unit from coronary artery disease.

Loh only realised the car was missing after Guan Song's burial.

The court also heard that Loh's insurance claim on the missing vehicle was repudiated by AmGeneral on grounds that the loss of the vehicle did not fall within the ambit of theft.

In the repudiation letter, the insurance company said Loh had no knowledge of the vehicle's whereabouts and did not witness the loss as the vehicle appeared to be lost after the demise of the insured (Guan Song).

In its statement of defence, AmGeneral Insurance stated that Loh and Tay had failed to provide evidence that the theft of the vehicle was a risk or event covered under the policy.