2/21/01

SUPREME COURT OF LOUISIANA

NO. 00-C-1693

HERMAN WILLIAMS and EISIBE WILLIAMS

Versus

US AGENCIES CASUALTY INSURANCE COMPANY, INC. ET AL

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL SECOND CIRCUIT, PARISH OF CADDO

JOHNSON, Justice.[1]

We granted certiorari to resolve a conflict among our circuit courts as to whether LSA-R.S. 32:900 (L) permits a "named insured" to exclude himself from coverage by listing himself as an "excluded driver" under the automobile policy purchased by him to insure his automobile. Contrary to the 5th Circuit Court of Appeal's holding in *Smyre v. Progressive Security Insurance Company*, 726 So.2d 984 (La. App. 5 Cir. 1998), which held that public policy does not prohibit such an exclusion, the District Court and the 2nd Circuit Court of Appeal, in the instant case, held that such an exclusion was indeed against public policy. For the reasons stated herein, we affirm the lower courts' findings that La. R.S. 32:900(L) cannot be interpreted to allow the named insured to exclude himself as an insured operator under his automobile liability policy, as it is against public policy.

FACTS AND PROCEDURAL HISTORY

On April 12, 1997, plaintiffs, Herman L. Williams and Eisibe Williams, were injured in a "hit and run" automobile collision between their vehicle and a 1980 Oldsmobile owned and operated by defendant, William N. Beaudoin.[2] Plaintiffs

[1]James C. Gulotta, Justice *Pro Tempore*, sitting for Associate Justice Harry T. Lemmon.

[2]The record does not reveal how plaintiffs became aware of defendant's identity after the "hit and run" or how and when defendant was apprehended such that plaintiffs were able to proceed

filed suit against defendant, US Agencies Casualty Insurance Company, Inc. (US Agencies), alleging that it provided Beaudoin automobile liability insurance coverage at the time of the accident. Prior to trial, Beaudion stipulated that he was the owner and operator of the vehicle involved in the collision and that he was legally at fault. It was also stipulated that Beaudoin's vehicle was insured with US Agencies in a policy issued November 22, 1996. However, Beaudoin signed a "named driver" exclusion which purported to exclude Beaudoin from insurance coverage under his own policy. Relying on this exclusion, US Agencies denied liability for the damages sustained on the ground that Beaudoin was excluded as a driver under the insurance policy obtained by him. Plaintiffs also sued their UM insurer, Allstate, who denied coverage because plaintiffs had not proven the non-existence of the responsible party's primary coverage, a prerequisite for their UM coverage to be invoked.

The District Court found, as a matter of law, that the "named driver" exclusion, excluding Beaudoin from coverage, was invalid and contrary to public policy, and granted judgment in favor of plaintiffs and against US Agencies. The District Court reasoned that insurance companies cannot eliminate or modify the requirement that insurance policies provide coverage for the negligence of the named insured. US Agencies appealed this ruling and the resulting judgment granting damages to plaintiffs. The plaintiffs answered the appeal, claiming that the damages awarded were inadequate.

The court of appeal affirmed the ruling of the District Court, also finding that the "named driver" exclusion excluding the named insured, Beaudoin, was contrary to public policy. The court of appeal also affirmed the District Court's ruling as to

---

against his insurer.

the damages awarded to plaintiffs.[3] We granted certiorari to determine the correctness of the lower courts' decision.[4] *Williams v. US Agencies Casualty Insurance Co.*, 00-1693 (La. 9/29/00), 2000 WL 1472453.

DISCUSSION

Louisiana's compulsory insurance law, La. R.S. 32:861, requires that every motor vehicle registered in this state, with limited exception, be covered by either an automobile liability policy, a liability bond or a certificate of self- insurance. The purpose of this compulsory law is not to protect the vehicle owner or operator against liability, but to provide compensation for persons injured by the operation of insured vehicles. *Fields v. Western Preferred Cas. Co.*, 437 So.2d 344 (La. App. 2 Cir. 1983), *writ denied*, 440 So.2d 754 (La. 1983). Generally, insurance companies are free to limit coverage in any manner they so desire. However, an insurer is not at liberty to limit its liability and impose conditions upon its obligations that conflict with statutory law or public policy. *Block v. Reliance Ins. Co.*, 433 So.2d 1040 (La. 1983); *Oceanonics, Inc. v. Petroleum Distrib. Co.*, 292 So.2d 190 (La. 1974). Exclusionary provisions are to be strictly construed in favor of coverage. *Ledbetter v. Concord General Corp*., 95-0809 (La. 1/6/96), 665 So.2d 1166, *amended*, (La. 4/18/96), 671 So.2d 915.

LSA- R.S. 32:900B(2) requires that a policy of insurance issued to a named insured/owner provide liability insurance coverage to the owner of said vehicle covered under the policy. The statute reads, in pertinent part:

> B. Such owner's policy of liability insurance:
>
> * * *
>
> (2) **Shall insure the person named therein** and any other person, as insured, using any such vehicle or motor vehicles with the express or implied permission of such named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such motor vehicle or motor vehicles within the Unites States of America or the Dominion of Canada, subject to limits exclusive of interest and costs with respect to each such motor vehicle as follows:
> (Emphasis Added).

---

[3]The trial court awarded plaintiffs, Herman Williams and Eisebe Williams, damages totaling $5,502.72 and $6,187.19, respectively.

[4]The issue of damages was not argued to this Court, therefore, the only issue discussed in this Opinion is that of the "named driver" exclusion under LSA-R.S. 32:900(L).

La. R.S. 32:900B(2)

Louisiana courts have historically held that the exclusion of a named driver who was a member of the insured's household was considered unenforceable on public policy grounds. However, La. R.S. 32:900 was amended in 1992 by the addition of subsection L which provides:

> L. Notwithstanding the provisions of Paragraph B(2) of this Section, an insurer and an insured may by written agreement exclude from coverage any named person which is a resident of the same household as the named insured.

The 1992 amendment expressly overruled the jurisprudence and thereafter validated an agreement between the insurer and insured which excluded coverage of a particular named person who is a member of the insured's household. This court has stated that the purpose of this provision is to allow the named insured the option of paying a reduced premium in exchange for insurance that affords no coverage while a covered vehicle is operated by the excluded driver. *Joseph v. Dickerson*, 99-C-1046, 99-C-1188 (La. 1/19/00), 754 So.2d 912. Since the enactment of subsection L, this Court has upheld named driver exclusions which excluded members of the insured's household from coverage under the policy. See *Bellard v. Johnson*, 96-0909 (La. 1997), 694 So.2d 225 (in which the named insured excluded his spouse). See also *Green v. Bailey*, 29,759 (La. App. 2 Cir. 8/20/97), 698 So.2d 715 (in which the named insured excluded his son) and *Carter v. Patterson*, 96-0111(La. App. 4 Cir. 5/22/96), 675 So.2d 736 (in which the named insured excluded his daughter).

The issue before us today is whether the legislature intended that the 1992 amendment to La. R. S. 32:900 permit an insured to exclude from coverage, not only members of the insured's household, but also the owner of the policy and vehicle insured thereunder. US Agencies contends that this was indeed the

intention of the legislature. It argues that the use of the word "*any*" in subsection L is very consequential in that allowing an insured to exclude "any named" household member certainly permits the named insured to exclude himself from coverage. US Agencies argues that because Beaudoin was a member of his own household, he could validly be excluded as a covered person under the policy insuring his vehicle. Therefore, US Agencies argues that it is not responsible for the damages caused by the negligent operation of the vehicle by Beaudoin. We disagree.

A review of the legislative discussions and comments surrounding the enactment of the 1992 amendment to add subsection L, reveals that the purpose for the enactment was simply to make it clear that if someone was to be excluded in a household, it must be done by written agreement. We find nothing in the legislative comments or discussion which would lead to the conclusion that the legislature intended that the named insured on the policy may be listed as an excluded driver under that same policy.

In further support of its argument, US Agencies cites *Smyre v. Progressive Security Insurance Company*, 726 So.2d 984 (La. App. 5 Cir. 1998), in which the court, finding that the insurance statutes neither provide for or against such action, held that the named insured on a liability policy may exclude himself or herself from coverage. In *Smyre*, the court reasoned, "we can foresee many instances in which a person may need to purchase a vehicle for the use of others in his/her household, but cannot for some reason of health or law obtain a driver's license or otherwise operate the vehicle.... It is unfortunate that in this case the owner of the vehicle and named insured allegedly violated the law by driving without a license and without insurance covering him and then became involved in an accident." *Smyre*, 726 So.2d @ 986.

The holding in *Smyre* is in direct conflict with the Second Circuit Court of Appeal's decision in the case *sub judice*. We must now resolve this apparent conflict among our circuits as to whether the allowance of such an action is violative of Louisiana's public policy. We do not agree with the rationale in *Smyre* in holding that an insured may validly exclude himself from coverage under his own insurance policy. Regarding the general public policy of the state, this Court stated the following in *Marcus v. Hanover Ins. Co., Inc*., 98-2040 (La. 6/4/99) 740 So.2d 603:

> The Louisiana Motor Vehicle Safety Responsibility Law, found in La. R.S. 32:851-1043, provides a mandatory, comprehensive scheme designed to protect the public from damage caused by motor vehicles. *Simms v. Butler*, 97-0416 (La. 12/2/97), 702 So.2d 686; *Hearty v. Harris*, 574 So.2d 1234, 1237 (La. 1991). This statutory scheme is intended to attach financial protection to the vehicle rather than to the operator. *Hearty*, 574 So.2d 1237. Pursuant to La. R.S. 32:861 and 862, every owner of a motor vehicle registered in Louisiana is required to obtain proof of security prior to registration and/or the issuance of a driver's license. Louisiana R.S. 32:861(A)(1) allows an owner of a motor vehicle to comply with this requirement of obtaining an automobile liability policy that contains liability limits as defined by La. R.S. 32:900(B)(2).

Our interest in protecting the driving public far outweighs an insured's desire to exclude himself from coverage in order to avail himself of a lower premium. To allow an insured to exclude himself from coverage and drive as an uninsured motorist, runs afoul of the overall purpose and intent of Louisiana's compulsory insurance law. In the instant case, Beaudoin, as did the insured in *Smyre, supra*, purchased liability insurance coverage, purported to exclude himself as a driver of his own vehicle, and then caused an accident resulting in injury. This court will not uphold such actions at the expense of the injured person whom our statutory insurance law is designed to protect. Clearly, the legislature did not intend that citizens such as these plaintiffs would suffer injury, and a tortfeasor would escape

liability because he waived the mandatory liability coverage which is required by statute. We find that an automobile insurance policy may not exclude the named insured of a vehicle from coverage for the negligent operation of the insured vehicle.

We further disagree with US Agencies argument as a matter of statutory construction. The court of appeal below was correct in rejecting the overly broad construction of the term "any named person" in subsection L as suggested by US Agencies. "La. R.S. 32:900B(2) clearly requires, inter alia, that a policy provide coverage for 'the person named therein'- the named insured. Subsection L refers specifically to the exclusion of coverage 'for any named person' who is a 'resident of the same household as the named insured'- which clearly contemplates that the excluded person be distinct from the 'named insured' yet still a resident of his household, as distinguished from a permissive user who would be covered under La. R.S. 32:900B(2)." *Williams v. US Agencies Casualty Ins. Co., Inc.*, 33200 (La. App. 2 Cir. 5/15/00), 758 So.2d 1010. It is clear from a reading of La. R.S. 32:900 in its entirety, that a named insured, such as Beaudoin, is not considered within the same category as "any named person," to whom subsection L authorizes to be listed as an excluded driver under the policy.

For the reasons assigned, we find that the court of appeal was correct in holding that in amending La. R.S. 32:900 to add subsection L, the legislature did not intend that an insured may, by written agreement, exclude himself from liability coverage under his policy by listing himself as an "excluded driver." Because we find that Beaudoin's and US Agencies' purported contract to exclude Beaudoin from liability coverage is against public policy, the purported exclusion provision is invalid and cannot be upheld. Accordingly, we find that US Agencies is obligated to pay the damages awarded to the plaintiffs by virtue of the insurance policy it had in effect insuring Beaudoin and his vehicle at the time of the accident.

AFFIRMED