Sub: Motor Own Damage Claim Settlement Net of Salvage Loss Claims - Reg.

Of late, the above mentioned settlements are causing legal problems for the surveyors who have assessed the loss and recommended for net of salvage loss settlements.

The Salvage buyers / brokers who purchase the wreck with vehicle documents are at liberty to deal with the wreck as per their choice.

a). Some of them may repair and restore the vehicle.

b). Some of them would choose to scrap the vehicle after salvaging the undamaged parts and use the documents to pledge it for getting loan from private financiers.

c). Some of the buyers are acting as brokers and some of them are real purchasers who are not known to any one.

d). Some of them, after salvaging the undamaged parts, sell the vehicle documents to scrap dealers/others for good value whereupon the vehicle documents are used for illegal purposes.

Now a days, mostly the vehicle documents are misused by the second hand car dealers / brokers. They substitute the documents on the appropriate brand / model (either old or stolen) vehicles and emboss the engine no and Chassis number after erasing the existing embossed numbers.

Net of Salvage loss settlement with RC may appear advantageous to the Insurer by reducing liability, this method has proven to be notoriously dangerous and it is not a standard and accepted practice of claim settlement as per policy conditions. When the Net of Salvage loss settlement is considered, the Insurance Companies pass the responsibility to the Surveyor to find out the highest offer and fix the person who is willing to take over it and then get a consent letter from the Insured. These are all unwritten practices, without any sanctity but convenience, and against the laid down policy conditions and the MV Act 1989, Section 55. So far we had not realized the seriousness of the “Other side of misusing the vehicles documents’ and it’s culpability in Criminal activities. The law will not acquit even “the innocents” out of suspicion and legal consequences until proven not guilty.

The net of salvage loss settlement opens the gate to many illegal activities/ criminal activities. Unfortunately, Surveyors are taken to task under various sections of IPC due to no fault of theirs and
hence members are advised not to assess and recommend the Net of Salvage loss settlements. It is the duty of the surveyors to work in tandem based on the system of claim settlement as per the policy conditions (assessing liability under the contract of insurance and to comment on salvage and its disposal wherever necessary) by adhering the IRDA regulation on surveyor and loss assessors duties and responsibilities and in accordance with the law of the land.

This circular is issued in the interest of members

*salvage value without RC

(R.K.ELANGO)

PRESIDENT

Copy submitted to
1. IRDA Surveyors Department.
2. General Insurance Council
3. GIPSA
4. CMD / CEO of all Gen. Insurance Co.

} for favour of information.
Ref: IISLA / Tech / Motor/ 01

To
The Chief Executive Officer

Dt: 27.10.2011

Sir,

Sub: Motor Own Damage Claim Settlement - Net of Salvage Loss basis problems arising out of it - Reg.

Of late, the above mentioned settlements are causing legal problems for the surveyors who have assessed the loss and recommended for total loss and net of salvage loss settlements.

The Salvage buyers / brokers who purchase the wreck with vehicle documents are at liberty to deal with the wreck as per their choice.

a). Some of them may repair and refabris/hrestore the vehicle.

b). Some of them would choose to scrap the vehicle after salvaging the undamaged parts and use the documents to pledge it for getting loan from private financiers.

c). Some of the buyers are acting as brokers and selling it to some body who are not known to any one.

d). Some of them, after salvaging the undamaged parts, sell the vehicle documents to scrap dealers/others for good value whereupon the vehicle documents are used for illegal purposes.

Mostly the vehicle documents are misused by the salvage buyers/ brokers. They substitute the documents on the appropriate brand / model (either old or stolen) vehicles and emboss the engine no and Chassis number after erasing the existing embossed numbers.

As per the policy conditions, only TWO mode of settlements are prescribed; one is indemnity (repair basis) and the other is Constructive Total Loss- if the liability exceeds 75% of the IDV, the Insurer may consider it on CTL Settlement.
The question of considering total loss settlement arises when the reparability of the damaged vehicle is not feasible and economical. When CTL is considered, the wreck with vehicle documents become the property of the Insurance Companies. It is the duty of the Insurance companies to take possession of the wreck with vehicle documents from the Insured and then apply to the RTO for cancellation of RC. The wreck alone can be disposed of to anyone who gives the highest offer / bid.

Moreover, the Net of Salvage loss basis is not a standard and accepted practice of claim settlement as per policy conditions. When the Net of Salvage loss settlement is considered, the Insurance Companies pass the responsibility to the Surveyor to find out the highest offer and fix the person who is willing to take over it and then get a consent letter from the Insured. These are all unwritten practices, without any sanctity but convenience, and against the laid down procedure of claim settlement.

On settling the claim, the respective Insurer should request the respective RTO to cancel the RC and ensure that the cancellation is effected.

Motor Vehicles Act 1988, Section 55. Cancellation of Registration reads

1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward to the authority the certificate of registration of the vehicle.

2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration.

Once loss is settled on Total Loss basis and the RC is cancelled, the wreck becomes the property of the Insurers and they may dispose it at their will and pleasure. Upon disposal of the wreck the Surveyor, the insurer and Insured are relieved of their responsibility on that particular claim. Otherwise, in the eyes of Police and Law, surveyors are viewed as suspected criminals (on the basis of suspected NEXSUS between salvaged buyer and insurers)

Even though, Net of Salvage loss settlement with RC may appear advantageous to the Insurer by reducing liability, this method has proven to be notoriously dangerous and therefore should be discontinued with in accordance with MV Act 1989, Section 55. So far we had not realized the seriousness of the “Other side of misusing the vehicles documents’ and it’s culpability in Criminal activities.

Present days, the criminal activities are growing more and more, using old/stolen vehicles for Bomb and other explosions and the risk of settling claims without cancelling the vehicle documents will lead to very serious implications and consequences. The law will not acquit even “the innocents” out of Suspicion and legal consequences until proven not guilty. Hence, it is the duty of the surveyors and Insurers to work in tandem based on the system of claim settlement guide lines as per the policy conditions.

The practice of Net of Salvage loss settlement with vehicle documents are prone to be misused for illegal / criminal activities and causing unwanted legal issues and also against Policy conditions and MV
Thus, we request you sir, to stop this mode of settlement with immediate effect. Also in the cases of total loss claims, the claim can be settled after surrendering the RC to RTO for cancellation and proper record may please be maintained.

The net of salvage loss / total loss settlement without surrender of vehicle documents opens the gate to many illegal activities. Unfortunately, Surveyors are taken to task under various sections of IPC due to no fault of theirs. Hence, we request you sir, suitable circulars may please be issued to all your operating offices in this regard.

Thanking You,

Yours faithfully,

(R.K.ELANGO )
President

Cc:
The Chairman cum Managing Director
The IRDA