Ankenævnet *for* Forsikring

Den 1. juni 2022 blev i sag nr. 97287:

xxxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxx

mod

Tryg Forsikring A/S
Klausdalsbrovej 601
2750 Ballerup

afsagt

k e n d e l s e :

____

Forsikringstageren har bilforsikring. I klageskema af 12/9 2021 til nævnet har klageren bl.a. anført:

> "On June 8, 2021: I contacted my car insurance company, Tryg, to request that my insurance help me because [værksted 1] informed me by text that after nearly 5 months of having my vehicle, they had: 1.) Lost my car key, 2.) Still had not successfully completed the battery repair I'd paid for on January 30 2021 nor completed the additional repairs they said were necessary that I committed to paying for once the work was properly completed 3.) Had not repaired/replaced the damage battery cover that one of their employees, …, broke on January 30th.
>
> Via phone, [værksted 1] promised a Tryg specialist, [medarbejder 1], that [værksted 1] would finish the repairs, replace the damaged battery cover, and have their insurance company [selskab 2] inspect the vehicle to prove that [værksted 1] had not done any harm or foul play to my vehicle. After receiving the June 8th text & receiving this information from Tryg, I waited over a week for the repairs and inspection to be completed; yet, I was never contacted by [selskab 2] or [værksted 1] regarding my car, a completed inspection, finished repairs, or the recovery of the lost key/damaged items. Therefore, I decided to call [selskab 2] myself to ensure that the case and inspection process was underway. However, when I called [selskab 2], two [selskab 2] representatives confirmed that [værksted 1] is not one of their clients/customers and that no case or inspection regarding my car had been started. To confirm this information, please call [selskab 2] Liability Insurance Dept. at: …. Due to this information, I called Tryg again to address the issue of the lost key, the misinformation [værksted 1] provided to Tryg regarding [selskab 2]/an inspection, and also reported probable neglect to my vehicle, gross negligence due to the time that had passed for seemingly straight forward repairs (i.e. a battery & generator replacement), and probable foul play on the part of [værksted 1], which I expected Tryg to investigate and address as my insurer.

Hvad vil du konkret opnå hos selskabet?
1. I want to be financially compensated for the nearly 9 months I have been without a working vehicle, for the damage and losses caused to my vehicle and my life, and the stress and serious endangerment this situation has caused me. I am a [sygdom] patient and this has been particularly difficult and dangerous for me, especially at the height of the Covid-19 pandemic, because the car was purchased as a protective measure to help me social distance and remain safe. Providing alternative transportation, protective wear, and rerouting one's life due to a missing vehicle is costly in both time/value of life (particularly for [sygdom] patients) and financial currency; and I have had to search for and pay for unexpected alternatives for the past 9 months, which is not easy when you have a rare health condition. Despite Tryg knowing this information, and despite my repeated request for Tryg, my insurer, to help me, Tryg, chose to completely dismiss, disregard, overlook, misinterpret, and ignore my concerns, my requests, my pleas for help, and my questions.
2. I want Tryg to provide written/documented/Legally binding/signed confirmation of the location of my vehicle and key.
3. I want Tryg to provide written/documented/Legally binding/signed confirmation that my vehicle has been recovered and towed to a trusted, third party-garage that has no association with [værksted 1] and provide evidence that a thorough inspection of the vehicle is underway. I would like my insurer, Tryg, to pay for this.
4. I want Tryg to provide written/documented/Legally binding/signed confirmation that the vehicle is repaired and in good working condition/state (i.e. no damage/repairs needed). I expect my insurance to cover the cost of any repairs due to the circumstances.
5. I want Tryg to provide written/documented/Legally binding/signed confirmation that the entire vehicle is working properly.
6. I want Tryg to provide written/documented/Legally binding/signed confirmation that the vehicle is safe to drive.
7. I want Tryg to provide written/documented/Legally binding/signed confirmation that the vehicle has full road worthiness status.
8. I want Tryg to provide written/documented/Legally binding/signed confirmation that all items that were in the vehicle are still present and undamaged.
9. I want a replacement vehicle (paid for by Tryg) to be provided to drive until the above conditions are completed.
10. I want a replacement vehicle (paid for by Tryg) to drive indefinitely, should the vehicle be in a condition that is unsafe to drive or unable to be recovered."

Selskabet har i brev af 12/10 2021 til nævnet bl.a. redegjort for sagsforløbet og afgørelsen således:

"Tvisten vedrører vores afvisning af erstatningspligten i forbindelse med en mekanisk skade. Vi har forsøgt at hjælpe og vejlede klager, men da der ikke er tale om en dækningsberettiget skade, er det begrænset, hvad vi kan hjælpe med.

Klager har tegnet en kombineret ansvars- og kaskoforsikring med bl.a. tilvalgsdækningen 'Vejhjælp' under forsikringsbetingelser 1805 – **Bilag 1**.

Sagsfremstilling

Primo marts 2021 modtog vi orientering fra SOS International A/S om, at klager havde benyttet Tryg Vejhjælp d. 30. januar 2021, idet klagers bil ikke kunne starte.
…
Sagen blev behandlet og sluttet efter normal procedure.

Klager kontaktede os herefter telefonisk d. 4. juni 2021 og oplyste, at [værksted 1] (herefter værkstedet) havde skadet bilens generator i forbindelse med skift af batteriet og at de havde smidt nøglen væk. Vores skadebehandler havde svært ved at forklare klager, at der var tale om dels mekanisk skade og dels behandling/bearbejdning, som ikke var omfattet af forsikringen og vores medarbejder lovede at ringe til værkstedet, således at de vidste, at de skulle anmelde det til deres forhandler- og værkstedsforsikring. Værkstedet oplyste, at de ikke havde ødelagt generatoren og de havde nøglen – **Bilag 2**.

9. juni 2021 kontaktede klager os i forbindelse med, at vi havde forsøgt at ringe til hende. Vi forklarede, at værkstedet var kontaktet og at hun kunne afhente nøglen hos dem og at de i øvrigt ville anmelde til egen forsikring – **Bilag 3**.

Medio juni 2021 modtog vi diverse mails fra klager, hvor hun oplyste, at værkstedet havde smidt nøglen væk, at de ikke var forsikret i det oplyste forsikringsselskab – **Bilag 4**.

Vi ringede igen til værkstedet og de oplyste igen, at de havde både bil og nøgle og at klager kunne hente bilen. De bekræftede også, at de var forsikret i [selskab 2]. Dette blev meddelt klager d. 17. juni 2021 – **Bilag 5**.

Klager indbragte herefter sagen for Kvalitetsafdelingen – **Bilag 6**. Vi svarede på klagen samme dag – 28. juni 2021 – med en gentagelse af, hvad der tidligere var oplyst – **Bilag 7**.

Efterfølgende havde vi korrespondance med klager d. 5. juli og 17. august 2021 – **Bilag 8 og 9.**
…
Konklusion
I forbindelse med klagers indbringelse af sagen for Ankenævnet for Forsikring har vores overtaksator igen kontaktet værkstedet. Bilen og nøglen befinder sig stadig hos dem og klager kan blot afhente den. De oplyser i øvrigt, at klager ikke har kontaktet dem i den mellemliggende periode – altså heller ikke de gange, hvor vi har oplyst til hende, at vi har talt med værkstedet.

Værkstedsejeren oplyser omkring nøglen, at hans søn på et tidspunkt var i dialog med klager og at han ikke kendte til sagen. Det ændrer dog ikke på, at vi efterfølgende flere gange, har fået bekræftet at både bil og nøgle befandt sig på værkstedet.

Vores overtaksator oplyser endvidere, at det er et kendt problem ved denne model, at batteriet kan forårsage skade på generatoren, når batteriet bliver slidt. Det er derfor vores umiddelbare vurdering, at det ikke er værkstedet, der er skyld i skaden på generatoren.

Vi skal for god ordens skyld oplyse, at værkstedet ikke er en del af vores samarbejdsværksteder og vi må derfor fastholde, at vi ikke kan hjælpe klager yderligere i denne sag."

Klageren har i brev af 19/11 2021 til nævnet bl.a. anført:

"**I. Response & Corrections to Defendant's Introduction**
Though presented by Defendant as such, the dispute does not concern Defendant's refusal of liability in connection with mechanical damage.

As shown in the evidence presented in the original complaint the battery repair was completely paid for (**Bilag 9. Battery Replacement Receipts)**, although [værksted 1] had not completed the battery replacement and damaged the battery cover. Additionally, in the text exchange shared in the original complaint (**Bilag 6. [værksted 1] – June Text Messages**) Plaintiff clearly writes that she is prepared to pay for the repair cost of 5400 dkk, once [værksted 1] has finished all repairs/replacements. Thus, Defendant has presented incorrect information and an inaccurate analysis of the complaint.

The complaint concerns the following:
1. Defendant's refusal to hold [værksted 1's] insurance company responsible for the lost key and/or Defendant's refusal to insure the lost key (i.e. sending a Tryg Mechanic to tow the car to a workshop within the Tryg network to replace the door locks/key).
2. Defendant's refusal to hold [værksted 1's] insurance company responsible for [værksted 1's] atypical behavior; more specifically, keeping Plaintiff's vehicle for an excessive number of months when the repairs/battery replacement are straightforward and should have been completed in a timely manner.
3. Defendant's refusal to hold [værksted 1's] insurance company responsible for [værksted 1] violating their corporate responsibility and neglecting and damaging Plaintiff's vehicle while the vehicle was in their possession.
4. Defendant's refusal to hold [værksted 1's] insurance company responsible for failing to complete the inspection (via their purported insurer, [selskab 2]) as promised to Defendant.
   a. Due to [værksted 1's] purported insurance company not providing results to an inspection of Plaintiff's vehicle, Plaintiff requested that Defendant do the following:
      i. Plaintiff requested a full inspection of the vehicle to take place at a workshop that has no connections to [værksted 1] in order to ensure that the vehicle is working properly, the vehicle is safe to drive and worthy of being on the road (for drivers and passengers in the vehicle and other vehicles on the road), that the repairs and replacements needed in the vehicle are completed properly.
         a. Plaintiff made this request because [værksted 1] presented false information regarding [selskab 2] as their insurer, and [værksted 1] presented false information to Defendant regarding [selskab 2] inspecting the vehicle and verifying the safe completion of [værksted 1's] repairs/replacements before the vehicle was returned to Plaintiff.
      ii. Plaintiff also requested that a comparable, automatic vehicle be provided to her during the time that her vehicle is being inspected/repaired at a workshop within the Defendant's network.
5. Defendant's refusal to thoroughly and properly investigate the situation and provide written confirmation from a trusted Defendant Repair Workshop (that is not [værksted 1] or related to this company) of the proper completion of [værksted 1's] repair/service of the vehicle.
6. Defendant's refusal to provide written answers to questions, concerns, reports, and requests that have been presented and submitted to Defendant insurance company, and Defendant ignoring and disregarding Plaintiff's legitimate concerns regarding the vehicle's safety on the road and safety for Plaintiff, a disabled person with [sygdom], who needs to take additional precautions and safety measures, i.e. purchasing a vehicle, because of the Covid-19 pandemic.

7. Defendant's refusal to properly investigate the following (despite being provided with evidence of [værksted 1's] lack of cooperation and false statements):
   a. The whereabouts of the key/vehicle.
   b. [Værksted 1's] inability to provide their actual insurers information and inability to coordinate an inspection of the vehicle to confirm that no foul play had taken place and outcomes of neglect and damage were no longer present in the Plaintiff's vehicle.
   c. [Værksted 1's] inability to contact Plaintiff regarding the whereabouts of the key/vehicle, the completed repairs/replacements, the safety and proper functioning of the vehicle, and [værksted 1's] inability to coordinate the vehicle's safe return to Plaintiff.

All of these concerns are within the scope of an insurance company's commitments and responsibilities to their customers. As a car insurance company, Defendant's corporate responsibility is to ensure the safety and well-being of their customers and to ensure that Defendant customers' vehicles are safe to drive on the road when issues are reported.

As written in Section 2 of **Bilag 15**. … below, the insurance policy states:
'2. Hvem er omfattet
Forsikringen omfatter
- dig som forsikringstager.
- enhver, der med din tilladelse benyttet bilen og/eller lader den benytte.
- virksomheder, der har fået bilen overladt til reparation, service eller lignende. Skader, der sker under kørsel, er dog kun dækket, hvis kørslen sker i din interesse.'

…
Additionally, Defendant offers 'Kaskoforsikring' insurance. This Kaskoforsikring insurance is included in Plaintiff's insurance plan, as seen below in Section 4.3 of **Bilag 15**.
…
According to Defendant’s website ([link]), (Please see: **Bilag 17. Tryg Website – Kaskoforsikring**), Kaskoforsikring insurance covers Tryg customers' vehicles. As seen in the excerpt below, the Tryg Kaskoforsikring website states:

Med en kaskoforsikring hos os er du sikret, hvis der sker skader på dit køretøj – og når du benytter Tryg reparationsværksteder, får du lånebil til rådighed mens dit køretøj bliver repareret.
…
According to **Bilag 17. Tryg Website – Kaskoforsikring**, Kaskoforsikring insurance also covers car, moped, motorcycle or caravan damage when unexpected events occur, such as accidents, vandalism and theft. Kaskoforsikring insurance also covers other's damage to Tryg customers' vehicles, like when the responsible party does damage without leaving a business card or their insurers information. [Værksted 1's] inability to provide their insurers information would classify under this Tryg Kaskoforsikring coverage clause. Therefore, it is extremely important for Defendant to retrieve the vehicle and inspect the damage that has been done to the vehicle while in [værksted 1's] possession.
…
Additionally, under Section 4.4 of **Bilag 15**. … it states:
'Fabriksmonteret standardudstyr
Bilens kaskoforsikring omfatter udstyr, som er standard for bilens fabrikat, model, type og årgang.'

This translates to the Kaskoforsikring insurance covers equipment that is standard for the car's make, model, type and year. A key to open the doors of the vehicle is considered standard for a vehicle and is therefore also covered by the Kaskoforskring section of the Plaintiff's insurance policy.

II. **Response to Defendant's Bilag 2 Statement**
Defendant purports that on June 4, 2021, Plaintiff made claim/reports to Defendant concerning mechanical damage, which Plaintiff did not do. Defendant also purports that Defendant employees responded to Plaintiff's claims/reports on June 4, 2021, which also did not happen.

There are recordings and phone records of the calls Plaintiff placed to Defendant on June 4, 2021. During both calls, Plaintiff tried to contact the Defendant employee, [medarbejder 2], who had sold her the Tryg insurance. As evidenced, in the recordings **Bilag 18. June 4, 2021 – Call to [medarbejder 2]** & **Bilag 19. June 4, 2021 – Call to [medarbejder 2] (2**), Plaintiff was not able to reach [medarbejder 2], and therefore, this proves that Plaintiff did not make any claims/reports on June 4, 2021. It also proves that no Tryg employees advised Plaintiff regarding the situation that is focus of this dispute on June 4, 2021. Thus, it proves that Defendant is presenting false information.
…
III. **Response to Defendant's Bilag 3 Statement**
As stated before, [værksted 1] never contacted Plaintiff after the final text stating that [værksted 1] lost the key to Plaintiff's vehicle. Plaintiff also never received any results from an inspection of her vehicle from [værksted 1's] purported insurer, [selskab 2]. If Defendant had followed the guidelines within Plaintiff's insurance policy as well as Danish law, which requires Defendant to show corporate responsibility, Defendant would have intervened after being made aware of this evidence in June 2021. Thus, Defendant would have investigated the whereabouts of the key/vehicle, recovered, towed, and inspected the Plaintiff's vehicle at one of the trusted workshops within Defendant's network. Furthermore, Defendant should have held [værksted 1] responsible for any repairs/replacements that were not completed properly as well as any damage [værksted 1's] neglect caused Plaintiff's vehicle."

Selskabet har besked af 12/1 2022 til nævnet bl.a. anført:

"Klagers kommentarer giver ikke anledning til at ændre vores afgørelse. Klager henviser til uddrag fra betingelserne og vores hjemmeside vedrørende kaskoskade, men der er ikke tale om en kaskoskade, men en skade der udelukkende begrænser sig til de mekaniske dele, hvilket ikke er omfattet af hendes forsikring.

Vi har forsøgt at hjælpe klager på bedste vis og langt mere end hun reelt er berettiget til, når der ikke er tale om en dækningsberettiget forsikringsbegivenhed.

Der er ikke tale om et samarbejdsværksted, som vi har henvist klager til – hverken fra os eller fra vejhjælp – og vi hæfter derfor ikke for eventuelle fejl værkstedet udfører. Vi har spurgt værkstedet, om de er i besiddelse af nøglen og bilen – det var de på daværende tidspunkt. Og vi har spurgt dem, hvor de var forsikret henne, hvortil de svarer, at det er de hos [selskab 2].

Det er selvfølgelig beklageligt, at klager er havnet i sådan en situation, men som tidligere nævnt er det et kendt problem, at batteriet kan skade generatoren, når batteriet bliver slidt."

Til dette har klageren fremsendt brev af 1/2 2022, hvori det bl.a. er anført:

> "**Tryg Forsikring has stated that Defendant will not change their decision because the damage is limited solely to the generator & battery. This account of the vehicle's damage is not true.**
> Defendant has made a false claim that the damage [værksted 1] has done to Plaintiff's vehicle is limited to the battery & generator. If Tryg Forsikring had done their due diligence and corporate responsibility, Tryg Forsikring would have known and admitted to Ankenævnet for Forsikring that the extent of damage [værksted 1] has actually done to [klagers] vehicle far exceeds what Defendant has reported to Ankenævnet for Forsikring and [klager].
>
> Please see the results of a recent inspection on the following pages (Bilag 34. Damage, Repairs, Replacements, & Inspection; Bilag 35. Additional Damage, Repairs, & Replacements; Bilag 36. Additional Damage, Repairs, & Replacements), which clearly shows that the damage [værksted 1] has done to [klagers] vehicle far exceeds the damage both [værksted 1] and Tryg Forsikring have purported.
>
> **Bilag 34. Damage, Repairs, Replacements, & Inspection.**
> **(Please note: [værksted 1] never repaired the generator.)**
> …
> **Bilag 35. Additional Damage, Repairs, & Replacements.**
> **(Please note: [værksted 1] never repaired the battery correctly.)**
> …
> **Bilag 36. Additional Damage, Repairs, & Replacements.**
> **(Please note: [Værksted 1] never replaced the battery cover and damaged the brakes, which made the vehicle completely unsafe to drive & placed [klager] and other drivers' lives in serious & imminent danger.)**
> …
> Further, as evidenced in Bilag 34, Bilag 35, and Bilag 36, it is clear that [værksted 1] did not do any of the repairs Tryg Forsikring and [værksted 1] purported had been done. In fact, [værksted 1] caused nearly two pages of damage to the vehicle while it was in [værksted 1's] care. Thus, it is also clear that Tryg Forsikring has acted both as an accessory and principal to this guilty act by insisting that the vehicle was safe to drive and ready to be picked up. Further, if [klager] had not challenged Tryg Forsikring for this violent, abusive, discriminatory, and guilty act and Defendant's repeated negligence, disregard, and endangerment of a customer, whose safety their company has purported to be committed to protecting and ensuring, had gone unchecked; and, if [klager] had attempted to drive the vehicle in this neglected, damaged, and unrepaired state, [klagers] life and others' lives would have been place in serious and imminent danger and immense jeopardy.
> …
> By misleading [klager] and Ankenævnet for Forsikring, refusing to do their due diligence, and skirting their corporate responsibility to properly intervene, investigate, inspect, review and confirm facts or details of the matter, and refusing to insure and repair the vehicle damage, neglect, abuse and other unwanted conduct enacted against Plaintiff's vehicle whilst in [værksted 1's] care, Tryg Forsikring has acted as both a principal and accessory to the guilty acts of [værksted 1], which include the abandonment of its corporate responsibility to properly repair Plaintiff's vehicle and treat all customers equally instead of in a discriminatory manner. And, instead of abiding by De-

fendant's commitment and corporate responsibility to protect, help, and ensure the safety of their customers, Tryg Forsikring wilfully served as a principal to the guilty acts of abuse, neglect, intimidation, harassment, victimization, bullying, and discrimination enacted against [klager]. Further, Tryg Forsikring wilfully skirted their responsibility to do their due diligence and provide accurate, pertinent information regarding the vehicle, the actual whereabouts of the vehicle/key, the actual status of [værksted 1's] repairs, and the actual state of the vehicle whilst in [værksted 1's] care.

As shown in the evidence below:
1. [Værksted 1] did not properly replace the battery, though [klager] paid for this service.

Bilag 37. [Værksted 1] did not replace the battery properly & damaged other parts.
…
2. Despite promising to do so, [værksted 1] did not replace the battery cover, which a [værksted 1] technician damaged.

Bilag 38. [Værksted 1] did not replace the battery cover as promised & damaged the brakes.
…
3. Despite promising to do so, [værksted 1] did not do the repairs & replacements.
Bilag 39. [Værksted 1] promised to finish all the repairs & to replace the battery cover by Monday, June 7, 2021 .
…
4. Despite promising to do so, [værksted 1] did not replace the generator.
Bilag 40. [værksted 1] did not replace the generator as promised in Bilag 39.
…
Further, due to Defendant's claims lack of veracity, several unsettling and most troubling concerns and questions are left unresolved and unanswered, which cause [klager] further irreparable injury, emotional distress, reasonable fear, especially fear of imminent serious bodily injury, and uneasiness; and, include but are not limited to the following:

a. Why did Tryg Forsikring insist on several occasions that [klager] pick up and drive a vehicle, which is now documented to have been completely unsafe to drive?
b. Why would Tryg Forsikring, whose purported commitment is to provide safety to their customers and other drivers on the road, intentionally insist that [klager] pick up and drive a vehicle that is not safe to be on the road amongst other drivers?
c. Tryg Forsikring was aware that [klager] has [sygdom] and is ill and that the vehicle was purchased to keep [klager] safe during the Covid-19 pandemic. Why would Tryg Forsikring further endanger an already vulnerable and disabled person's well-being, life, safety, health, and vehicle (protective measure)?
d. Why would Tryg Forsikring intentionally endanger other drivers' well-being, lives, safety, health, and vehicles?
e. Did Tryg Forsikring choose to mistreat, endanger, and discriminate against [klager] because she is disabled?
f. Did Tryg Forsikring choose to mistreat, endanger, and discriminate against [klager] because she is a foreigner and due to her race, and national, social and ethnic origin?
g. Did Tryg Forsikring choose to mistreat, endanger, and discriminate against [klager] because she is an English speaker?

h. Why isn't [klagers] life, well-being, safety, and ability to drive a safe vehicle as important to Tryg Forsikring as shielding a corrupt and discriminatory Danish business from its corporate responsibility and from being held accountable for its guilty acts?

Instead of rectifying the situation in a timely manner, Defendant continues to choose to wrongfully dismiss [klagers] complaints and concerns and continues to choose to mislead Ankenævnet *for* Forsikring. As evidence in the prior statements, the damage [værksted 1] did to [klagers] vehicle far exceeds the damage Tryg Forsikring has purported and attempted to mislead Ankenævnet *for* Forsikring to believe is well-known and typical damage to a parked vehicle at a repair workshop. Thus, there is nothing typical about this matter. Further, a truly reputable and trustworthy car insurance company would not make such outlandish, dangerous, and false claims whilst also repeatedly placing their insured customer's life and others' lives in serious and imminent danger and jeopardy. Further, a truly reputable and trustworthy car insurance company would not make such claims about a vehicle damage without having the vehicle properly inspected by a truly reputable and professional workshop within their network. There are many possibilities to a generator becoming damaged in a vehicle, including damage that occurs due to a corrupt, abusive, discriminatory workshop/mechanic: damaging the vehicle, abusing the vehicle, neglecting the vehicle, and not properly repairing the vehicle; all guilty acts of which [værksted 1] has been proven to have done via the inspection, damage, and repair results presented in Bilag 34, Bilag 35, Bilag 36.

Thus, Tryg Forsikring has acted as a principal perpetrator of abuse, neglect, harassment, intimidation, bullying, victimization, and discrimination against [klager] and has wilfully refused to do their due diligence and corporate responsibility. Tryg Forsikring has also wilfully declared and presented misleading and false statements and information to the Ankenævnet *for* Forsikring and [klager]. Tryg Forsikring has also acted as an accessory to [værksted 1's] acts of abuse, neglect, harassment, intimidation, bullying, victimization, and discrimination against [klager] and concealed the fact that [værksted 1] was: lying about their insurance coverage with [selskab 2], lying about an inspection taking place, lying about [værksted 1] having completed the repairs, and lying about the state of [klagers] vehicle. Thus, Tryg Forsikring put [klagers] life, well-being, health, and safety in serious and imminent danger and immense jeopardy. Tryg Forsikring also placed other drivers' lives, well-being, health, and safety in serious and imminent danger and immense jeopardy. If it had not been for [klagers] discernment in this matter, many lives would have been harmed and/or lost.

Tryg Forsikring has stated that Defendant helped [klager] in the best way possible and more than [klager] was entitled to. This is not true.

Tryg Forsikring has stated that they have helped [klager] in the best way possible and far more than Plaintiff is actually entitled to; however, this false assertion has already been disproven in previous submissions to Ankenævnet *for* Forsikring. Additionally, it is clear that Defendant did not do their due diligence and on repeated occasions Tryg Forsikring completely ignored the requests, questions, complaints and concerns [klager] presented to them. Further, instead of Defendant utilizing and dedicating time to perform their due diligence and investigate matters, concerns, and complaints properly, to review and respond to questions and requests properly, and review and confirm facts and/or details of the matter, Tryg Forsikring chose to talk with and ultimately conspire with [værksted 1]; thus, making Defendant both an accessory and principal of [værksted 1] guilty acts. For example, instead of doing Defendant's due diligence to investigate, review, and confirm essential facts and details of the matter, like confirming that [værksted 1] was not insured by [selskab 2], Defendant chose to conspire with the guilty party ([værksted 1]) and mislead both [klager] and Ankenævnet *for* Forsikring by repeatedly providing false information regarding the matter. As stated before, the exact same time and effort utilized to call and conspire with [værksted 1] could have been applied to contacting [selskab 2] at the phone number [klager] provided. Thus, as evidenced in this example, [klager] helped Defendant in the best way possible and helped Defendant more than Defendant was entitled to in order to equip Defendant with the necessary information and tools to effortlessly review and confirm the facts and information that [klager] had presented to Tryg Forsikring. Additionally, Defendant's own employee, [medarbejder 3], stated that due to Danish Laws on corporate responsibility, Tryg Forsikring was required and obligated to properly intervene and review the matter as well as to ensure that [værksted 1] was upholding their corporate responsibility. However, Tryg Forsikring never upheld this requirement/obligation and never properly intervened in the matter in order to ensure such responsibilities on the part of [værksted 1] were upheld. Instead, Defendant wilfully skirted Defendant's own corporate responsibility as well as wilfully abandoned Defendant's own company's public policies, commitments, and promises. This is not an example of insuring, helping, and protecting ones customer, or doing ones corporate responsibility in the best way possible. It is not an example of providing a customer with far more than a customer deserves. This is an example of Tryg Forsikring being a principal perpetrator of corruption, abuse, neglect, harassment, intimidation, bullying, victimization, and discrimination and Defendant refusing to do their due diligence and corporate responsibility. This is also an example of Tryg Forsikring being an accessory to the guilty acts of [værksted 1]. Further, it is an example of Tryg Forsikring wilfully declaring and presenting misleading and false statements and information to Ankenævnet *for* Forsikring and [klager], which has caused [klager] further irreparable injury.

<u>Tryg Forsikring did not refer [klager] to a workshop in network & did not present this as an option even after [klager] asked Defendant to retrieve her vehicle, which [værksted 1] damaged, and bring it to a workshop in network</u>.
Since Tryg Forsikring did not refer [klager] to any workshop within network, Tryg Forsikring has treated [klager] less favourably than other customers; and, this means that Tryg Forsikring chose to directly discriminate against [klager] by treating Plaintiff worse than other customers. Further, when [klager] requested that Defendant retrieve the vehicle and bring the vehicle to an in-network workshop to be inspected, Tryg Forsikring refused. Thus, Tryg Forsikring is liable for any errors, abuse, neglect, and/or damage that [værksted 1] workshop made to [klagers] vehicle because Defendant did not properly address the reports of damage and neglect [klager] submitted to Tryg Forsikring.

<u>Tryg Forsikring did not do their due diligence and corporate responsibility. Tryg Forsikring did not treat [klager] equal to Danish citizens.</u>
Further, Tryg Forsikring has stated that they ***asked*** and accepted the word of a corrupt workshop, which had been proven to be unreliable and untrustworthy on multiple occasions, over Defendant's own customer's documented proof. Tryg Forsikring has stated that they ***asked*** [værksted 1] if they were insured by [selskab 2] instead of doing Defendant's due diligence and properly investigating the reports and documented proof [klager] provided that [værksted 1] is not insured by [selskab 2]. Thus, Tryg Forsikring treated [klager] less favourably than Danish citizens and believed a Danish company's word, which had been proven to be unreliable and untrustworthy on several occasions, over a non-Danish customer's documented proof. This is an example of discrimination, abuse, neglect, intimidation, bullying, and victimization. This is also a violation against the Equality Act 2010, the Act on the Prohibition of Differences of Treatment, and Defendant's own public policies and principles.

Further, Tryg Forsikring has stated that the abuse, discrimination, neglect, intimidation, bullying, victimization and other forms of unwanted conduct [klager] has endured and the nearly year of being without the vehicle [klager] purchased less than six months before it was left in [værksted 1] care is merely 'regrettable'. Tryg Forsikring has also stated that this situation with the vehicle, which [klager] has paid taxes, insurance, and repairs for while not having the vehicle in her possession and which has not been able to be used for its intended purpose as a protective measure against Covid-19, is merely 'regrettable'. Yet, as a direct and proximate result of Defendant's 'regrettable' conduct, [klager] continues to suffer loss of benefits, loss of experiences, loss of safety, loss of future effects, loss associated with canceled and changed plans, loss of well-being, and continues to suffer: financial loss, non-financial loss, mental anguish, emotional distress, chronic stress, pain, suffering, and other irreparable injuries, losses, and damages. Defendant has and continues to subject [klager] to detriment, irreparable injury, and irreparable hardships. Thus, in order to balance the irreparable hardships, losses, and injuries Defendant has caused [klager], a remedy in equity is warranted to adequately resolve Tryg Forsikring's immense wrongdoings.

Due to Tryg Forsikring's actions as a principal perpetrator of corruption, abuse, neglect, harassment, intimidation, bullying, victimization, and discrimination against [klager] and Defendant's actions as an accessory to [værksted 1] documented abuse, neglect, and damage of [klager] vehicle and guilty acts of abuse, neglect, harassment, intimidation, bullying, victimization, and discrimination against [klager], it is clear that [klager] and her vehicle has suffered far more damage than ever should have occurred while in the care of any reputable insurance company and/or workshop in Denmark. Thus, the purpose or effect of Defendant's conduct has violated [klager] dignity and abused, neglected, offended, humiliated, intimidated, and degraded [klager] whilst also creating an extremely hostile environment in Denmark where [klager] could not even enjoy the vehicle she purchased and utilize this vehicle for its intended purpose as a protective measure for her, a [sygdom] victim, against Covid-19. However, whilst being unable to use her vehicle for nearly an entire year in Denmark, [klager] was still required to pay Tryg Forsikring's insurance costs, Danish vehicle taxes, and was forced to pay exorbitant prices associated with canceled and changed plans, due to the loss and damage of her vehicle. Further, it is clearly documented that [værksted 1] did not properly repair the vehicle, lied about repairs and replacements being completed, lied about being insured by [selskab 2], and lied about the state and status of the vehicle; and, Tryg Forsikring has been and remains complicit in the concealment of these unlawful, abusive, neglectful, discriminatory, and guilty acts.

Thus, [klager] seeks remedies from Defendant for discrimination, irreparable injury, intentional infliction of emotional distress, ill-treatment, abuse, victimization, intimidation, bullying, harassment, exploitation of a vulnerable adult, wilful neglect, and breach of implied covenant of good-faith and fair dealing.

WHEREFORE, Plaintiff prays the Ankenævnet *for* Forsikring that she have and recover of the Defendant the following:
1. Judgment against the Defendant for compensatory damages;
2. Judgment against the Defendant for punitive damages;
3. Judgment against the Defendant for injury suffered;
4. Judgment against the Defendant for emotional damages;
5. Judgment against the Defendant for general damages;
6. Judgment against the Defendant for special damages;

7. Judgment against the Defendant for incidental damages;
8. Judgment against the Defendant for consequential damages;
9. Judgment against the Defendant for aggravated damages;
10. Judgment against the Defendant for injunctive relief and damages;
11. Judgment against the Defendant for emotional distress damages;
12. Judgment against the Defendant for future pecuniary loss, emotional pain and suffering, mental anguish, and other non-pecuniary losses;
13. Judgment against the Defendant for intentional infliction of emotional distress (IIED) Damages;
14. Judgment against the Defendant for inconvenience and loss of enjoyment of life;
15. Judgment against the Defendant for the damage to [klager] and the irreparable injury, and distress caused;
16. Judgment against the Defendant for fines and mandatory changes in Defendant's policies and practices;
17. Judgment against the Defendant to cease and desist from continuing unlawful practices, to stop any discriminatory practices, to take the necessary steps to prevent discrimination in the future, and an imposition of additional training and diversity hiring requirements;
18. That the judgment bear interest at the legal rate from the date of the breach until paid;
19. That the costs of this action be taxed to Defendant; and
20. For such other relief and actions as may be just and proper."

Klageren har haft yderligere kommentarer i besked af 25/2 2022 til nævnet. Nævnet har fået forelagt korrespondancen og bilag fra sagen, og nævnets sekretariat har aflyttet de lydfiler, som klageren har fremsendt. Af forsikringsbetingelserne 1805 fremgår bl.a.:

"**4.3 Kaskoforsikring**

…

Forsikringen dækker

Forsikringen dækker enhver skade på den forsikrede bil samt ved tyveri og røveri, bortset fra de nævnte undtagelser i pkt. 4.4

4.4 Fælles bestemmelser for delkasko- og kaskoforsikring

…

Forsikringen dækker ikke

• Skade, der alene opstår i de mekaniske, elektriske og/eller elektroniske dele, medmindre skaden er sket ved brand, eksplosion, lynnedslag og hærværk eller er sket under transport på eller ved hjælp af andet befordringsmiddel. Kaskoforsikringen dækker dog en eventuel følgeskade på dele, der ikke er mekaniske, elektriske eller elektroniske.

• Skade, der påføres bilen eller dele af den under eller i forbindelse med behandling eller bearbejdning, medmindre skaden skyldes kørsel i forsikringstagerens interesse eller brand. Kaskoforsikringen dækker dog skader sket i selvbetjent vaskehal.

…

5.8 Tryg Vejhjælp

…

Assistance

> Tryg Vejhjælp yder assistance på nedbrudsstedet, fx ved starthjælp, skift af hjul, oplukning af bildør eller udbringning af brændstof. Der ydes maksimalt tre starthjælpsassistancer pr. kalenderår.
> …
> Kan udbedring ikke ske på nedbrudstedet, yder vi assistance i form af bjærgning eller transport. Forsikringen dækker én transport af bilen ved hvert driftstop, nedbrud eller uheld, som bevirker, at bilen ikke kan fortsætte ved egen kraft. Transporten går til det sted i Danmark, du vælger, fx til din adresse eller et værksted."

Nævnet udtaler:

Klageren havde assistance af Tryg Vejhjælp den 30/1 2021, da hendes bil ikke ville starte. Tryg Vejhjælp startede bilen og gjorde klageren opmærksom på, at batteriet skulle udskiftes. Klageren indleverede bilen på værksted 1, som mente, at både batteri og generator skulle udskiftes. Da bilen stadig ikke var klar hos værksted 1 den 8/6 2021 henvendte klageren sig til selskabet for hjælp til at lokalisere bilen og bilnøglen, da hun mistænkte værkstedet for "urent trav". Hun ønskede, at selskabet bugserede bilen til et andet værksted, dækkede nødvendige reparationer og bekræftede, at bilen fungerede korrekt og var sikker at køre i.

Hun klager over, at selskabet ikke er gået ind i sagen, og hun har anført, at det er selskabets forpligtelse som et bilforsikringsselskab at sørge for sine kunders sikkerhed og velbefindende og at sikre sig, at kundernes biler er sikre at køre i.

Det fremgår af sagen, at klageren i januar 2022 har fået bilen repareret hos værksted 2, og at denne reparation foruden udskiftning af batteri og generator også omfattede udskiftning af forreste bremseskiver og bremseklodser. Klageren har anført, at fejlene er opstået, mens bilen var i værksted 1's varetægt, og at selskabet er medansvarlig for værksted 1's forvoldelse af skader på hendes bil ved blandt andet at hævde, at bilen var sikker at køre i og kunne afhentes. Selskabet har ikke udvist "due diligence" og overholdt "corporate responsibility".

Klageren gør gældende, at hun har været udsat for "discrimination, irreparable injury, intentional infliction of emotional distress, ill-treatment, abuse, victimization, intimidation, bullying, harassment, exploitation of a vulnerable adult, wilful neglect, and breach of implied covenant of good-faith and fair dealing". Hendes krav er erstatning for sine økonomiske tab og merudgifter i de måneder, hvor hun har været uden bil, og godtgørelse for den svie og smerte, hun er blevet påført. Hun ønsker, at selskabet pålægges bøder, og at selskabet pålægges at ændre sin praksis og indføre tiltag for at forebygge diskrimination.

Selskabet har anført, at skaden på bilen udelukkende begrænsede sig til de mekaniske dele, hvilket ikke er omfattet af kaskoforsikringen. Klageren har benyttet sin dækning for Tryg Vejhjælp, og selskabet har ikke valgt værksted 1, som i øvrigt ikke er et af selskabets fordelsværksteder. Selskabet har for at hjælpe klageren haft kontakt til værksted 1, som oplyste, at både bilen og nøglen befandt sig på værkstedet, og at klageren kunne kontakte værkstedet for yderligere information og afhentning af bilen.

Efter en gennemgang af sagen finder nævnet, at der ikke er grundlag for at kritisere, at selskabet har afvist at bistå klageren i hendes tvist med værksted 1.

Nævnet har blandt andet lagt vægt på, at der ikke har været tale en forsikringssag. Skaderne på bilen var alene begrænset til bilens mekaniske dele og er ikke omfattet af kaskoforsikringen.

Selskabet har ikke haft en forpligtelse til at gå ind i sagen på klagerens vegne, og nævnet finder, at selskabet ikke handlet uredeligt eller ansvarspådragende.

Som følge heraf

b e s t e m m e s :

____

Klageren får ikke medhold.

Jens Kruse Mikkelsen

formand