Subrogation

3. Underwriting · https://mjdbrokers.com/knowledge-base/subrogation/

Subrogation

Subrogation is a term that’s unfamiliar to most people who are not part of the insurance industry. However, if you have a claim with your motor vehicle insurance company, it is important to understand what subrogation is and how insurance companies use it to recover some of their costs is important.
Subrogation is the right of any insurer to pursue a third party that caused an insurance loss to the insured. This is done as a means of recovering the amount of the claim paid to the insured for the loss. (Investopedia definition)
The converse is also true where a third party’s insurance company institutes action against your insurer in recovering the amount paid to their client.

When a party causes damages to another party’s property that party has 2 options when claiming:

1. Claim for his damages in terms of his POLICY CONTRACT in which event subrogation takes place. The insurer will, if possible, proceed with a recovery action which will include their insured’s excess. It is important to bear in mind that the excess is the first uninsured amount payable by the insured as contracted with the insurer and will automatically be included in any recovery attempt by the insurer.

2. Claim directly from the third party or his insurer in terms of his COMMON LAW right in which event subrogation to the insurer does not take place. In essence this is a private action and the insured undertakes any risk with regards to repair cost, replacement cost, vehicle hire, towing, storage cost etc. unto himself. The insurer is not involved in such an action.
It is therefore clear that an insured cannot claim one portion of his claim (repair of his vehicle for example) from his insurer and the remainder (excess) of the claim from the third party direct. It is either the one or the other, not both.
By accepting the excess from the third party, the insured voids his claim in terms of his policy contract and elects to proceed against the third party in terms of his common law right of redress.