

Commonly Asked Auto Insurance Claims Questions

By Basil Housewright, Jr.

Many questions typically come up when a person involved in an automobile insurance claim process starts dealing with all the issues involved. Below are several questions that we are asked frequently and my personal and professional opinions of how they might be answered accurately.

What is actual cash value?

Texas court decisions have established actual cash value to be synonymous with fair market value - the price a willing purchaser who is under no obligation to buy would pay to a willing owner who is under no obligation to sell. This price can be quantified in one of three ways: (1) comparable sales; (2) the income capitalization approach; or (3) the cost to repair or replace less depreciation. The comparable sales approach is typically used to determine the value of an auto that has been stolen or totally destroyed. Such valuations on commonly in stock used autos are easy to determine, because there is an identifiable market for used autos, which are sold and bought frequently. In other cases, such as classic or unusual autos, a professional appraisal may be needed. With regard to partial losses, Texas court decisions and Texas Department of Insurance rulings make it clear that actual cash value is not a consideration when adjusting a claim on specific parts of an auto.

Can an insurer apply depreciation to specific parts in a partial loss?

Texas court decisions and Texas Department of Insurance rulings do not permit an insurer to depreciate partial losses. For more details see the Texas Department of Insurance web site at www.tdi.state.tx.us. In effect, the actual cash value provision in Texas auto policies only applies to total losses. For partial losses, the insurer must pay the amount necessary to repair or replace the property with other property of like kind and quality.

Can an insurer settle claims based on after-market or used parts?

Typically nothing in the auto insurance policy or otherwise prevents an insurer from making loss adjustments based on used or after-market parts to make repairs, as long as they are deemed to be "of like kind and quality" as the damaged property at the time of the loss. The insurer can't force the insured to accept such parts, but likewise is under no obligation to pay increased costs of new parts or parts sold by a particular manufacturer especially if used or after-market parts of like kind and quality are readily available. Meaning replacement of damaged parts on a used car with parts from a used car is acceptable.

Can an insurer force an insured to use a specific repair shop?

Texas law prohibits an insurer from requiring an insured to use a specific repair shop. However, the insurer is under no obligation to pay more than a reasonable amount to repair the auto. The insurer is required to pay an amount that is sufficient to repair the damaged auto with like kind and quality, but not an increased amount just because the insured wants to use a higher-priced shop. The insured can have the auto repaired at the shop of his or her choice, but will have to pay the difference if applicable.

Can an insured recover the diminished value of a repaired auto?

Texas court decisions and Texas Department of Insurance rulings make it clear that the Texas auto policies are not designed to cover diminished value under the other than collision (sometimes called comprehensive) and collision coverage provisions. When an auto is repaired to its pre-damaged condition, a policyholder may claim that the auto's market value after repair is less than its market value before the damage and demand that the insurer pay for the difference in market value. In the Texas Department of Insurance's - Commissioner's Bulletin No. B-0027-00 to Texas auto insurers, they said that Texas auto policies do not obligate an insurer to pay for this diminished value, because the coverage is clearly limited to the lesser of the three amounts shown in the policy under the other than collision (sometimes called comprehensive) and collision coverage provisions. For more details see the Texas Department of Insurance web site at www.tdi.state.tx.us.

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