

## **Diminished Value of Autos Not Covered**

By Basil Housewright, Jr.

If you are involved in an automobile accident and the damages are substantial but not enough to total your vehicle then the insurance company, which is liable, will repair your car. Even though repairs are made the vehicle may not be worth as much now for a trade or out-right sale to another because it has been involved in a wreck and this should be disclosed at time of sale and is also available via vehicle history reports such as CarFax®. The decrease in value is called "diminished value." Many have alleged the insurance company should also be liable for this diminished value in addition to the repairs.

Based on the unambiguous Auto Insurance Policy language and the overwhelming trend reflected in numerous court decisions around the nation that diminished value is not recoverable under auto insurance policies limiting insurer liability to the cost of repairs, the diminished value of autos is not covered. The Texas Department of Insurance (TDI) reviews the specific policy forms used by Insurance Companies providing automobile insurance in the state. In 2000, the department issued a bulletin stating that an "insurer is not obligated to pay a first party claimant for diminished value when an automobile is completely repaired to its pre-damaged condition. The language of the insurance policy does not require payment for, or refer to, diminished value."

Within the last few years there have been numerous court decisions supporting insurers on the issue of diminished value. State supreme and appellate courts in Maine, Delaware, Florida, Alabama, Louisiana, Missouri, Texas and Wisconsin have recently addressed the issue and ruled that diminished value is not recoverable.

Many may say this is not fair but auto insurance policies, like all insurance policies, are contracts. If the contract does not address or cover the specific issue then it may be open to interpretation and this is what the courts have done and overwhelmingly ruled diminished value is not covered under the auto insurance contract. If you are in a situation where you feel your vehicle has a diminished value due to it being involved in an accident of which the other party was at fault, you will most likely not be compensated for this diminished value from the other parties auto insurance company. Fighting over diminished value with the auto insurance company will most likely be a waste of your time also. You always have recourse of demanding the other party pay you directly for your diminished value and could even take it to small claims court but you will be on your own in this endeavor. Auto insurance policies were not meant to cover diminished value. The actual cost to repair or replace with like kind or quality is the coverage provided by the auto insurance policy.

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