

NEWS

Insurance may have to pay for loss of value if car's been crashed

Next to your home, a vehicle might be the largest purchase you make in your lifetime.

Some people purchase brand new vehicles, even though they depreciate thousands of dollars as they are driven off the lot. Others get a better bargain by finding well cared for used vehicles.

If purchasing a used vehicle, one of the most important questions to ask is if it has been in a crash.

As good as the repair shops are, there is often



ACHIEVING JUSTICE

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something that is not quite right after a significant repair. With my 2004 Honda CRV, it's the sensor in the back door. About 50 per cent of the time, I can't lock the CRV with my key fob because the sensor fails to sense that

the back door is closed. I grit my teeth as I go back there to open and close the door to trigger the sensor. My step-daughter, who years ago caused the damage, tells me I should just go back to the shop where I had it repaired. I've done that. The problem resolved for a period of time and then resurfaced. It's one of those "car gremlins" that are not so significant that they warrant trip upon trip back to the repair shop, but are irritating as all heck.

Then there's the slight difference in how the repaired panels of a car "weather" compared with the original panels. I remember that happening with the little hatchback my wife owned when we first met. It was a smart looking, shiny red car. You would never know that it had been in a "hit and run" collision. Over time, though, the panels that had been replaced began to lose their shine

faster than the rest of the car body and that little car started to look trashy.

When friends of mine were recently in the market for a used car, they drove down to a dealership in Penticton to have a look at what seemed like a screaming good deal. Fortunately, British Columbia law requires the seller of a used car to declare if there has been damage costing \$2,000 or more to repair. This little detail was sprung on them after they were reeled in. The reduced price wasn't so much a "screaming good deal", but rather reflected the reduction in value that everyone knows occurs after a vehicle has been in a significant collision.

You will pay a little less for "damaged goods", no matter how good the repair might have been. You will also get a little less if you try to sell such a vehicle. That reduction in value is called "accelerated depreciation". It's as obvious and automatic as

the depreciation in value when a brand new vehicle rolls off the lot.

I wonder: For those of you whose vehicle has been damaged as a result of another driver's negligence, requiring a repair costing more than \$2,000, has the insurance company ever offered you anything to compensate for the "accelerated depreciation" loss of value to your vehicle?

Yes, it was a sarcastic, rhetorical question. Of course not.

Could you force them to, just like you can force them to compensate you for your injuries, expenses, income loss and other losses arising from the crash?

A new decision of our Supreme Court has affirmed that the answer to that question is a resounding "yes." It is a March 25, 2014, decision of Mr. Justice Punnnett which you can find online by searching "Pan v. Shihundu".

The plaintiff, Mr.

Pan, had purchased a used 2004 BMW M3 for \$30,000 in 2008. His lawyer brought in a vehicle appraiser who provided an opinion that the car would have been worth \$19,000 if it had not been damaged. Even though the repairs had been up to industry standard, the appraiser's opinion was that the vehicle was worth \$4,000 less because it had sustained significant damage.

Mr. Pan still owned and drove the vehicle. He claimed for the difference in value between his "damaged goods" vehicle and what his vehicle would have been worth had it not been damaged.

The insurance company lawyer acknowledged to the court that claims for accelerated depreciation are good in law, but argued that there is a heavy burden on the plaintiff to prove that accelerated depreciation had actually taken place. The court found

that the burden of proof is not as high as the insurance company pitched, and that it had been met by the opinions of the appraiser. The insurance company was ordered to pay compensation for the full \$4,000 loss in addition to compensation for the plaintiff's injuries and other losses.

Don't wait for the insurance adjuster to offer compensation for this loss. It will never happen. Start the negotiations by handing over a copy of this column. If you want the names of a couple excellent automobile appraisers to help you prove the amount of the loss, send me an e-mail.

This column is intended to provide general information about injury claims. It is not a substitute for retaining a lawyer to provide legal advice specifically pertaining to your case. Paul Hergott is a lawyer at Hergott Law in West Kelowna.

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watering SOLUTIONS VALVES

NOW MONDAY TO FRIDAY 7:30-4:30

Once your irrigation system is charged and running, you may notice you have a few problems with your system. We will begin working through the most common ones.

If your valve is not turning on there could be several reasons, lack of water, electrical or a valve problem.

Check to see if you have water to other valves – if you do then it is an electrical issue or a problem with the valve. If you do not have water to the other valves, make sure that the water is on and that there is no obstruction or break in your lines which is stopping the water from reaching the valves. Check to see that the valve is not installed backwards – there is usually a direction of water flow indicator on the valve – make sure that the direction is proper from your water line – out to your sprinklers. If this is incorrect unhook the valve and change the valve to the proper orientation of water flow.

If the problem is not with the water then it is either an electrical issue or something with the valve itself.

Check to see if the valve will turn on manually (some valves have a screw in the top of your valve or a handle that moves to open the valve manually), if it does not open manually, open the valve to see if there is any obstruction. If there is none, the diaphragm will need to be replaced.

If the valve opens manually then the problem is most likely a failed solenoid or a wiring problem.

...To be continued next week

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