

Original Paper

Research on Compensation for Vehicle Depreciation Losses in Motor Vehicle Traffic Accidents in Sichuan Province—Analysis Based on 100 Judgements

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Abstract

In recent years, with the increase of vehicle ownership and the frequent occurrence of motor vehicle traffic accidents, more and more owners demand compensation for the depreciation of their cars. Whether the loss of vehicle depreciation should be compensated is controversial in theory and practice. The core problem of vehicle depreciation loss compensation is that there is no explicit legislation on vehicle depreciation loss, the insurance mechanism does not bear the compensation for vehicle depreciation loss and the identification of vehicle depreciation loss lacks a unified appraisal standard. The author believes that the vehicle depreciation loss is compensable both in reality and theory.

Keywords

vehicle depreciation, loss compensation, responsibility distribution

1. Question Raising

Vehicle depreciation loss is the loss reduced after the accident vehicle has been completely repaired compared to the performance of the vehicle before the accident. In March 2016, the Supreme People's Court briefly stated in the Reply to "Suggestions on Compensation for Depreciation Losses of Vehicles in Traffic Accidents" that China's appraisal market is imperfect, the accident rate is high, and the regulation of vehicle depreciation is likely to cause a large number of litigation cases to flood the court, forming litigation burdens. It can be seen that the problem of vehicle depreciation losses in traffic accidents is cautious, but it is also stated that in rare, extreme cases, appropriate compensation can be

considered. However, the Supreme Court did not specify what conditions should be met to reach the extreme situation, so it gave practical judges room for discretion.

In China, compensation for vehicle depreciation losses is blocked by the insurance industry. The Regulations on Compulsory Motor Vehicle Traffic Accident Liability Insurance amended by The State Council in February 2016 and the Provisions on Compulsory Motor Vehicle Traffic Accident Liability Insurance formulated by the insurance industry association in July 2006 do not provide a basis for obtaining compensation for vehicle depreciation losses.

This paper only takes the judgment practice of Sichuan Province as the perspective, and uses the search process of 100 (Note) judgments found on China Judgment Documents Network [from China Judgment Documents Network, the search process of judgment samples as the keyword search: Sichuan Province, motor vehicle traffic accident liability dispute, vehicle depreciation, civil case, judgment, time is 20210101-20231006, only 100 copies.] Using empirical analysis method as a sample, this paper analyzes the judgment results of judges of different trial levels and different regions, and obtains the judges' judgment positions and relevant understandings on compensation for vehicle depreciation losses in judicial practice in Sichuan Province. Combining theoretical research and social status, this paper puts forward relevant system ideas that can balance the interests of all parties and enable them to serve litigation. Thus properly solve the problem of vehicle depreciation loss compensation.

2. Empirical Investigation of Vehicle Depreciation Loss Compensation Cases in Sichuan Province

2.1 Description of Sample Judgment

The sample of this empirical investigation comes from the relevant civil judgments published by China Judicial Documents Network. Specific instructions:

First, the paper mainly studies the application of compensation for vehicle depreciation loss in the traffic accident liability dispute in Sichuan Province. That is, it is clear that the keyword is "Sichuan Province" and "vehicle depreciation", and the "vehicle" in the vehicle depreciation is only limited to motor vehicles. Second, this paper is based on civil judgment as the data source, so after the aforementioned "motor vehicle traffic accident liability disputes", "civil case" and "judgment" are selected in the search classification.

Third, considering the workload and time arrangement, the author selected 100 non-duplicate valid judgments obtained from January 1, 2021 to October 6, 2023 as the final sample. Although the data of this analysis is slightly thin, there may be errors and omissions, but the development trend of things drawn from it, and the conclusions drawn from it still have a certain reference and comparison.

2.2 Summary of the Judgment of the Case of Compensation for Vehicle Depreciation Losses

According to the statistics of 100 judgments, the judges have the following three attitudes towards the request for compensation for the loss of vehicle depreciation: support; Support as appropriate; Objection. In the support and discretionary support categories, The judges were also divided on the distribution of liability. Some judges assigned the liability to the infringer, and some judges found that the insurer should

pay compensation for the loss of the depreciation of the vehicle. In the appraisal of the specific amount of depreciation loss of vehicles, the parties choose different ways of appraisal agencies, some are applied by the parties, some are entrusted by the court. The selection of appraisal institutions for the amount of loss includes judicial appraisal center, motor vehicle appraisal and evaluation Co., LTD., and second-hand car evaluation market.

2.2.1 The Judge's Decision Position

Of the 100 verdicts counted by the author, 74 were concluded in the first instance, 24 were final in the second instance, and 2 were retried. According to statistics, the cases of compensation for vehicle depreciation losses in the two-level courts in Sichuan have roughly the following processing results: "reached mediation", "voluntarily abandoned", "discretionary support" and "opposition".

In order to get the overall position of judges when dealing with compensation claims for vehicle depreciation losses, the author ignored the trial level and identified discretionary support as support, and set aside the 2 judgments that reached mediation and voluntarily gave up compensation claims. Among the remaining 98 judgments, 9 supported compensation for vehicle depreciation losses (7 in the first instance and 2 in the second instance). There were 91 objections (67 in the first instance, 22 in the second instance, and 2 in the retrial).

After statistics, it is found that in practice, the judges' objections to such compensation claims account for the vast majority. Among the reasons for not supporting, it is also mostly based on the fact that the Supreme Court does not support the compensation for the loss of vehicle depreciation in principle, which is groundless in law, and the accident vehicle has been compensated after maintenance, and there is no loss. Only a very small number of judges have gone beyond the letter of the law and ruled in favor of depreciation claims, which are limited to new cars (within three months), vehicles for sale, and some luxury cars. Of the cases supporting depreciation losses, most cases (7 cases) were borne by the infringer and a few cases (2 cases) by the insurance company. For the loss of depreciation of vehicle damage, the objection is based on the fact that the depreciation loss does not belong to the insurance coverage.

2.2.2 Empirical Investigation of Vehicle Depreciation Loss Compensation Cases in Sichuan Province

In theory, there is no unified definition of vehicle depreciation loss, but in practice, there are arguments about vehicle depreciation loss and vehicle depreciation expense. According to the statistical data of judgment opinions in this sample, only 7% of judges believe that the loss of vehicle depreciation is a direct loss caused by traffic accidents and should be compensated. More than 90% of the judges rejected the claims for compensation for vehicle depreciation losses on the grounds that they were indirect losses and had no legal basis.

2.2.2.1 Direct Loss and Indirect Loss

Direct loss: (2021) In the judgment No. 3911 of Sichuan 0180, the judge believes that the vehicle involved in the case is a commodity to be sold, the personnel and institutions involved in the identification have the qualification, and the identification report is adopted by the court in accordance with the law,

that is, the direct loss of seven commercial vehicles is 453,170.85 yuan, and the price loss is 160,183.60 yuan.

Indirect loss: Both the infringer and the court believe that the depreciation loss of the vehicle does not belong to the category of property loss in road traffic accidents, and the depreciation loss belongs to indirect loss.

2.2.2.2 Transactional Depreciation and Substantive Depreciation

Transactional depreciation: refers to the depreciation of the price of the damaged vehicle in the used car market before and after the accident. In the investigation, it was found that what influenced the judge's decision most was whether the depreciation loss of the vehicle was only reflected in the transaction and sale process. The judge believed that the depreciation loss was only generated in the transaction process, and if there was no transaction, the depreciation could not be reflected.

Substantive depreciation: The reduction is reflected in the impairment of the use value of the vehicle. Although the vehicle has been repaired, the repair cost is high, and the quality and performance of the repaired parts of the fuselage are difficult to return to the state before the accident. In (2021) Chuan 1025 Minchu 1096, the judge held that the car changed from "good" to "good" in a short 79 days before and after the accident, resulting in multiple damage to the accident site and high maintenance costs, accounting for 10-20% of the replacement cost. The vehicle accident damage level was determined to be "moderate" with a coefficient of 0.9. Therefore, the accident objectively caused the depreciation loss of the plaintiff's vehicle, which supported the plaintiff's request for depreciation of the vehicle damage.

2.2.2.3 Depreciation Loss

The statement of depreciation loss is mainly reflected in the litigation claims of the parties. The parties calculate the depreciation loss according to the vehicle purchase price *20%, and require the other party to bear the corresponding liability for compensation, or the parties themselves estimate an amount. In the judgment, the judge held that as the plaintiff did not bear the burden of proof for the loss, and the depreciation of the car damage was groundless, and finally dismissed the plaintiff's claim.

2.2.3 Distribution of Liability

It can be seen from the statistics that the judge has the following views on the distribution of the liability for the loss of vehicle depreciation: the infringer shall bear the liability, and the insurance company shall bear the liability. For example, in Judgment No. 2888 of Chuan 1002 (2021), the judge held that the insurance company could prove that it had done its duty to remind the insured of the liability exemption clause, and the insurance contract between the two parties clearly stipulated that the insurer was not liable for "depreciation caused by market price changes and impairment losses caused by value reduction after repair". Therefore, The judgment is that the infringer is liable for compensation. There is also another situation in which the insurer has excluded the loss of the depreciation of the vehicle from the insurance coverage when signing the contract with the insured, but in practice there are still situations in which the insurance company pays for it, such as (2021) Sichuan 0180 Minhua 3911 judgment, the judge ruled that the insurance company bears the insurance liability within the insurance coverage.

2.2.4 Identification of Depreciation Losses

With the increase of compensation claims for motor vehicle depreciation losses, the agencies that can appraise vehicle depreciation losses in the appraisal market have also emerged. Among the 100 judgments counted by the author, there are several cases of judicial appraisal, motor vehicle appraisal, old motor vehicle evaluation and second-hand car transaction evaluation. For the same damaged vehicle, the appraisal criteria, reference coefficient, qualification of appraisal personnel and appraisal procedure selected by different appraisal agencies will affect the determination of the final loss amount.

2.3 *Sorting out the Core Issues of Compensation for Vehicle Depreciation Losses*

2.3.1 The Loss of Vehicle Depreciation Is Not Clearly Stipulated by Legislation

It is found from the statistics that more than 90% of the total objections were rejected by the judge on the grounds of “no legal basis” in the compensation claims against the depreciation of vehicles. At present, Chinese laws and judicial interpretations do not have clear provisions on vehicle depreciation losses.

2.3.2 The Loss of Vehicle Depreciation Is Exempted from Liability by the Insurance Company

When the insurer and the applicant sign the insurance and contract, the depreciation loss clause is the exemption clause of the insurance contract. The loss of depreciation of the vehicle is excluded from the coverage of insurance. Therefore, the judge usually assigns the liability for damages to the infringer when deciding the case.

2.3.3 No Unified Appraisal Standard Has Been Established for Vehicle Depreciation Losses

The key to the problem of compensation for vehicle depreciation loss lies in the identification of the amount of loss. In judicial practice, there are judicial appraisal bodies appraisal, motor vehicle appraisal, old motor vehicle appraisal, second-hand car transaction appraisal, but their standards for determining the depreciation of vehicle damage are different, resulting in a gap in the final amount of compensation.

3. The Compensability of Vehicle Depreciation Losses

3.1 *Practical Basis*

3.1.1 Increased Social Demand

With the increase of vehicles, the accident rate is also increasing year by year. In motor traffic Therefore, in liability disputes, compensation requests for vehicle depreciation losses are also increasing year by year, reflecting the strengthening of public awareness of rights protection. Properly solving the problem of vehicle depreciation loss compensation is not only the key to protect the interests of the right holder, but also the inevitable requirement to maintain the stability and authority of judicial judgment.

3.1.2 Depreciation of Vehicle Damage Can Be Quantified

Depreciation loss is a kind of realistic and objective loss, not a loss that will occur in the future, so the specific amount of loss can be obtained through scientific assessment. At present, Sichuan Province has a special vehicle damage depreciation appraisal agency.

3.2 Theoretical Support

The compensation for tort damages follows the principle of full compensation. Vehicle depreciation loss is the direct loss caused by traffic accidents, rather than transaction depreciation loss, and does not depend on whether the accident vehicle transactions to judge the existence of depreciation. China's civil law stipulates the "principle of total compensation for property losses", which embodies the principle of fairness and compensation of equal value in civil law. The loss of vehicle depreciation is a real property loss, and it cannot be simply not protected because of the absence of explicit provisions of the law.

4. The System Construction of Vehicle Depreciation Loss Compensation

4.1 Formulate a Legal Basis to List Vehicle Depreciation Losses as Statutory Compensation Items

In the empirical investigation, it is found that the judge directly refused the party's request for depreciation because the loss of depreciation of the vehicle could not find a clear legal basis. According to the current social situation and legislative background, we should add the vehicle depreciation loss compensation item to the compensation scope stipulated in the traffic accident damage compensation, and explain that the vehicle depreciation is the impairment of the entity function before and after the vehicle accident. Clear legal norms are conducive to better dispute resolution, guide the public, and enhance judicial credibility.

When the depreciation loss of the vehicle has been included in the statutory compensable items, the court shall not reject the appraisal application for the depreciation loss of the vehicle submitted by the party without special circumstances.

4.2 Determine the Subject of Compensation, and Incorporate the Loss of Vehicle Depreciation into the Commercial Third Party Liability Insurance

The insurance mechanism has clearly defined the depreciation loss as an exemption clause in the insurance contract, but there are also judicial decisions to award the depreciation loss to the insurance company. The author believes that it is more reasonable for the commercial third party liability insurance to pay for the loss of vehicle depreciation. First, the amount of compensation claims for vehicle depreciation losses is usually large, almost all of which are more than 10,000 yuan. If the infringer undertakes, is not willing to pay, or is really no money, can not compensate, the judgment is difficult to enforce; In contrast, the insurance company has the ability to bear risks, compared with the original defendant, the insurance company is easier to suit, the judgment is also easy to be executed in place, and the court is free from the worry of difficult execution after the judgment. Second, there are more and more demands for vehicle depreciation losses today, including vehicle depreciation losses into commercial third party liability insurance, there is enough market demand, and insurance companies do not suffer losses when expanding new business, but also assume social responsibility.

4.3 Improve the Identification of Vehicle Depreciation Losses to Provide Objective Reference for Relevant Entities

The appraisal of vehicle depreciation loss plays an important role in the whole depreciation compensation claim, and the amount of depreciation loss must be assessed by a qualified appraisal body in accordance with legal procedures and reasonable standards, and recognized by the court as evidence, before it is possible to obtain compensation. The increasing demand for vehicle depreciation loss appraisal will promote the advance and development of vehicle damage appraisal industry. Relevant appraisal institutions should actively adapt to the market, gradually form industry norms for the appraisal of vehicle depreciation losses, improve the accuracy of the appraisal amount of vehicle depreciation losses, and provide objective reference basis for relevant entities.

5. Conclusion

In order to successfully solve the dispute of compensation for vehicle depreciation losses, it depends on the state to start from the top-level design, “sparse” than “blocked” is more conducive to resolving the contradiction, and there is evidence in law, the public can serve the judgment on the compensation for vehicle depreciation losses, in order to settle the dispute, and it is more conducive to the construction of the rule of law country.

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Note

From China Judgment Documents Network, the search process of judgment samples is keyword search: Sichuan Province, motor vehicle traffic accident liability disputes, vehicle depreciation, civil cases, judgment, time is 20210101-20231006, only 100 copies.