

"Evasive, vague and misleading" = fundamental dishonesty, Claimant left with £8500 debt to pay

Published 12 December 2018

Kashif v UK Insurance Ltd

This was a particularly interesting case handled by DAC Beachcroft's Counter-Fraud Department on behalf of the Defendant, a Direct Line Group company. The claim was defended due to concerns that the personal injury claim could not have been sustained from a minor incident involving their insured. However, upon further investigation it appeared that the Claimant had lied about more than just his alleged injuries to recover damages.

Facts of the Case

Proceedings arose out of a minor incident, which occurred in June 2017 in Leytonstone when the insured was taking her vehicle for a check-up at a local garage. It was alleged by the Claimant (a student) that she reversed into the rear of his stationary vehicle causing loss and damage. The insured accepted that a minor incident occurred with the rear of another vehicle and had asked the Claimant's father to provide a repair estimate for the alleged damage, which was never forthcoming.

In August 2017, a Claims Notification Form was received from the Claimant alleging that he had been injured and that he had been driving a Ford Focus at the time. The insured disputed that the other vehicle was a Ford Focus and could remember pertinent details such as the colour of the other vehicle, that the number plate had contained a "0" and that she had hit the front of it and not the rear. The insured was confident in her evidence because she had owned Fords her whole life, and she firmly disputed that anyone could have been injured from such a minor incident.

The vehicle damage claim was not included in the proceedings due to the registered keeper being the Claimant's mother. DAC Beachcroft was able to obtain favourable forensic engineering evidence, which confirmed that the damage alleged to the Claimant's vehicle was not consistent with the alleged accident circumstances. However, it would be the Claimant's own evidence at Trial, which would be his undoing.

Trial

The matter proceeded to Trial in Romford CC before DJ Goodchild with Counsel Thomas Crockett of 1 Chancery Lane representing the Defendant. The judge made findings of fact that the Claimant had not been driving the vehicle he had pleaded and that the impact had been to the front of this vehicle. Further, the judge found that the personal injury claim was fundamentally dishonest. The Claimant's evidence was, in the Judge's words, "*evasive, vague and misleading*" he having, on oath, changed the accident circumstances, the duration of his alleged injuries and finally admitting under robust cross-examination that he only sought medical attention because his solicitors told him he needed to in order to evidence his claim.

The Claimant told the Court that he was aware of his alleged symptoms immediately but they were so minor he did not mention them to the insured, despite having told the medical expert that this is when they were at the most severe! The Claimant was also unable to explain why his GP records suggested a more serious injury and he was also inconsistent as to the duration of his symptoms.

Having heard evidence from the Claimant who was "*only there for the repairs to his mum's car*" and the insured, judgment was given in which the judge stated that she firmly preferred the account provided by Ms Hyrons and therefore the only finding, given the circumstances, was one of fundamental dishonesty.

The Claimant applied for, but was refused permission to appeal, the finding of fundamental dishonesty and defence costs of £8,500 were awarded against the Claimant. The insured was delighted with the decision and DAC Beachcroft's handling of the claim.

Comment

This case was significant because without being able to show which vehicle the insured had collided with and the presented vehicle damage being over £1000, the Court might have struggled to find that the Claimant was not driving a Ford Focus at

the time as he had alleged. The Claimant had also attended his GP following the incident so that there was apparent contemporaneous evidence of injury. These factors in a case being defended as a low speed impact always make the Defendants' position more difficult. However, the Court in preferring the articulate, consistent and plausible evidence

provided by the insured was left with no choice but to dismiss the claim. The Claimant's evidence on the witness stand was enough to satisfy the Court that he had not just been "mistaken" but had been fundamentally dishonest. The factual findings were stark in this case; there was no room for one party to have been mistaken. Furthermore the Court found that the LSI/Causation argument was free-standing and that (regardless of anything else) the personal injury claim was in itself fundamentally dishonest.

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