
Court of Appeal Confirms Claimant's Financial Position Relevant to Credit Hire Period, Not Just Rates: DAC Beachcroft reaction

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Insurers defending credit hire cases involving substantial delays in repairs or total loss have received a significant boost from the Court of Appeal today, according to credit hire experts at international law firm DAC Beachcroft.

Handing down judgment in *Umerji v Khan & Zurich Insurance Plc*, the Court of Appeal confirmed that a claimant's financial means are relevant to determining the reasonableness of credit hire periods. The Court of Appeal also left the door open for insurers to argue that a claimant's failure to use an existing fully comprehensive motor insurance policy to replace or repair a vehicle could amount to a failure to mitigate.

Mr Umerji was involved in a road traffic accident which, ultimately, resulted in his 2006 Mercedes being deemed a total loss. He entered into a credit hire agreement (and 10 subsequent similar agreements) with Elite Rentals (Bolton) Ltd culminating in a total credit hire claim of £95,130.14. In June 2013, he was awarded £108,659.36 at Manchester County Court, which included additional costs for storage, as the judge accepted that he could not have afforded to purchase another vehicle sooner.

The defendants, represented by DAC Beachcroft Claims Limited, appealed, successfully arguing that the claimant's "pecuniosity" was relevant to the length of his credit hire and that the claimant could, and should, have stopped hire much earlier than he did. The Court of Appeal agreed, reducing the length of the hire by 451 days.

Commenting Craig Dickson, head of motor at DAC Beachcroft, said: "This is exactly the kind of case which reinforces the value of the Competition Commission's ongoing review into the private motor insurance market.

"At present, the separation of cost control and liability is giving rise to the potential for cases like this to spiral completely out of all control and proportion. The fact that the claimant and his hire company thought that it was appropriate to rack up such extravagant costs (on the presumption that they would be met by the defendant's insurer) strongly reinforces the need for significant change in this part of the motor industry."

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