

# Claiming For Diminished Value



**A Step By Step Guide Of  
How To Claim For  
Diminished Value**

**[MyCarsWorthLess.com](http://MyCarsWorthLess.com)**

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## 1. **Disclaimer**

Please be advised that this document is provided to the general public at no charge. Any information herein is for informational purposes only, not intended to be legal advice and is not a substitute for obtaining professional advice from a local legal professional. You should contact a local legal professional to ensure you understand your rights and entitlements. In addition, there may be differences in local laws, rules of procedure, coverages, etc. from jurisdiction to jurisdiction which are not accounted for in this document.

You may find that the amounts related to diminished value are not large enough for most lawyers to take interest in your case. Most claims would be at small claims court thresholds depending on local limits. In some jurisdictions, a licensed paralegal may be able to help you instead. You should also be aware that your jurisdiction may have a threshold below which a judgment cannot be appealed. Please consider this if taking the matter to court. Again, please seek local professional legal advice.

Our intention in providing this document and our online diminished value calculator is not to encourage legal action or to try to pit insurer against policyholder. Diminished value claims exist and as claimants must provide evidence of the amount of their loss, we have created a neutral professional tool to facilitate faster and easier settlement.

## 2. **Quick Steps**

In quick summary format, here are the steps you will need to take to pursue compensation for diminished value. More elaborate discussion of each step will follow below.

- Find out the amount of diminished value you have incurred by running a report
- Submit report to the insurance company or the at-fault party
- Try for amicable settlement. If achieved, you are done
- Otherwise, send a demand letter
- Gather other evidence to support your case
- File your claim, typically with small claims court
- Attend the hearing

If need be, it is not a difficult process to seek a legal remedy through small claims court. It just takes some time, effort and upfront costs on your part. Hopefully you can reach an amicable settlement quickly and easily. To maximize your chances of success, you simply need to ensure you are following the right process, have done your homework and are properly prepared. This guide will help you with most of those steps.

## 3. **Is It Worth Pursuing?**

Just like any other civil matter, you have been forced to incur a loss due to the fault of another party. It is your money, time and effort at stake. You can either decide to drop the matter and absorb that cost as your own, try to amicably settle with the other party at a mutually agreeable value or, if they won't cooperate, the last resort is to pursue the matter to get legal resolution.

Your diminished value can amount to several thousand dollars. However, for a very old vehicle or one in poor condition or with very high mileage, the amount of diminished value may be negligible.

One of the biggest benefits of the MyCarisWorthLess.com calculator is that you can quickly and inexpensively determine the amount of diminished value you have incurred to see if it is worth your while to pursue the matter. This is a personal choice depending on the circumstances but at least our calculator helps you make that decision quickly and inexpensively.

#### 4. **The Different Types Of Diminished Value**

Once a vehicle has an insurance claim registered against it, buyers will perceive it to be worth less than comparable claims-free vehicles and it will never again be sellable at the same fair market value, even if repaired properly. The amount of loss in market value incurred is known as Diminished Value. There are three types of diminished value:

- i. **Inherent Diminished Value**, where the vehicle is worth less simply because it has a claim registered against it. This is due to public perception alone and has nothing to do with the vehicle having defects. If two otherwise identical vehicles were sitting side by side, one with prior repaired damage and one without, the average person may consider purchasing the repaired one but only if the price was dramatically lower than the other. In our experience, the average person typically prefers to stay clear of any previously damaged vehicles,

- ii. **Parts Related Diminished Value**, where a vehicle is worth less because inferior parts were used to do the repair thus further reducing the value over and above inherent diminished value, and
- iii. **Repair Related Diminished Value**, where a vehicle is worth less because of poor workmanship by the garage in repairing the vehicle thus further reducing the value over and above inherent diminished value.

Inherent diminished value represents the difference between the same vehicle before and after damage repair, assuming the repair work is done properly and the vehicle is restored to its pre-damage condition. If the insurance company did in fact repair the vehicle properly, there would be no reason for a physical inspection since the issue is not based on inferior parts, faulty workmanship or anything else that can be inspected. Public perception cannot be measured through a physical inspection.

As the insurance company is responsible for the damage repair, claims for parts or repair related diminished value should be made against the insurance company directly. However, if you decide to take the vehicle to a garage other than one approved by the insurance company, they may be able to make a case that any problems were due to your suppliers, not theirs.

We recommend that you always take the vehicle to a garage or bodyshop that is approved by the insurance company. If there are any problems with the repair, then it becomes the insurance company's responsibility to rectify the problem.

**The MyCarisWorthLess.com calculator only deals with inherent diminished value. You will need to talk to a local independent appraiser if claiming otherwise. If you need assistance locating a local resource, contact us and we will make every effort to help you find one.**

## **5. Path of Least Resistance**

Going to court is not a pleasant process. There are several stages along the way, each that will consume some time, effort and money. We recommend that you invest as little as needed to satisfy each stage as it occurs with the hopes of resolving the issue as early in the process as possible. If not resolved at the end of any given stage, then invest just enough to get through the next stage.

## **6. Determining Eligibility**

In some states, like Georgia, insurers are required by law to pay for diminished value regardless of who was at fault. If you drove into a tree and your vehicle was repaired, you would still be eligible for diminished value on your vehicle.

In other states and provinces, including those with no-fault insurance, the standard auto policy typically only covers repair to the vehicle, loss of use and damage to contents. Diminished value is outside the scope of the auto policy and therefore no rules governing the auto policy apply. Therefore, in such cases, you may have a right to collect damages such as diminished value directly from the at-fault party. This is the proper way to go about making a claim in such jurisdictions.

It is important to note that in some jurisdictions, insurers are allowed to have exclusions in their policies. Check your policy wording carefully, talk to your state's Department of Insurance and/or consult a local legal professional to ensure eligibility.

### 7. **Diminished Value Obligations**

It is not the insurance company's responsibility to inform you of your eligibility for diminished value or to educate you on how it works. If you don't ask for it, then in most jurisdictions, they don't have to pay it. If you do ask for it, the responsibility is yours to understand how diminished value works and provide evidence of the amount of diminished value you have incurred.

### 8. **Know How Much You're Claiming**

You cannot make a claim without including the amount you are claiming. This figure cannot simply be a personal belief of how much you think you have lost. It must come from an independent expert source with knowledge about auto industry pricing and best practices. Alternatively, you could sell the vehicle and try to determine how much the vehicle was worth if it had not incurred damage, thereby claiming the difference. However, you need to be very careful about such an approach as one could argue that you sold it for too low a price.

The MyCarisWorthLess.com calculator provides a low cost method of obtaining a fair and reasonable professional opinion of the amount of diminished value you have incurred.

If you are claiming only for inherent diminished value, then you do not need a physical inspection by an independent appraiser at this stage. If you are making a claim due to inferior parts or poor workmanship, then you will definitely need an independent appraiser to carry out a physical inspection to identify these deficiencies. You should obtain this inspection as soon as possible after the repair is complete.

Depending on local rules, you may be entitled to recover the cost of this report and other expenses. Please seek the advice of a local legal professional about the rules in your jurisdiction.

#### **9. Try Amicable Resolution First**

Nobody likes the headaches, hassles and costs of going to court. Therefore, we always recommend trying to resolve the matter amicably first even if a little give and take is necessary. If a mutually agreeable settlement can be reached, then the matter is behind you and you can focus on more important things. If a settlement cannot be reached and you feel that court is the only solution, then at least you know you tried your best to be fair and reasonable.

#### **10. Sending A Demand Letter**

A demand letter is a letter requesting payment for an alleged obligation from the recipient, failing which you identify your intent to take legal action. If you have tried to resolve this matter amicably but found no satisfaction or co-operation, then sending a demand letter will demonstrate that you are serious in trying to recover your costs. A generic demand letter template, created by our corporate lawyers, is available at no extra charge with the purchase of a Diminished Value Report.

If you live in a jurisdiction that covers diminished value on first party claims (ie: you are covered even if you are at fault), make a claim directly with your insurance company. Call your local State Department of Insurance or provincial governing body to determine if you live in such a jurisdiction.

If your jurisdiction does not recognize first party diminished value, then send the demand letter to the at fault party. They will typically forward to their insurance company to be covered under their liability coverage. Liability coverage typically pays for their policyholder's defense costs, payment of judgments and, where applicable, additional expenses if you sue them and win. So, in such cases, you are ultimately suing their insurance company.

#### **11. Getting Your Ducks In A Row**

If the demand letter has no effect, then you will have to start getting prepared with the data to support your claim. First, visit a few dealers to get a trade in price of your vehicle. You will need a trade-in price before and after disclosure of the damage history. Ideally, you will need something in writing with their letterhead. If dealers won't provide anything in writing, then keep careful notes of date, who quoted you and how much they quoted.

Compare these values to those of our report. We recommend making another attempt to settle, sharing this new information with the other party and/or their insurance company.

## 12. **Following Through**

If you still have no co-operation and you wish to take the matter to court, you will need to file a claim. Each jurisdiction has different thresholds on small claims limits and appealable judgment limits. File your claim accordingly or seek professional legal assistance.

## 13. **A Bird In The Hand**

Now that everyone knows you're quite serious about the issue, you may be presented with a settlement offer prior to the case getting to court. As this is your money at stake, you have to determine whether the settlement offer is fair or whether you want to take it all the way and take your chances with the judge. Unless there is case law from a higher level court, there is no precedent that mandates the outcome. Sometimes, a bird in the hand may be worth two in the bush.

## 14. **About Automall Network and MyCarisWorthless.com**

This calculator generates its values using a proven methodology consistent with professional pricing in the used car market, which is combined with a complex algorithm that factors in all of the data elements provided by the user. The developers of the software that powers this site have over 30 years experience in auto appraisal management at major insurance companies and over 10 years experience in professional car buying. Automall Network is a licensed auto dealer/broker that assists consumers throughout North America to purchase vehicles and negotiates prices on their behalf.

**We hope this guide has been helpful in your pursuit. If you wish any additional information, please feel free to call us toll free from anywhere in North America: (866) 310-8701.**