



(Disputes Tribunal Act 1988)  
**ORDER OF DISPUTES TRIBUNAL**

**[2023] NZDT 686**

**APPLICANT      SX**

**RESPONDENT    GO**

**APPLICANT'S    K Insurance Ltd  
INSURER  
(if applicable)**

**The Tribunal orders:**

GO is to pay \$9343.84 (including a \$1000.00 excess) to K Insurance Ltd on or before 31 January 2024.

**Reasons**

1. At the first hearing, GO acknowledged liability for the vehicle collision in which SX had braked suddenly for a pedestrian at a crossing and GO had been unable to stop in time behind him. GO caused losses to SX and his insurer because she was required to keep a distance behind the car in front such that she could stop if something unexpected happened.
2. GO disputed both the repair costs and the pre-accident value of SX's car, and had gone to some lengths before the first hearing to attempt to get a variety of panel-beater assessments about the repair costs presented to her by K Insurance. At the first hearing she provided 13 written responses she had received from 13 different panel-beaters about likely repair costs. She had not been able to provide them with full documentation about the repair authorised by K Insurance Ltd because she said she had received only limited photos of SX's car from K Insurance Ltd.
3. I acknowledge the difficulty for a party who does not have access to (and no legal right to access) the applicant's vehicle to get detailed evidence about reasonable costs of repair for that vehicle. For that reason, the first hearing was adjourned to allow provision to GO of all the available repair evidence so that she could forward this to some or all of the panel-beaters she had consulted.
4. The issue to be determined is:
  - Was the cost of repairing SX's vehicle reasonable for the damage sustained in the collision and was it less than the pre-accident value of the vehicle?

5. At the second hearing GO said that the panel-beaters she consulted all said their initial price estimates would not change, after seeing the further repair evidence. However as she did not provide further written evidence from any of them to this effect, this is hearsay evidence and cannot be given any weight.
6. I can only make the decision about reasonable costs on the evidence available to me which is K Insurance's/their assessor's repair evidence bundle, and the 13 email responses presented by GO at the first hearing.
7. Further, while GO raised queries about/challenged some of the charges on K Insurance's repair invoice, there was no evidence and/or opinion from her panel-beaters to the effect that the disputed charges were an unnecessary part of the repair process – there is therefore no basis upon which I can make deductions from the actual repair invoice.
8. In the 13 panelbeaters' emails, there is a common theme in that most stated the price may be higher once the vehicle was inspected. I note that they were providing price estimates off limited photos, which did not include photos of the stripped vehicle showing significant internal damage to the rear panel and boot floor. Their prices ranged from \$3000 to \$7000 with many sitting around the \$5000 mark.
9. One of GO's panel-beaters provided a full written estimate based on the photos of external damage only and his price came to \$5850.25. A direct comparison of that estimate with K Insurance's actual repair cost invoice reveals that the main difference in (GST exclusive) prices are as follows:
  - ◆ Remove and refit – Actual cost was approximately \$900 higher than estimate
  - ◆ Repair – actual repair cost was \$740 more than estimate
  - ◆ Parts – are more or less the same
  - ◆ Paint – actual cost was \$721 more than estimate
  - ◆ Miscellaneous/extras – a variety of smaller charges were about \$450 more in the actual invoice than in the estimate.

These price differences come to about \$2800, which, once GST is added, amount to the \$3493.59 difference between the repair costs claimed and the detailed estimate provided by GO's panel-beater.

10. I consider the above price differences consistent with the significant internal damage that the estimate did not price for – when broken down into repair process components, the price increases are all under \$1000 but in multiple areas (remove and refit costs, repair costs, paint costs etc), which, when added together result in the much higher price claimed.
11. For the above reasons, I find that the repair actually carried out was done at a reasonable price for the damage sustained in the collision.
12. With respect to the pre-accident valuation, GO has provided part of [the online] advertisement for a [Station Wagon], the same year and make/model as SX's vehicle, with an asking price of \$8500.00. The full advertisement has not been printed so the mileage of that vehicle and any description cannot be seen. K Insurance has provided a written valuation from [Valuation Services] giving a pre-accident value of \$15,000.00.
13. While there is often some difference between private sellers' asking prices, dealers' prices and valuations for the same vehicle, this degree of difference is quite unusual. While I accept it is possible, even likely, that an equivalent replacement vehicle could have been obtained in the market for less than the \$15,000.00 [Valuation Services] valued SX's car at, I do not accept the \$8500.00 figure put forward by GO. That is because one [online] ad, missing key information such as mileage and description, is not sufficient to prove that SX's vehicle was uneconomic to repair at the cost of \$9343.84.

14. If the repair cost had been much closer to the formal valuation figure of \$15,000.00, further information about pre-accident value including actual sales figures would have been useful/necessary, but given the repair cost was much lower than \$15,000.00, there was quite some leeway between the formal PAV and the actual repair cost.
15. For all these reasons, I find that the repair costs are proven as reasonable losses suffered as a result of the collision. If GO wishes to enter into a weekly payment arrangement with K Insurance, she should contact them as soon as possible after receipt of this order to put a payment arrangement in place.

**Referee Perfect**  
**Date: 20 December 2023**



## Information for Parties

### Rehearings

You can apply for a rehearing if you believe that something prevented the proper decision from being made: for example, the relevant information was not available at the time.

If you wish to apply for a rehearing, you can apply online, download a form from the Disputes Tribunal website or obtain an application form from any Tribunal office. The application must be lodged within 20 working days of the decision having been made. If you are applying outside of the 20 working day timeframe, you must also fill out an Application for Rehearing Out of Time.

PLEASE NOTE: A rehearing will not be granted just because you disagree with the decision.

### Grounds for Appeal

There are very limited grounds for appealing a decision of the Tribunal. Specifically, the Referee conducted the proceedings (or a Tribunal investigator carried out an enquiry) in a way that was unfair and prejudiced the result of the proceedings. This means you consider there was a breach of natural justice, as a result of procedural unfairness that affected the result of the proceedings.

PLEASE NOTE: Parties need to be aware they cannot appeal a Referee's finding of fact. Where a Referee has made a decision on the issues raised as part of the Disputes Tribunal hearing there is no jurisdiction for the District Court to reach a finding different to that of the Referee.

A Notice of Appeal may be obtained from the Ministry of Justice, Disputes Tribunal website. The Notice must be filed at the District Court of which the Tribunal that made the decision is a division, within 20 working days of the decision having been made. There is a \$200 filing fee for an appeal.

You can only appeal outside of 20 working days if you have been granted an extension of time by a District Court Judge. To apply for an extension of time you must file an Interlocutory Application on Notice and a supporting affidavit, then serve it on the other parties. There is a fee for this application. District Court proceedings are more complex than Disputes Tribunal proceedings, and you may wish to seek legal advice.

The District Court may, on determination of the appeal, award such costs to either party as it sees fit.

### Enforcement of Tribunal Decisions

If the Order or Agreed Settlement is not complied with, you can apply to the Collections Unit of the District Court to have the order enforced.

Application forms and information about the different civil enforcement options are available on the Ministry of Justice's civil debt page: <http://www.justice.govt.nz/fines/about-civil-debt/collect-civil-debt>

For Civil Enforcement enquiries, please phone 0800 233 222.

### Help and Further Information

Further information and contact details are available on our website: <http://disputestribunal.govt.nz>.