
**FORT PECK COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA**

IN RE THE MATTER OF:

Rubin Ackerman,
Appellant

Appeal No. 428

vs

Curtis Cantrell,
Appellee

ORDER REMANDING FOR MODIFICATION

This matter came before the Fort Peck Court of Appeals on Appellant Ackerman's notice of appeal filed on May 10, 2004. Appellant Ackerman is contesting the portion of the May 5, 2004 order requiring transfer of a vehicle title to Appellee Cantrell upon payment of the judgment amount order by the lower court and requesting modification of the lower court judgment amount to reflect the highest estimate obtained regarding repair costs for the vehicle damaged by Appellee Cantrell, rather than the \$3,700 amount Appellant Ackerman agreed to accept at the time of hearing. Appellee Cantrell did not file any response to the notice of appeal.

After reviewing the lower court record and the applicable law, this Court finds that the judgment amount order by the lower court in its May 5, 2004 order is reasonable given that Appellant Ackerman agreed to accept \$3,700 for the damages caused to his vehicle by Appellee Cantrell at the time of hearing. Parties are free to accept less than the estimated repair amount for damages caused by another. Appellant Ackerman stated to the lower court that he would accept this lower amount and there is nothing to indicate that this agreement was not given voluntary. Nothing in the lower court record, however, reflects that Appellant Ackerman signed the agreement to transfer title of the vehicle to Appellee Cantrell, nor did the lower court cite any legal authority for requiring the transfer of vehicle title to Appellee Cantrell upon satisfaction of the judgment amount in the absence of the voluntary agreement.

Additionally there are no provisions in the Assiniboine & Sioux Tribes Comprehensive Code of Justice requiring transfer of title to a vehicle where the judgment amount is below book value for the vehicle.

Based on the above analysis, this Court denies Appellant Ackerman's request to modify the judgment amount entered by the lower court on May 5, 2004 and grants Appellant Ackerman's request to modify the judgment order in this matter to the extent that it required transferring the vehicle title to Appellee Cantrell upon satisfaction of the judgment. This matter is remanded to the lower court for modification to the judgment order consistent with this decision.

So ORDER on January 26, 2005

BY THE COURT OF APPEALS:

Maylinn Smith, Chief Justice

Joe Raffiani, Associate Justice

Carroll J. DeCoteau, Associate Justice
