

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

IN RE

Charles & Diannia Jones,

Case No. 00-14266

Debtor.

Chapter 7

**MEMORANDUM OPINION AND ORDER RE
(1) Motion to Allow Debtor to Exempt Proceeds Received as a Result of Personal Injury
Settlement and (2) the Chapter 7 Trustee's Objection Thereto**

The Court conducted a hearing on the debtor's motion to exempt proceeds and the Chapter 7 Trustee's objection thereto on July 24, 2002. FED. R. BANKR. P. 9014. Pursuant to 28 U.S.C. § 157(b)(2), this is a core proceeding. After reviewing the testimony from the hearing and the record as a whole, the Court makes the following findings of facts and conclusions of law. FED. R. BANKR. P. 7052.

I. FINDINGS OF FACT

The facts of this case are not in dispute. The debtors filed their joint chapter 7 petition on November 9, 2000. Prior to filing for bankruptcy relief, the debtors were involved in an automobile accident in which Diannia Jones sustained personal injuries. The debtors filed a personal injury action against the driver of the other car, Robert Jones, on March 6, 2001, in Madison County Circuit Court. Robert Jones did not have automobile insurance at the time of the accident. As a result, the debtors' own insurance company had liability exposure under its uninsured motorist coverage.

Diannia Jones settled with the insurance company, Granite State Insurance, in December 2001, for the policy limits of \$25,000.00. Art Wells, an attorney with Hill-Boren, PC, received a total of \$8,333.33 for his services in the lawsuit and Hill-Boren's expenses amounted to \$529.06, leaving the debtor \$16,137.61.

Diannia Jones has alleged that she is entitled to exempt the entire balance of the uninsured motorists coverage payment. The Chapter 7 Trustee filed an objection to the debtor's motion alleging that the debtor is only entitled to exempt \$7,500.00 from the proceeds of the settlement.

II. CONCLUSIONS OF LAW

Tennessee Code Annotated § 26-2-110(a) provides:

There shall be exempt from the claims of all creditors, and from execution, attachment, or garnishment, any sum or sums of money which may hereafter become due and payable to any person, who is a resident and citizen of this state, from any insurance company or other insurer, under the terms and provisions of any contracts of accident, health, or disability insurance insuring the assured against loss by reason of accidental personal injuries, or insuring the assured against loss by reason of physical disability resulting from disease.

In the case of *In re Thompkins*, 263 B.R. 223 (Bankr. W.D. Tenn. 2001), Judge William H. Brown held that (1) uninsured motorist coverage is accident insurance in Tennessee, (2) the exemption provided by T.C.A. § 26-2-110 is in addition to the personal bodily injury exemption allowed by T.C.A. § 26-2-111 and (3) that the exemption provided for in T.C.A. § 26-2-110 is not restricted by the \$15,000 aggregate cap of § 26-2-111(2) or the \$7,500 limit on personal bodily injury payments. *Thompkins*, 263 B.R. at 227.

In accordance with the *Thompkins* decision, the Court finds that the debtor in this case is entitled to exempt the entire \$16,137.61 pursuant to T.C.A. § 26-2-110 paid to her under her uninsured motorists coverage. The debtor's motion will be granted and the Chapter 7 Trustee's objection will be overruled.

III. ORDER

It is therefore **ORDERED** that the Debtor's Motion to Allow Debtor to Exempt Proceeds Received as a Result of Personal Injury Settlement is **GRANTED**. The Chapter 7 Trustee's Objection to the Debtor's motion is **OVERRULED**.

It is so ordered.

By the Court,

G. Harvey Boswell
United States Bankruptcy Judge

Date: August 22, 2002

cc:

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