



THE LAW SOCIETY
OF NEW SOUTH WALES

KNOW YOUR
RIGHTS

MOTOR VEHICLE ACCIDENTS

When are you entitled to compensation?

Generally speaking, you will only be entitled to compensation if you were injured due to someone else's negligence. This means if you were solely responsible for causing the accident you generally won't be entitled to compensation.

There are special rules that apply to children, who may be entitled to a payment even where they are solely to blame for the accident. There are also special entitlements that apply to anyone who suffers from spinal cord or brain injuries, multiple amputations, severe burns or permanent blindness, regardless of who is to blame.

What if you are partly to blame for the accident?

If you were partly to blame for the accident you may still be entitled to compensation. However, any compensation you're entitled to may be reduced by a percentage, depending on how much you contributed to your loss. Your compensation is likely to be reduced, for example, if you were a passenger and weren't wearing your seat belt, or if you accepted a ride from an intoxicated driver.

If other people were injured in an accident that you caused, your green-slip insurer may pay the cost of their claims. You should let your insurer know as soon as possible if you think there is a chance someone will claim against you. Don't admit fault or offer to pay anyone as compensation for their injuries until you've first spoken to your insurer or your solicitor.

What information will you need to bring a claim?

If you've been injured and are considering bringing a claim, you should gather all of the relevant details and bring them along to your consultation so that your solicitor can fill out your injury claim form. This includes information about:

- the date, time and location of the accident
- the names and addresses of the people involved in the accident, as well as any witnesses
- the number plate, make, model and driver of any vehicles involved
- the police station at which the accident was reported and the event number
- details of any police action against people involved in the accident
- details of any hospital visits, including consultations with your treating doctors
- details of any lost wages
- details of any other accidents in which you have been involved
- copies of any hospital, ambulance, doctor, chemist and other bills
- your driver's licence and Medicare numbers
- details of any workers compensation, social security, disability or other payments you have received as a result of the accident.



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Will you have to go to court?

Most cases don't go to court and are either settled or resolved through an administrative process known as the Claims Assessment and Resolution Service ('CARS').

CARS is an informal adjudication process. You may be assessed by a medical assessor, depending on the extent of your injuries. An experienced lawyer known as a claims assessor will examine the evidence and decide whether the insurer is liable to pay you compensation. If they are, the claims assessor will also decide how much compensation the insurer owes you.

If you disagree with the claims assessor's decision you can generally go to court. But there is a risk that the court will award you less than the assessor, in which case you may also be liable to pay increased or additional costs, including the insurer's costs.

How much compensation will you get?

The amount of compensation that you'll receive depends on how serious your injuries are and what loss you've suffered as a result. Generally, you may be entitled to compensation for:

- medical and similar expenses
- loss of earnings as well as the loss of opportunity to earn, up to a certain limit
- care or other services that you need
- modifications to your home or vehicle that you have had to make as a result of the accident.

If you have been severely injured, you may also be entitled to compensation for pain and suffering.

How will your compensation be paid?

Unless you've been catastrophically injured and you were solely to blame for your loss, you'll usually receive your compensation as a one off 'lump sum'.

What should you do if you're injured in a motor vehicle accident?

If you've been injured in a motor vehicle accident you should let the police know as soon as possible. That's because if you haven't reported the accident within 28 days and you later claim compensation for your injuries, you may have to prove that the delay was justified.

You should find out which insurer provides the green slip (CTP) insurance for the other car involved in the accident. To get this information, you need to get the car's number plate and then call the Motor Accidents Authority on 1300 656 919.

You should also download a personal injury claim form from the Motor Accidents Authority website at www.msa.nsw.gov.au. You will need to complete this and send it to the green-slip insurer within 28 days of the accident.

How can a solicitor help?

If you've been injured in a motor vehicle accident your solicitor can help in many ways, including:

- Advising you on whether you should claim for compensation, including any time limits that apply
- Collecting the information you need to make a claim and helping you complete your claim form
- Helping you settle your claim out of court
- Commencing court proceedings where your claim can't be settled
- Arranging for expert witnesses, including doctors, to give evidence on your behalf
- Advising you on the details of the medical and claims assessment procedures.

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These guides are for general information. They are not a definitive analysis of the subject and professional legal advice should be taken before any course of action is pursued. If you do not have a Solicitor, please contact the Community Referral Service at the Law Society of New South Wales on (02) 9926 0300 for the names of Solicitors who can advise you. © 2014 The Law Society of New South Wales, ACN 000 000 699, ABN 98 696 304 966. Except as permitted under the Copyright Act 1968 (Cth), no part of this publication may be reproduced without the specific written permission of the Law Society of New South Wales.