

## ROAD TRAFFIC ACCIDENTS

### IN WHAT CIRCUMSTANCES CAN I MAKE A CLAIM?

If you are involved in a Road Traffic Accident which was not your fault you will be able to make a claim against the person who caused the accident, although your claim will normally be dealt with on the other side by that person's insurance company.

### WHAT IF THE OTHER DRIVER WAS NOT INSURED?

There is an organisation known as the **MOTOR INSURER'S BUREAU (MIB)** which will deal with the claim in these circumstances (although the MIB will not pay for the first £375 of damage to property).

### SHOULD I REPORT THE ACCIDENT TO THE POLICE?

YES. All accidents should be reported to the police even if the police do not attend the scene of the accident. The police will eventually make a decision as to whether they propose to bring any prosecution arising out of the accident. The police will often also complete a **POLICE ACCIDENT REPORT** which can be extremely helpful as evidence. The report will not however be released to any of the parties involved in the accident or their solicitors until any prosecution for alleged motoring offences has been concluded.

### SHOULD I REPORT THE ACCIDENT TO MY OWN INSURERS?

Yes, even if you are only insured for third party risks. This will be a condition of your motor insurance policy.

### WHAT DO I HAVE TO PROVE IN ORDER TO CLAIM COMPENSATION?

It is necessary to show that the other party was **NEGLIGENT** i.e. fell below the standard to be expected of the **REASONABLY COMPETENT DRIVER**.

### WHAT IF I WAS PARTLY TO BLAME?

If you were partly to blame you may still be able to make a claim against the other driver if he was also at fault in some way. However if the accident was partly your fault, your compensation may be reduced by whatever percentage it is decided you were responsible. This is known as **CONTRIBUTORY NEGLIGENCE**. It is important to remember that if you were not wearing a seatbelt at the time of the accident and your claim includes a claim for personal injuries, your compensation will be reduced by up to 25% on the basis that your injuries are likely to have been less serious had you been wearing a seatbelt.

### WHO PAYS FOR REPAIRS TO MY CAR?

If you are comprehensively insured you should make a claim against your own insurance policy in the usual way. If the other driver was to blame for the accident your own insurance company will claim the cost of repairs back from the other driver's insurance company and your no claims bonus should be reinstated.

If you are not comprehensively insured and the accident was not your fault, you will be able to claim the cost of repairs back from the other driver's insurance company. However you will need to ensure that you obtain more than one quotation for the repairs and also should give the other driver's insurance company an opportunity to inspect your vehicle so that they can check what repairs need to be carried out. You need to be aware that you may not get the repair costs back immediately, but if there is delay you should start proceedings to obtain an interim payment of damages.

### CAN I HIRE A CAR WHILST MY CAR IS OFF THE ROAD?

YES. However you can only hire a reasonable replacement i.e a similar make and model to your own car, and you can only hire for a reasonable period of time i.e a reasonable period for your own car to be repaired or for you to buy a replacement if your car has been written off. It is normally

considered to be acceptable to hire a car for up to four weeks but if you hire for any longer than this you may not recover the extra cost unless you can show a good reason why you had to hire for longer. The fact that you could not afford the repairs will not be considered a good reason.

Many solicitors who deal with Road Traffic Accident claims will be able to arrange car hire for you on a credit basis i.e. the hire charges are paid when the claim is settled. However the Solicitor will want to be sure that your claim is likely to succeed and you need to be aware if your claim is not successful you will have to pay the car hire charges yourself.

### WHAT IF MY CAR IS WRITTEN OFF?

You will be able to recover from the other driver's insurance company (or your own insurance company if you are comprehensively insured) the pre-accident value of the vehicle less any money you receive for the scrap value. Before you sell the car for scrap you should give the other driver's insurance company a chance to inspect the vehicle so they can ensure the vehicle can be written off and agree the pre-accident value.

### CAN I CLAIM IF I WAS A PASSENGER IN THE VEHICLE?

YES. As it cannot normally be argued that you were in any way responsible for the accident you will be able to claim against whichever driver was at fault, or both drivers if they were each partly to blame.

### WHAT CAN I CLAIM FOR?

You can claim for various categories of damages (compensation) some of which are set out below:

1. Reasonable car hire charges.
2. Cost of repair to the vehicle, or the pre-accident value if the car is a write-off (if not comprehensively insured).
3. Damages for pain, suffering and continuing disability.
4. Past and future loss of earnings.
5. Damages for "prejudice on the labour market".
6. Past and future expenses eg. travel expenses, prescription charges, cost of nursing care and/or home help and in severe cases the cost of adapting the home.

Make out and keep a list of all expenses incurred as a result of the accident, together with any supporting receipts.

It is also important to note that if you have received any state benefits as a result of the injury, including statutory sick pay some or all such benefits may have to be repaid to the **COMPENSATION RECOVERY UNIT (CRU)** out of any damages. This rule is to prevent you being doubly

compensated if you have had benefits which would not have been paid had it not been for the accident.

### WHO PAYS THE LEGAL COSTS

If your claim is successful the legal costs will be paid by the other driver's insurance company **PROVIDED THAT THE TOTAL VALUE OF YOUR CLAIM EXCEEDS £1000 is for personal injuries or £5000 if there are not personal injuries.**

If the claim does not exceed one of those amounts it comes within the small claims limit of the County Court where legal costs are not recoverable. In these circumstances (unless your solicitor agrees with you otherwise) you will have to pay costs out of your damages. Some insurance companies will make some contribution towards the legal costs in these cases and your Solicitor should warn you if your case is likely to be in the small claims track so you can decide whether you wish to carry on instructing him to act for you.

### ARE THERE ANY TIME LIMITS?

YES. Proceedings must be lodged with the Court within **THREE YEARS** of the accident occurring. If proceedings are not brought within that timescale the claim will become **STATUTE BARRED** and it will not be possible to bring a claim at a later date.

There are different rules relating to children as the three years do not start to run until the child's 18th birthday.

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