

HOW TO HANDLE A CAR ACCIDENT



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Step by Step Car Accident Guide



Car Accident Overview

Being in a car accident can be a scary experience that can leave you rattled. As a result, people often times make mistakes that can hurt their chances of smoothly returning to a normal life.

This book is designed to give people a general idea of what these mistakes are and some basic ways to achieve a better outcome.

Below is some of the most common questions that our law firm receives including ten easy steps on how to handle a car accident situation as effectively as possible.

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Auto Insurance Coverage

Automobile insurance pays for damages, injuries, and other losses specifically covered by your policy.

Read your policy carefully because coverages can vary by policy and company. **Pay special attention to the exclusions section, which lists items your policy does not cover.** The front page of your policy – called the declarations, or dec, page – shows the exact name of your insurance company, your policy number, and the amount of each of your coverages and deductibles.



The following summarizes the eight coverages in the Texas Personal Automobile Policy. Although your coverages and policy terms may differ from these, this summary can help you understand the coverages and the way they work.

1. Liability Coverage (Basic liability coverage meets the state’s financial responsibility requirement.)

What it pays: Other people’s expenses for accidents caused by drivers covered by your policy, up to your policy’s dollar limits. These may include the other person’s:

- Medical and funeral costs, lost wages, and compensation for pain and suffering;
- Car repair or replacement costs;
- Auto rental while the other driver’s car is being repaired; and
- Punitive damages awarded by a court.

Liability insurance also pays your attorney fees if someone sues you because of the accident and your bail up to \$250 if you are arrested.

Who it covers: You and your family members. Family members include anyone living in your home related to you by blood, marriage, or adoption, including your spouse, children, in-laws, adopted children, wards, and foster children. Other people driving your car with your permission, family members attending school away from home, and spouses living elsewhere during a marital separation might also be covered.

You and your family members might be covered when driving someone else’s automobile – including a rental car – but not a car that you don’t own but have regular access to, such as a company car.

Note: Some policies won’t cover other people, including family members, unless they’re specifically named in the policy. Your policy’s declarations page should list the names of all of the people covered by the policy.

2. Medical Payments Coverage

What it pays: Your medical and funeral bills resulting from accidents, including those in which the other person is a pedestrian or bicyclist.

Who it covers: You, your family members, and passengers in your car, regardless of who caused the accident.



3. Personal Injury Protection (PIP) Coverage

What it pays: Same as medical payments coverage, plus 80 percent of lost income and the cost of hiring a caregiver for an injured person.

Who it covers: You, your family members, and passengers in your car, regardless of who caused the accident.

An insurance company must offer you \$2,500 in PIP, but you can buy more. If you don't want PIP, you **must** reject it in writing.

4. Uninsured/Underinsured Motorist (UM/UIM) Coverage

What it pays: Your expenses from an accident caused by an uninsured motorist or a motorist who did not have enough insurance to cover your bills, up to your policy's dollar limits. Also pays for accidents caused by a hit-and-run driver if you reported the accident promptly to police.

- **Bodily injury UM/UIM** pays without deductibles for medical bills, lost wages, pain and suffering, disfigurement, and permanent or partial disability.
- **Property damage UM/UIM** pays for auto repairs, a rental car, and damage to items in your car. There is an automatic \$250 deductible, which means you must pay the first \$250 of the repairs yourself.

Who it covers: You, your family members, passengers in your car, and others driving your car with your permission.

Insurers must offer UM/UIM coverage. If you don't want it, you **must** reject it in writing.

5. Collision (Damage to Your Car) Coverage

What it pays: The cost of repairing or replacing your car after an accident. Payment is limited to your car's actual cash value, minus your deductible. Actual cash value is the market value of a car like yours without damages.

Who it covers: You, your family members, passengers in your car, and others driving your car with your permission.



6. Comprehensive (Physical Damage Other than Collision) Coverage

What it pays: The cost of replacing or repairing your car if it is stolen or damaged by fire, vandalism, hail, or a cause other than a collision. Comprehensive coverage also pays for a rental car or other temporary transportation if your car is stolen. Your policy won't pay for an auto theft unless you report it to police. Payment is limited to your car's actual cash value, minus your deductible.

If you still owe money on your car, your lender will require you to have collision and comprehensive coverage.

7. Towing and Labor Coverage

What it pays: Towing charges when your car can't be driven. Also pays labor charges, such as changing a tire, at the location where your car became immobile.

8. Rental Reimbursement Coverage

What it pays: A set daily amount for a rental car if your car is stolen or is being repaired because of damage covered by your policy.

What if my car was damaged or totaled?

If your car was damaged or destroyed because of another driver that driver's insurance may be required to:

Repair Your Vehicle;

Provide a Rental Car;

Pay for the Value of your Vehicle; and

Pay for Diminished Value.



Repairing a Car

You are allowed to take your car to a repair shop of your choice. The insurance company is required to pay to have your car to the same or similar value as it was prior to the collision. They are also required to compensate you for diminished value which is the difference of the value of the vehicle prior to the collision and its value after being repaired. Be sure your car is repaired to your satisfaction.

Totaling a Car

If the repair estimates are more than your car is worth, the insurance company will likely total your car and pay you its actual cash value rather than pay to fix it. Insurance companies typically use the **National Automobile Dealers Association's Used Car Guide** to determine the value of your car.

www.nada.com

The company's offer might not recognize your car's condition, special features, or value on the local market. Be prepared to negotiate with the company to get what you believe is a fair deal. A company might raise its offer if you can show that your car would sell for a higher price in your area. Get written price quotes for a similar automobile from several used car dealers, or look in the classified section of your local newspaper for used car prices.

If you'd prefer to have your vehicle repaired instead of totaled, you can keep your car if you are willing to subtract its salvage value from the insurance settlement. Make sure the cost to repair the car will not exceed the car's actual cash value. To find out the salvage value, contact local salvage yards for estimates.

If your car has been totaled, determine the fair market value of your car by consulting reference sources such as the Kelly Blue Book, NADA Used Car Guides or Edmunds. These publications provide accurate information for most makes and models of cars.

Getting a Rental Car

There are several types of coverage that will pay for you to get a rental car while yours is in the shop:

- If the other driver caused the accident, his or her liability insurance will pay for a rental car.
- If the accident was a hit-and-run or the other driver was uninsured and at fault, your UM/UIIM property damage coverage will pay for a rental car.
- If your car was stolen and you have comprehensive insurance, your company will provide a set amount each day, up to your policy's limit, for a rental car.
- If your car is being fixed or replaced for some other reason, your insurance company won't provide a rental car unless you have rental reimbursement coverage.



NOTE - BEWARE: In today's insurance environment, almost all insurance companies will not immediately authorize a rental car for you indicating they cannot authorization payment "until they have conducted a thorough investigation". This is done regardless of who is at fault for the collision. Under most circumstances, this is nothing more than a delay tactic!

What if I was injured?

If you were injured in a car accident that was caused by another party you may be entitled to several different types of compensation depending on the type and degree of your injuries. Those damages include, but are not limited to:

- Medical Bills – The reasonable and necessary medical bills that you have or may have in the future that were caused by the collision.
- Loss of Earning Capacity (AKA Lost Wages)
 - Compensation to make up for the loss of income that was caused by the accident.
- Pain and Suffering – Compensation to make up for the physical pain that you feel as a result of your injuries that were caused by the collision.
- Mental Anguish - Compensation to make up for the mental toll that an injury and/or a car wreck takes on an individual.
- Physical Impairment – Compensation to make up for your inability to do certain activities after the wreck that you were able to do before.
- Physical Disfigurement – Compensation to make up for a change in your appearance caused by the car accident.
- Punitive Damages – Damages to punish the wrongdoer for particularly egregious actions, i.e. drunk drivers that cause an injury.



Every case is different and you may be entitled to all or none of the damages outlined above. It is also important to understand the amount that you may be entitled to is going to be different in every case and just because you heard someone got a certain amount in their case doesn't mean you will be entitled to the same amount.

Should I hire an attorney?

When deciding whether or not to hire an attorney after a car accident you should consider whether or not you will net a higher recovery after paying an attorney than before.

When deciding to hire a lawyer ask yourself the following questions:



Did I only suffer property damage to my vehicle?

If yes, then the answer is probably no. For repairs, simply get quotes from reputable repair shops and compare them to the amount offered by the adjuster. If the vehicle is totaled be sure that the insurance company is paying a fair value for the vehicle prior to the collision.

Did I suffer very “minor” injury cases?

The answer in this situation is ‘maybe’. It is important to always carefully consider your options. If your case involves personal injuries, a more detailed analysis is required. If the injuries are minor and you fully recover from the injuries in a few days, you probably do not need an attorney. Minor injuries are ones that result in less than a \$1,000.00 in medical bills. To obtain a fair settlement for your minor injury claim, educate yourself sufficiently to negotiate with the insurance adjuster. To educate yourself, go online or to the bookstore and obtain one of the many self help guides for car accident victims. These guides are excellent resources for dealing with the minor injury claims. Like the property damage only type cases, minor injury cases usually do not justify the use of an attorney. In such cases, the attorney’s fee generally results in a lower net settlement to the claimant because the value of the claim is low and cannot be appreciably increased.

Was I or a loved one severely injured or killed?

If your case involves anything more than property damage and minor injuries, it is likely that you will benefit by hiring an attorney. Most people do not typically have the necessary negotiation skills, knowledge of the law and experience in evaluating damages to obtain a fair settlement value for major injury cases. As such, when negotiating with an insurance adjuster, non-lawyers are at a distinct disadvantage. Do not be misled by the adjuster's statements that hiring an attorney will reduce your net settlement or delay payment for your claim. The insurance industries own statistics do not support these statements. In 2004, the Insurance Resource Council completed a study that found that people who used an attorney received an average of 3½ times more money in settlement than those individuals who settled on their own. Thus, if you seek to obtain a fair settlement for your injuries, the use of an experienced personal injury lawyer is vitally required.

Ten Easy Steps to Handling a Car Accident

1. Call 911

If anyone is injured, this ensures that they receive proper care as quickly as possible. The ambulance team will take care of your injuries and recommend the correct course of action. Any injuries sustained to yourself or others are important to note.

2. Notify the Police

The police will examine the scene thoroughly and file a report. Be polite and cooperate with the police officers and other emergency personnel at the accident scene. Note the names of the officers and ask them for the accident report number.

3. Gather Information

Get contact information from the other driver or drivers. Jot down their name, address and phone number. Make a note of the color, make and model of the other vehicles, and the license plates if you can. The police officer can help you get all this information, and will often have a form for you to exchange with the other driver(s) involved. Do not be afraid to ask such information, or for the form.

4. Identify Witnesses

Get the names and contact information of anyone who saw the accident. If you can, do this quickly. Often, people who saw the collision will stop for a short time, but leave before the police arrive. Other motorists, passengers or pedestrians can be critical witnesses. Get their name and phone number.

5. Do Not Discuss Fault

Do not blame the other driver even if they were clearly at fault. It may just start an argument. But, if the other driver admits it was their fault, make a mental note of it. When you get home, jot down precisely what you remember them saying. Even if you feel you may have been partially at fault, do not say anything that admits your feeling.



6. Recall the Events of the Accident

After the accident write a note to yourself. Include all the information you have gathered and can remember while it is fresh in your mind. Explain how the accident happened as best you can. Drawing a sketch or diagram of the collision will be a helpful memory aid later on. It may be months, or even years, before the insurance companies fully resolve any claims.

7. Contact your Insurance Company

All insurance policies require you to notify your insurance company. This must be done shortly after the accident. Unnecessary delay in telling your insurance company about the crash can result in a denial of your claim, but do NOT give a recorded statement!

8. Get the Accident Report

If anyone is injured or there is significant property damage to the vehicles an accident report is typically filed by the police department. Contact the law

enforcement agency that responded to the wreck for directions on how to obtain the police report. Typically, the reports are available the following day.

9. Take Pictures

If you can, and it is safe, take pictures of the vehicles before they are moved. Pictures can prove how the accident happened and document the force of the collision. This can be helpful evidence if the accident caused any injuries. If you do not have a camera available, the camera on your cell phone will do the job.

10. Contact a Car Accident Attorney

A car accident attorney is your most valuable ally in an accident claim. They are experienced in dealing with insurance companies, third parties, and your legal rights. To ensure proper compensation for all property damages and injuries, it is important to have an attorney review your settlement offer. CALL AN EXPERIENCED ATTORNEY who specializes in accident and injury claims for advice and answers to your questions.

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**“Experienced
Litigators, Fighting for
your Rights”**

About Heselmeyer Zinda, PLLC

Representing All Types of Clients in Car Accident Matters

The lawyers of Heselmeyer Zinda, PLLC represent people who have suffered injuries due to car wrecks. We know firsthand that the injuries suffered as a result of an auto accident can be severe and life-altering for both the victim and his or her family.

Experienced Car Accident Litigators

Our experienced attorneys will determine if someone is responsible for your injuries. If someone is responsible, they may owe you monetary damages. These can include compensatory or punitive damages. Compensatory damages attempt to put an injured person back in the position he or she was in before being injured. They include lost wages, past and future medical expenses, and pain and suffering. In some cases, punitive damages are also awarded. Punitive damages are given to the injured person in order to penalize wrongdoers and deter others from repeating the offense.

