



# Do I need a lawyer if I've been hit by a car?

If you're a pedestrian hit by a car and suffer injuries, you're likely to be entitled to compensation if the accident was caused, at least in part by a driver of a car, motorcycle, truck or bus.

If you're hit by a vehicle the compensation claim needs to be lodged with the CTP insurer of the vehicle. To find out who the relevant CTP insurer is, you can do this through the CTP regulator; You'll just need the vehicle registration number. Visit the [CTP Regulator website here](#).

If you're hit by a cyclist, you may also have a claim for compensation, but this claim would be against the rider of the bike and any public liability insurance that they hold.

A pedestrian accident claim is similar to a car accident claim; the following steps should be taken as soon as possible after the accident:

1. Seek treatment for your injuries
2. Report the accident to the police
3. Complete an injury claim form and submit it to the relevant CTP insurer.

In some pedestrian accidents, fault against the car driver will be clear cut. This may be where the pedestrian is on the footpath or is hit in circumstances where they were unable to avoid the accident.

## What is Contributory Negligence?

There are many situations where the CTP insurer claims that the pedestrian was also negligent and failed to take steps to ensure their own safety. This is referred to as contributory negligence.

A common situation of contributory negligence is where a pedestrian is crossing a road (not at traffic lights) and is hit by the car. In this situation both the pedestrian and the car driver may have been able to avoid the accident if they had kept a proper lookout.

Where contributory negligence is alleged, it is important to seek legal advice immediately, to ensure that the necessary investigations can be undertaken as soon as possible.

Where both the pedestrian and driver are found to be at fault, the pedestrian is still able to make a claim; blame is not simply divided 50/50 between the driver and pedestrian. The percentage contribution is determined on the facts of each case.

Each individual situation is different and will need to be reviewed and considered carefully before any responsibility can be established.

Your lawyer will speak to all witnesses to the accident and obtain and view any

available dashcam or CCTV footage. In some cases, it might be necessary to involve an accident reconstruction expert to help determine the speed of the vehicle and what opportunity the driver of the vehicle had to see and avoid hitting the pedestrian.

## **What happens if I don't agree with the insurer's decision?**

It's important to note that you don't have to simply accept the decision made by the insurer as to who is responsible for the accident and any percentage applied to you for contributory negligence. A careful consideration of the facts and all available evidence is needed to determine whether that decision is fair, or should be challenged to show a higher responsibility of the driver.

The level of responsibility assigned to each party can make a significant difference to the amount of compensation you receive.

Any compensation you are entitled to is reduced by the percentage of your contributory negligence.

This includes medical treatment, so where the insurer has been paying for medical treatment, they are entitled to a credit for the amount they have paid for which you are deemed responsible. Medical treatment can be very expensive, so having to pay back the insurer for your medical expenses from your overall settlement can lead to a significant reduction in your compensation payout.

For example, if you are held 25% responsible for the accident and the settlement of your claim is \$100,000, taking into account your contribution and the insurer has paid \$30,000 in medical expenses prior to settlement, the amount of \$7,500 (25% of \$30,000) will be deducted from the settlement amount.

## Where to next?

The important thing to remember is that there are many factors that need to be considered and addressed to ensure a successful compensation claim if you are a pedestrian hit by a car.

It is always recommended to seek legal advice to better understand your entitlements. You can find out more about [Motor Vehicle Accidents here](#).

At Andersons, we offer a free, no obligation 30 minute interview to hear your story and to understand your personal circumstances. This allows us to provide you with advice on the likelihood of a successful claim, legal fees and the process to obtain compensation.

[Contact our expert motor vehicle accident claims team](#) now for your free interview.