

IF YOU HAVE TO MAKE A CLAIM ...

What do I do if I'm in an automobile accident?

At the scene

- Keep calm.
- Offer help to anyone injured.
- If the accident is an emergency, call 911 and follow instructions. **USE 911 FOR EMERGENCIES ONLY!**
- If the accident is not an emergency, call local police for instructions. In Ontario, all accidents where someone is injured or there is property damage of \$1000 or more must be reported to the police. However, a number of locations have special programs in place to deal with auto accidents. Toronto, for example, has Collision Reporting Centres and accidents must be reported in person to these centres within 24 hours, if police did not attend the accident scene. Find out what is required where you live, and keep this information in your glove box.
- Move vehicles out of traffic, if possible. Do not drive the vehicle unless it is safe to do so.
- Record details of the accident – how, when, where it happened, time, date, location, speed, weather and road conditions.
- Draw a sketch of the accident scene showing the position and direction of the vehicles and the cross streets.
- Keep a camera in your vehicle and take photos of the damage to your vehicle and the damage to the other vehicle(s). This can be helpful if someone is trying to claim other damage or there is a dispute as to what happened.
- Answer police questions honestly but make no comments or admit any blame for the accident to the other driver(s). Your insurance company will determine fault based on the Fault Determination Rules regulated by the Ontario government.
- Get names, addresses, telephone, driver's licence and plate numbers, and insurance details from everyone involved.
- Note the badge numbers of the investigating officers, if police attended the scene.
- Get names, addresses and telephone numbers from witnesses, when possible. It is also helpful to jot down licence plate numbers of other vehicles if you think someone in them might have seen the accident, but with moving traffic this may not be possible.
- Be careful of tow truck operators pressuring you to authorize repairs at the scene. You have the right to request estimates of fees in advance. If you feel you're being pressured, ask police for the name of an authorized tow truck operator and have your vehicle towed to the police compound or your driveway until you talk to your insurance company.

After the accident:

- If police were not at the scene, you must report all accidents resulting in property damage of \$1,000 or more to them. If there isn't a Collision Reporting Centre nearby, call the local police station for guidance. Often they will ask you to go to the nearest police station to report.
- Even if you attended a Collision Reporting Centre, report the accident to your insurance representative as soon as possible. They will explain the coverage provided by your automobile policy and start handling your claim.
- If you're injured in the accident, your company will provide you with a package of accident benefits claims forms, which must be completed to start your benefits.

- Many insurance companies have a list of preferred body shops that will complete proper repairs to your vehicle. Your insurance adjuster or broker/agent can assist you with finding a good one in your area.
- Your Ontario automobile policy entitles you to have repairs done with parts of similar kind and quality. In other words, your car should be repaired so it is in a condition approximately the same as it was prior to the accident. If you don't feel your vehicle was repaired properly, report your concerns to your insurance adjuster immediately.

Reporting a collision to the police

The Highway Traffic Act requires any person involved in a car accident to:

- report the collision to the nearest police officer;
- remain at the scene for the purposes of offering assistance when needed; and
- provide insurance information, driver's licence number, name, address, the plate number and the name and address of the vehicle's registered owner to a police officer and to any person involved in the collision.

By law, all collisions must be reported to the police if there are any personal injuries or deaths, and where the damage to all vehicles is more than \$1,000.

Your automobile policy requires you to report such accidents to the insurance company within seven days. If you are incapacitated by the accident and are unable to report within the seven days, report it as soon as possible.

The penalty for failing to report a collision and/or failing to provide the necessary information is a fine of \$200 to \$1,000, three demerit points, a possible jail term and driver's licence suspension. The penalty for leaving the scene of a collision includes seven demerit points.

The police are required by law to investigate all reportable motor vehicle collisions and to provide a report to the Registrar of Motor Vehicles (MTO).

What should I know about filing an insurance claim?

What are the accident benefits to which I'm entitled?

If you're injured in an automobile accident, you may be entitled to a variety of benefits. A full description of coverage provided is contained in the "Statutory Accident Benefits Schedule." A copy of this document is available on request from your insurer. Your insurer will provide you with the necessary claim forms and will help you complete them.

Getting your damaged vehicle repaired

If your vehicle is damaged but repairable (and you have the necessary coverage in your policy) your insurer may suggest the repairs be carried out by one of their "preferred shops." If this is done, it will be the responsibility of the insurer to make sure the work is done satisfactorily. You may, if you wish, have the work done by a repair shop of your choice. However, be aware that the insurer will not pay any more than the price quoted by their repairer. Also, if the work is unsatisfactory, it will be your responsibility to deal with the repair shop.

If the damage is major and cannot be repaired safely, or the cost of repairs is more than the value of the vehicle, the insurer may decide to "write off" the vehicle. They will negotiate a settlement based on the actual cash value of the vehicle at the time of the accident.

“Betterment”

When an insurer is paying for a vehicle to be repaired, the shop will replace damaged parts with parts of the same vintage as the car. For example, the damaged bumper of a 1994 car would be replaced with a 1994 bumper. If new parts are used, even though used parts are available, the value of the car may be increased. In such a case an amount will be calculated, known as "betterment," representing the increase in value, and you may be asked to contribute to the cost of repairs.

What is covered if my vehicle is broken into?

Criminals find it profitable to steal and sell automobile equipment and accessories. This type of loss would be covered under your automobile policy if you have bought All Perils, Comprehensive or Specified Perils coverage.

However, your personal property in the vehicle, such as audiotapes (except for one in the machine), briefcases, suitcases, golf clubs, skis, bikes, fishing equipment and so on, is not covered under the automobile policy. For these things you need Homeowner's, Tenant's or Condominium insurance. Personal property is usually insured for up to 10% of the amount of the policy limit or \$1,500, (whichever is greater) while this property is *temporarily away from your premises*, anywhere in the world.

You may have to pay two deductibles. There is a deductible for the automobile policy (except in the case of fire, lightning or theft of the entire vehicle). Your Homeowner's/Tenant's/Condominium policy has a separate deductible.

If you leave the keys in the car or leave it unlocked, the vehicle itself (and its accessories) will be covered under your automobile policy if you have purchased coverage. As for the contents, some Homeowner's, Tenant's and Condominium policies require visible signs of forced entry into a locked vehicle as a policy condition. Claims from an unlocked vehicle would not be covered by these policies.

Locking bikes or skis in your vehicle

The trunk of a full-size car can accommodate a bicycle if you take the front wheel off. Some cars have a special hatch or sleeve to accommodate skis and poles so they extend from the trunk into the rear seat area. Ask your insurance representative about scheduling your sports equipment, cameras and other vulnerable items with additional coverage, especially if your policy has a forced entry policy condition.

Be prepared!

Before you have to make a claim under your home insurance, it is advisable to have an up-to-date inventory of your possessions. This could be a written listing, photographs or perhaps a video. Your inventory should be stored AWAY FROM YOUR HOME. Should you suffer a loss by burglary or theft, the loss must be reported to the police.

Determining Fault

No-fault insurance: What's it all about?

It does matter who caused the accident.

You certainly can't be blamed for being confused about the term "no-fault" insurance – it's a commonly misunderstood term. No-fault insurance *doesn't* mean the insurance company lets you

off the hook if you cause an accident. Despite the misleading name, it **does** matter who caused the accident, and if you are found to be at fault, either completely or partially, it will go on your insurance record. That means you may experience an increase in your future premiums.

You deal with your own insurance company.

No-fault insurance really means that if you are injured or your car is damaged in an accident, *you deal with your own insurance company, regardless of who is at fault.* You don't have to go after the at-fault driver for vehicle damage reports or for the health care and income replacement benefits to which you are entitled.

For example, if you were injured in a car accident, you would ask for any medical benefits offered under your policy immediately from your company, even if you were to blame for the accident. So you can get the help you need right away, instead of having to wait for the insurance companies to decide who was at fault before paying any benefits.

How does an insurance company assess fault?

Someone is *always* determined to be “at fault” in an automobile accident, whether partially or fully. Insurance companies must determine the degree of fault to be assigned to each driver so they can adjust at-fault drivers' premiums. In Quebec and Ontario, charts or rules are used to determine fault or responsibility for property damage claims – damage to your car – but not for injury claims. In Ontario, fault is determined by the Ontario Insurance Act and the Fault Determination Rules of that same Act.

The Fault Determination Rules contain examples of common types of collisions and explain how to assign fault for insurance purposes. They help insurance companies handle claims promptly and to be fair and consistent. After you report an accident to your insurer, your company investigates the accident and then makes a fault decision based on these rules.

The Fault Determination Rules:

- cover more than 40 accident situations, using diagrams to show specific situations;
- can be applied to almost every possible collision scenario;
- apply regardless of road or weather conditions, visibility, point of impact on the vehicles, or the actions of pedestrians; and
- may find you or the other driver wholly or partially at fault.

If the circumstances show more than one driver was negligent (or at fault), each driver's insurance company may become involved in the settlement, based on the degree of responsibility connected with each driver. If there is a dispute about responsibility, it may be necessary to go to court to resolve it.

Visit the government website dedicated to auto insurance in the province at www.autoinsurance.gov.on.ca to download a copy of Ontario's Fault Determination Rules, or visit Publications Ontario's website at www.gov.on.ca/MBS/english/publications to find out how to order a copy of the Fault Determination Rules by telephone, fax or mail.

How do police charges or convictions affect an insurance company's decision?

If police don't file charges, it doesn't mean the insurance companies investigating the accident will not find one or more of the drivers involved at fault.

For example, if a vehicle was unable to stop on an icy road and rear-ended another, a police officer may say neither of the drivers was “at fault.” But this relates to the laying of charges and should not be taken as an opinion about how fault applies to an auto insurance claim. In a case like this, the insurer would apply the rule stating that any vehicle that rear-ends another is at fault. However, with certain types of charges, the fault determination rules don’t apply. In these cases, fault is determined according to the ordinary rules of law.

Can fault in an automobile accident be shared?

Yes. Circumstances may show that more than one driver is *partially at fault* for insurance purposes. Fault is allocated to each driver based on the accident scenario in the Fault Determination Rules that most closely resembles the accident. If an accident is not described by any of the scenarios, then fault is allocated according to the rules of law.

Why do I need witnesses if I’m involved in an accident?

It is important to get independent witnesses, if possible. When there are two different versions of what caused the accident and no independent evidence, claims are usually settled on a 50/50 basis. This may affect your premium at renewal.

Will my rates go up if I am not at fault for the accident?

No. Your rates will not go up if you are 100% not at fault. However, if you are partially at fault, it may affect your rating.

Can I recover my deductible when I am not at fault?

Your insurance company may pursue the owner of the uninsured automobile and attempt to obtain a judgment against him or her to recover the claim and your deductible, but this could take time.

How does an at fault accident affect me?

You can be anywhere between 100% and 0% at fault. Any driver who is more than 0% at fault will have an “at-fault” accident on his or her insurance record.

If you’re found at fault for any percentage of the accident, your premium may go up on renewal. However, some companies allow you to maintain your driving record or premium after your *first* at-fault accident. To confirm your company’s approach and how your rates will be affected, ask your insurance representative.

In many cases, if you have your first at-fault accident after six or more years without any claims or convictions, your premium may not change or may increase by only a small amount. Most companies will change your driving record to reflect the accident and increase your premium by a small amount. You will then need six years of accident-free driving before you go back to a clean slate.

If this is your second at-fault accident in the last six years, you can expect your premiums to increase quite significantly.

If you have any convictions or cancellations of a policy, in addition to an at-fault accident, or are an inexperienced driver with an at-fault accident, you may be considered to be a high-risk driver and be placed with an insurer specializing in these types of risks.

When you are shopping for insurance, always ask the insurance representative how your premiums will be affected after an at-fault accident.

In addition, remember when you lend your car to someone, you're also lending him or her your insurance. If the individual you lent your car to has an at-fault accident with your car, the accident will go on *your* insurance record and your insurance premium could go up.

What can I do if I disagree with my insurance company's assessment of fault?

If you don't agree with your insurance company's decision and believe the decision does not accurately reflect the circumstances of the accident, speak to the claims adjuster handling your file. Ask him or her what fault determination rule was applied in your case.

Bring any new information to your insurance company. Generally, an insurance company will revise or reconsider its decision on fault only if additional relevant information is provided. For example, if an accident occurred in which each driver stated the other had gone through a red light, an insurance company would have little choice but to assign fifty-fifty fault. However, if an eyewitness confirmed *which* driver went through the red light, an insurance company could review its decision. If your insurance company refuses to revise its decision and you still disagree, contact your company's complaint officer. He or she will guide you through the company's complaint-handling procedures.

What are my rights if I drive without insurance and I'm in an accident in Ontario that's not my fault? Can I sue the at-fault driver and recover my losses from his or her insurer?

If you drive without insurance, the Ontario Insurance Act takes away your right to recover any loss or damage from bodily injury or death from the other person. The Act also takes away your right to recover damage to the vehicle or its contents from the other person.

In fact, if you're at fault, the other person's insurance company can sue you to recover the amounts they paid out!

In conclusion, don't think "no-fault" means no blame. Your best bet is to drive safely, whatever the insurance system in your province. No one can find fault with that

How do Accident Benefits coverages work?

Accident Benefits coverage is required by law in every province except Newfoundland and Labrador. To encourage fairness, consumer choice and affordability, your automobile policy offers basic coverage with options to purchase increased limits.

Basic coverage was made available so only policyholders who required higher limits (in other words, more coverage) are forced to pay additional premiums. Policyholders who do not require the higher limits will find insurance more affordable.

Under certain circumstances, legislation allows innocent victims of vehicle accidents to sue the at-fault driver for pain and suffering and loss of income and future earnings, when the victim's Accident Benefits coverage is insufficient. A pain and suffering lawsuit is allowed only if the injured person dies or sustains "permanent and serious" disfigurement and/or impairment of important physical, mental or psychological function. The court is directed to assess damages and then to deduct \$30,000 (\$15,000 for a Family Law Act claim).

Also, an injured person may sue for 80% of net income loss before trial, 100% of gross after trial and also for medical, rehabilitation and related costs when the injury is catastrophic. Legislation is pending to permit claimants with permanent serious injuries to sue for excess health care costs.

Note: Ontario “insureds” involved in accidents in Quebec can choose to receive, from their own insurance company, the Ontario benefits or the equivalent to the benefits available to Quebec residents from the Société de l’assurance automobile du Québec.

What happens when a vehicle is a “total loss”?

A vehicle is a total loss when repairs cannot be economically or safely carried out, for example, when repairs would cost more than the market value of the car.

Market value or actual cash value (referred to in your automobile policy) is what your vehicle could have reasonably sold for the day before the claim. Mileage, condition of the vehicle, equipment and retail selling price are all considered in determining the amount to be paid on the claim.

Your insurance company calculates the vehicle's actual cash value including retail sales tax and GST, where applicable, and offers you a cash settlement. It is your responsibility to purchase a replacement vehicle.

From time to time, people believe they have not been offered a fair settlement. An individual can be better informed about what is a fair settlement by doing a bit of research. Check with your local newspapers to see the price of similar vehicles. Car dealers and automobile trade magazines are also excellent sources for comparable pricing. Select five prices of cars similar to yours then take the average. You should now have a reasonable ballpark figure.

Also, if you've completed work on your vehicle that would increase the selling price, tell your insurance company and provide receipts to help them in determining your cash settlement. Repairs needed to maintain your car in good running order may not increase the selling price of your vehicle. For example, if you needed new brakes to operate your vehicle, it would not increase the selling price because the purchaser would expect the brakes to be working properly. However, an opinion from the person who regularly services your car on the condition and retail value is helpful. It is preferable to get this opinion in writing.

If, after you have done your homework, you still disagree with the cash offer, go back to your claims representative and discuss the matter. Advise him or her of the information you have gathered and ask how the amount was determined by the company. If there is still disagreement, discuss the matter with your insurance representative.

If you are unable to come to an agreement and the amount is \$10,000 or lower, you can take the matter to small claims court. Otherwise, if the amount is over \$10,000, seek legal advice. Please call our Consumer Information Centre at 416-362-9528 or outside Toronto at 1-800-387-2880, Monday through Friday between 8:00 a.m. and 6:00 p.m.

We would be glad to make an inquiry on your behalf.

Why isn't my car always repaired with new parts?

Sometimes your car is repaired with new parts, but not always.

The policy or contract you signed with your insurance company calls for repairs with parts of "similar kind and quality."

If your vehicle is in its first production year, there will likely be only OEM (Original Equipment Manufacturer) parts available to complete repair. These parts are new, of course.

New parts may also include "after-market" replacement parts. After-market parts can be an over-run from makers of original parts, or made by manufacturers who specialize in replacement automobile parts. After-market parts approved by Certified Automobile Parts Association meet *or exceed* Original Equipment Manufactured specifications and are suitable replacement parts.

Safety-related parts are usually always new. Regardless of the age of your vehicle, most insurance companies will insist that safety-related parts required for repairs be new. For example, a 50% worn tire would be replaced with a new tire and you, as policyholder, are expected to pay for the extra tire life added to that wheel. This is called "betterment."

As any vehicle ages, it loses some of its value. That's why the insurance company is justified in replacing damaged parts with recycled parts which are undamaged. This complies with an agreement in your policy.