

Can passengers claim for a car accident or be found negligent?

Generally, if you are a passenger in a **motor vehicle accident**, you cannot be held liable for the collision and assuming a driver was at fault, you will receive compensation for the injuries you sustain in the collision, and the impact such injuries have on your life.

However, there are some factors that may result in an allegation of **contributory negligence** (that is, your actions or inactions contributed to your injury or the severity of your injury), and any compensation you receive for your injuries will be reduced by a certain percentage. Not all the responsibility rests on the driver to ensure that you are safe in their vehicle.

If the driver of the vehicle that you were travelling in has been drinking alcohol and is over the legal limit, your compensation may be significantly reduced if you are injured. If you can prove that you were not aware and had no reason to be aware that the driver had been drinking alcohol, the reduction will not apply.

However, where you and the driver were together prior to the accident either at the pub together or at the same party, it may be difficult to prove that you were not aware that they had been drinking

alcohol.

Similarly, where the driver was under the influence of recreational drugs, your claim is also likely to be reduced for contributory negligence. If you can prove that you were not aware that the driver had taken drugs and had no reason to be aware, then the reduction may not apply.

In these situations the insurer will also look at your blood results to see whether any alcohol or drugs were in your system. The presence of alcohol or the same drugs may indicate that you consumed the alcohol or drugs together.

Therefore, as a precaution, it is always recommended that you ensure your designated driver has not consumed any alcohol or recreational drugs prior to entering the vehicle with them. Statistics show that a significant number of fatalities are caused by drunk and drugged drivers.

Another factor that may result in a finding of contributory negligence is if you actively encouraged the driver to drive recklessly and/or speed. If you are in a vehicle where the driver is driving recklessly and you do not urge the driver to stop driving recklessly and an accident occurs, you may be held partly responsible for any injuries you may sustain as a result of reckless driving.

If you are aware that the driver of a vehicle is unlicensed and inexperienced, but get in the car anyway and a collision occurs, the insurer may seek a reduction for contributory negligence on the basis that you put yourself in a dangerous situation.

Putting aside the acts of the driver of a vehicle you are a passenger in, you will also be subject to contributory negligence if you were not wearing a seatbelt. Seatbelts have been proven to save lives and will, in most cases, reduce the severity of any injuries sustained in a collision. If you choose not to wear a seatbelt then your compensation will be reduced by 25%.

Whilst there are some exceptions to the 25% reduction for failure to wear a seatbelt, these are very limited and rarely apply.

How can Andersons’ help?

Where there has been an allegation of contributory negligence, it is important to see a lawyer immediately. Andersons can assist in investigating the claim and obtaining evidence to show that the reduction shouldn’t apply, or that a lower reduction is appropriate.

To discuss your personal situation with one of Andersons ’ **personal injury lawyers** , please **contact us here**.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.