

What Happens If You’re Partly Responsible for a Car Accident?

If you lodge a Compulsory Third Party (CTP) claim in South Australia, the insurer must first determine who was at fault for the accident. Unless you fall under the Lifetime Support Scheme, you can only receive compensation if another driver was wholly or partly responsible.

When the Other Driver Is Fully at Fault

If the insurer accepts that their insured driver was entirely at fault, they will admit 100% liability. This means they accept responsibility for the accident. However, you must still prove that you were injured and establish the nature and extent of your losses. Importantly, even where liability is admitted, strict court time limits apply. In most cases, proceedings must be commenced within three years of the accident (different rules apply for children).

What Happens If You Are Partly at Fault?

If the insurer believes you were partly responsible for the accident, they may allege **contributory negligence** (also known as **shared fault**). This means your compensation may be reduced to reflect

your share of responsibility. Common examples include alcohol or drug use, not wearing a seatbelt, being a passenger with an intoxicated driver, failing to keep a proper lookout as a driver or pedestrian, or failing to take reasonable steps to avoid the accident.

How Compensation Can Be Reduced

In some situations, the law imposes mandatory reductions. For example, failing to wear a seatbelt usually results in an automatic 25% reduction. Being a passenger in a vehicle driven by an intoxicated driver can result in a 25% or 50% reduction, depending on the level of intoxication. Exceptions to these rules are rare and tightly defined.

A finding of contributory negligence can significantly reduce your compensation. Your damages are first assessed in full and then reduced by the percentage of fault attributed to you. Insurers may also seek a credit for medical expenses they have paid, in the same proportion.

Can You Challenge the Insurer's Decision?

You are not required to accept an insurer's assessment of contributory negligence. These findings can often be challenged. A lawyer can investigate the circumstances of the accident by obtaining police reports, witness statements, CCTV or dashcam footage and, where necessary, expert accident reconstruction evidence to help protect your entitlement to fair compensation.

How Can Andersons Help?

If you have been injured in a motor vehicle accident and have concerns about fault or contributory negligence, it is important to seek legal advice as early as possible. Here at Andersons, an experienced personal injury lawyer can assess the insurer's decision, explain how liability may affect your claim, and take steps to ensure your rights and entitlements are protected. Contact our personal injury team on **8238 6666** or alternatively, send through your enquiry to **enquiry@andersons.com.au.**