

Work-Related Car Accident Claims: Workers' Compensation vs CTP Explained

If you've been injured in a car accident while performing work duties, you may be eligible to lodge either a Workers' Compensation claim or a Compulsory Third Party (CTP) claim. In some cases, the best method is to actually lodge both. However, it is crucial to understand that these two claims are fundamentally different in terms of eligibility, process, and compensation.

Workers' Compensation (Return to Work SA) Claim

A Workers' Compensation claim is designed to support employees injured during the course of their employment, regardless of who caused the accident. In South Australia, this is a 'no fault' jurisdiction meaning the cause of the accident is not important. If your car accident occurred while you were working, you may be entitled to:

- Income support payments (based on your capacity to work);

- Payment of reasonable medical expenses; and
- Lump sum compensation for economic and/or non-economic loss (subject to meeting certain thresholds).

Key Differences to CTP Motor Vehicle Accident Claim:

- No need to prove fault: You do not have to show that another driver caused the accident;
- Timeframe: You must notify your employer as soon as possible and lodge the claim within 6 months of the injury; and
- Administered by Return to Work SA, which may seek a financial recovery if you also pursue a CTP claim against the relevant CTP Insurer.

Compulsory Third Party (CTP) Motor Vehicle Accident Claim

A CTP claim is made against the insurer of the at-fault driver. This type of claim is fault-based, meaning you must prove that another driver was responsible for the accident.

If successful, you may be eligible for compensation including:

- Pain and suffering (non-economic loss);
- Loss of earnings (past and future);
- Medical expenses (past and future);
- Care and assistance;
- Superannuation contributions; and
- Loss of consortium.

Key Differences to a Workers' Compensation Claim:

- Fault must be established: You must prove that someone else caused the accident;
- Thresholds apply: You must meet specific criteria to qualify for compensation; and
- Time limits: You must lodge the claim within 6 months, and court proceedings must begin within 3 years from the date of the accident to avoid being statute-barred.

Can You Lodge Both?

Yes, but with caution.

If you lodge both a Workers' Compensation and a CTP claim, Return to Work SA may seek reimbursement from any compensation you receive under the CTP claim. This means your CTP payout must exceed the recovery amount to be financially worthwhile.

In most cases it is often appropriate to lodge both claims concurrently, but to deal with the Workers' Compensation claim first. This will help you to understand the viability of proceeding with your CTP claim and highlight if your CTP payout will likely exceed any recovery sought from Return to Work SA.

How Can We Help?

This is a difficult process and you should not be expected to face it alone. Andersons Solicitors can assist you to break down these two schemes which operate under different rules and requirements.

It is important to seek legal advice to understand your rights and the best course of action for your particular situation. Working out the right path to take can be tricky and navigating this space alone can be detrimental to your claim.

Andersons Solicitors offers a free 30-minute consultation to help you to understand which path to take to ensure the best possible result. Our dedicated personal injury team is ready to provide you with realistic and compassionate guidance.

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.