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LawTalk Blog



Can I claim motor accident compensation if the other driver cannot be found

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Whenever a motor vehicle accident occurs, drivers of all vehicles involved are required to stop at the scene to exchange their details and provide assistance where needed. In some case however this does not occur and one or more drivers fail to stop.

If you are injured in a motor vehicle accident, either as a driver, a passenger, a cyclist or pedestrian and the other driver fails to stop at the scene, you can still lodge a claim for compensation. You can claim in circumstances where you do not know the name or the registration number of any other vehicle involved.

Usually your claim would be made against the other driver's "compulsory third party insurer" Allianz, but as there is no other identifiable person to claim against this cannot be done.

As it is seen to be unfair on injured persons not to be able to claim compensation for their injuries in these circumstances, a scheme has been established which allows for a claim to be made against the "Nominal Defendant".

This scheme operates in the same way as the compulsory insurance scheme but covers claimants where the driver of the other vehicle cannot be identified for any reason such as the vehicle at fault has left the scene without stopping, or the driver of the vehicle is unregistered and uninsured or if the other driver dies as a result of the accident. As such a Nominal Defendant scheme

has been set up and it is run on exactly the same basis as is a normal claim for compensation against the compulsory insurer.

When making a claim where the other driver's identity is unknown you, as the injured person, have an obligation under the legislation to take active steps to try to identify the other driver such as placing a notice in the paper seeking witnesses to the accident. To pursue your claim for compensation you need to be able to show what steps you have taken to identify the other driver.

As with any other motor accident claim, the onus is on you to prove who was at fault for the accident, the nature and extent of your injuries and the effects of those injuries.

For all personal injury claims arising from motor vehicle accidents, [new legislation came into effect on 1 July 2013](#) which will affect what damages you may be entitled to.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.