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LawTalk Blog



I'm responsible for a car accident where someone was injured. What do I do?

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Jenny is driving home one evening after a busy day at work. Traffic is heavy and all she wants to do is get home to her family. Jenny sees a small break in traffic and decides to quickly turn right into her street.

Just as her car crosses the right side of the road, she collides with a cyclist. The cyclist is knocked from his bike and lands with a crunch 10 metres away. In shock Jenny pulls over, trying to understand what has just happened. The cyclist had appeared out of nowhere.

Jenny checks the cyclist and calls 000. As the ambulance takes the cyclist away, Jenny is left talking with the police officers.

Will Jenny have to pay for the cyclist's medical treatment?

Firstly, it is important to know that if you are in an accident, you must report it to the police (if they do not attend the scene) and complete an Accident Report Form for the purposes of third party insurance.

When you register your vehicle in South Australia, part of the fee you pay goes towards paying your Compulsory Third Party (CTP) insurance premium. Aside from providing lifetime support for people injured where no third party is found at fault, for example single vehicle accidents, CTP insurance provides compensation to victims of motor vehicle accidents where the owner or driver of a

registered vehicle is at fault.

If you cause an accident where someone else is injured and you have paid your CTP premium (through your vehicle registration), your insurer will indemnify you when the injured person lodges a personal injury claim seeking compensation for their injuries.

In this situation, Jenny will be indemnified by her CTP insurer against a personal injury claim lodged by the cyclist. That being said, there may still be out-of-pocket costs for someone found to be at fault.

Under section 124AB of the *Motor Vehicles Act 1959* (SA), an excess applies to all drivers or owners who are found to be more than 25% at fault for causing a crash where someone else is injured. This is similar to the excess you pay if you make a claim against your car (for damage to the vehicle) or home insurance.

Your CTP insurer will advise you if an excess will apply and once fault has been apportioned, how much the excess will be.

The good news is that an excess won't be payable until payments made to the injured person reach or exceed the amount of excess. Where payments made to the injured person are less than the amount of excess, you are only required to pay that lesser amount. In addition, there is a 5% discount if the insurer receives your payment within 30 days of being due.

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.