

Quick Guide to Motor Vehicle Accidents

In most Canada provinces automobile insurance for accident benefits and third party liability is compulsory. According to [Transport Canada](#) statistics there are over 150,000 injuries and fatalities resulting from road traffic accidents every year. Motor vehicle accidents including minor traffic incidents result in fines, criminal charges and claims for compensation. Canada has several acts dealing with legislation governing motor vehicle accidents, typically the [Insurance Act 1990](#) lays guidelines for paying compensation and determining 'fault', the [Highway Traffic Act, 1990](#) governs the rights and responsibilities of all vehicle drivers in Canada and the [Motor Vehicle Accident Claims Act 1990](#) lays down compensation legislation for accident victims who have been injured or whose property has been damaged by drivers who left the accident scene and those who were not insured.

Procedures at the Scene of a Traffic Collision

- ❖ Anyone involved in a motor vehicle accident, must stop their vehicle at the scene of the accident no matter how minor. Failure to do so results in prosecution and fines between \$200 to \$1,000 and three demerit points and in some cases a driving licence suspension.
- ❖ Vehicles should be parked safely at the roadside.
- ❖ If the vehicle is immobile it should be cordoned off with traffic cones and breakdown triangles.
- ❖ The vehicle cannot be towed away until the police say so.
- ❖ The police can provide details of authorized tow truck companies.
- ❖ If the accident is minor with no injuries and damage estimated at less than \$1,000 the local police station will either attend the accident scene or tell you to go to a Collision Reporting Centre.
- ❖ Accidents must be reported to the nearest Collision Reporting Centre within 24 hours; if there is no Collision Reporting Centre nearby the nearest police station will deal with the incident.
- ❖ The Collision Reporting Centre photograph all damage and offer help filling out the accident report and in towing away immovable vehicles.
- ❖ In motor vehicle accidents where there are injuries or damage over \$1,000, or a drunk / drugged driver, the police will attend the scene of the accident.
- ❖ Everyone involved must wait at the accident scene.
- ❖ Collect the following information at the accident scene:-
 - the contact details of all other drivers involved in the accident
 - their driver's licence number
 - the vehicle licence plate numbers of all vehicles involved in the accident.

- the contact details for the vehicles' registered owners
 - the insurance details for all vehicles involved
 - contact details for each of the passengers
 - contact details for any witnesses
 - try to note down any other details about how the accident happened.
- ❖ Remain calm and don't make claims or statements about the accident unless it is to the police.

Criminal Charges for Motor Vehicle Accidents

- ❖ Road traffic accidents must be reported to the police, vehicles owners must have valid insurance and all drivers must have a valid driver's licence. Failure to adhere to these three procedures can result in legal action.
- ❖ Under Canadian law, drivers are compelled to aid the police but the legal right to remain silent and not to incriminate oneself has been protected because the statement given at the accident scene cannot be used in a criminal trial.
- ❖ The police may make an arrest based on the information collected.
- ❖ Criminal charges resulting in life imprisonment are dealt out to drivers who:
 - Leave the scene of an accident or failing to stop where a death has been caused by dangerous driving
 - Impaired driving resulting in the death of a person(s)
 - Driving with more than 80 mgs of alcohol and causing death in a traffic collision
 - Fail or refuse to take a breath test or a drugs test when it is clear that their drunken or impaired driving from drugs resulted in death
- ❖ Criminal offences resulting in a a jail sentence are:
 - Driving whilst disqualified
 - Dangerous driving, even if it results in no injury to others
 - Fleeing from the police
 - Leaving the scene of failing to stop at an accident
 - Drinking and driving or being under the influence of drugs whilst driving
 - Failing to take a blood, breath or drugs test
 - Impaired driving resulting in injury
- ❖ Minor offences are dealt with as [provincial offences](#).

Making a Motor Vehicle Accident Claim

- ❖ Insurers and / or agents must be informed about the details of any vehicle incident within seven days of the accident occurring.
- ❖ Insurance companies need the following information to process motor vehicle accident claims:
 - If the vehicle involved in the incident is registered to another owner, the owners name, insurance company and their insurance policy number
 - The vehicle's registration year, make, model, and licence plate number
 - The date, time and location of the accident
 - The number of passengers involved and details of any injuries to any party involved
 - Details of damage to the vehicle
 - Your version of the accident
 - The details of all of those present at the accident, as detailed above
 - Details of the investigating police officer including his badge number
- ❖ The insurer will send a 'Proof of Loss' form.
- ❖ What can be claimed depends on the type of insurance policy.

Assessing the Motor Vehicle Accident Claim

- ❖ A claims adjuster will contact the person who submitted the claim to either meet in person or to discuss the claim over the phone.
- ❖ The insurance company will decide who is 'at fault' and whether they are partially or fully responsible.
- ❖ The guidelines for apportioning blame are laid out in the Fault Determination Rules detailed under the Insurance Act.
- ❖ Fault is apportioned to determine how the insurance companies involved will pay the claim and is independent of whether the police file charges or not.
- ❖ If the police file charges, this does not mean that the insurance company will apportion all blame on the convicted party.
- ❖ If the insurance company decides that a driver was fully or partially at fault it will be registered on his/ her insurance policy and insurance premiums will increase.
- ❖ If a vehicle was lent to a third party who was involved in an accident, an 'at fault' record will be registered on the vehicle owner's insurance policy.

- ❖ Disagreements over the insurance company's assessment of the accident should be registered with the claims adjuster or complaints officer.
- ❖ The insurance company are obliged to disclose, which rule was used from the Fault Determination Rules to determine each motor vehicle accident claim.

Motor Vehicle Accident Dispute Resolution

- ❖ Many Canadian provinces have a regulatory body responsible for resolving disputes between claimants and their insurance companies.
- ❖ In Ontario, [the Financial Services Commission of Ontario \(FSCO\)](#) helps claimants and insurance companies settle their accident benefit claims by offering dispute resolution like [mediation](#), neutral evaluation and [arbitration](#).
- ❖ The first mandatory step in dispute resolution is [mediation](#).
- ❖ If [mediation](#) fails, there are two ways to settle the dispute; [arbitration](#) or file a claim with the Small Claims Court (providing the amount under dispute is less than the [small claims provincial limits](#) or with the Provincial Court if it is over this limit
- ❖ Forms and fees are available at <http://legalcanadacommunity.com/motor-vehicle-accidents>
- ❖ If the claimant and the insurer reach an agreement it is called a settlement.
- ❖ Insurance companies ask claimants to sign a document stating that they will not renew their claim for the same benefits.
- ❖ The claimant can reverse the settlement within two days by giving the insurance company a written notice and returning any money received as part of the settlement.

Claiming Compensation from the Motor Vehicle Accident Claims Fund

- ❖ Some Canadian provinces have compensation funds to help people involved in a motor vehicle accident where the other party had no vehicle insurance or was an unidentified driver or the driver of a stolen vehicle.
- ❖ In Ontario, the Motor Vehicle Accident Claims Fund (MVACF) also recoups money from drivers and owners of uninsured vehicles.
- ❖ Claims to the MVACF can only be made if the accident took place in Ontario and those involved had no insurance coverage or left the accident scene and are therefore unidentified.
- ❖ If one of the parties involved has insurance coverage, it is the responsibility of the insurer to cover any claims.
- ❖ If you live outside of Ontario, a claim can only be made if the province you reside in also has a similar accident fund and operates a reciprocal policy.

- ❖ To make a claim from the MVACF claimants must get a [judgment](#) against the uninsured driver then fill out an [Application for Payment](#) and include the following attachments:
 - A Judgment Order(or a certified copy) showing certificates of taxed party and party costs
 - A copy of the assessed Solicitor and Client Account (in accordance with s.27 of the Act)
- ❖ If the driver was unidentified the judgment is made against the Superintendent of Financial Services
- ❖ Once the claim has been processed and agreed to the MVACF pays compensation within 14 days.

Motor Vehicle Accident Claims against You

- ❖ If you were involved in a road traffic accident and you did not have any insurance, the injured parties may file a claim for compensation against you payable from the MVACF.
- ❖ The fund pays the compensation on your behalf but you are obliged to pay the money back.
- ❖ Failure to repay or set up a reliable payment process will result in a driving licence suspension.
- ❖ You can set up a payment plan with the MVACF by submitting a Repayment Application form along with documented proof of income and expenses.
- ❖ Drivers in debt to the fund must also submit a valid Certificate of Insurance before their driving licence is reinstated.
- ❖ Once your payment has been received the Ministry of Transportation will reinstate your driving licence within six weeks. The fee for this service is \$150.00.
- ❖ If you are an uninsured driver and you disagree with the charge against you, you should file a written dispute with the court dealing with the case or the MVACF.
- ❖ In cases where the owner and driver are not the same, both are held jointly responsible for the debt.
- ❖ Failure or refusal to pay back the money given as compensation will result in a drivers licence suspension and a Writ of Seizure and Sale or the garnishing of your salary if you are employed.