

# If you're injured in a Motor Vehicle Accident



For injuries sustained after 30 June 2013



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## Injured in a Motor Vehicle Accident?

The majority of the Australian public understand that compensation may be available for injuries and disabilities that are caused by a motor vehicle accident, motorbike accident or bicycle accident.

However, many people do not understand the procedure and steps that are undertaken by car accident lawyers and the courts to ensure that appropriate compensation is awarded to those who suffer injuries and disabilities from a car accident or other accident involving any type of motor vehicle. At Andersons, our personal injury compensation lawyers try to make the process easier for you by providing you with the right information and working with you through the claim process.

## From 1 July 2013, new legislation came into effect in South Australia, regarding compensation as a result of injuries sustained in a motor vehicle accident.

There are now significant differences between the Compulsory Third Party ("CTP") insurance schemes for entitlements to compensation as a result of injuries sustained in a motor vehicle accident before 1 July 2013 as opposed to accidents after 30 June 2013.

If your accident was prior to 1 July 2013, please ask your lawyer to provide you with our brochure for that compensation scheme.

The FAQ below is a guide about your rights and entitlements when you've been injured in a motor vehicle accident after to 30 June 2013. If you think you have a claim, contact Andersons for an initial free consultation.

## Can I make a claim?

For accidents which give rise to injuries and which occur after 30 June 2013 South Australia has a new method of determining compensation for people injured in a road accident.

As of 1 July 2013 there have been major amendments to the legislation covering compulsory third party ("CTP") insurance and these amendments create a significantly different system. It is a more complex system than for those injured prior to 1 July 2013.

Whilst an injured person retains rights, for example, to claim compensation for non economic loss (pain and suffering) and economic loss, such claims are restricted and thresholds need to be met before claims can be successful.

In a general way, it is easy to say that if you are badly injured then you will be able to make a claim and if you suffer minor injuries you will not be able to make a claim.

Whilst that is simplistic, it is fair to say that many people who have been entitled to compensation up to 1 July 2013 may no longer be entitled to compensation post that date because their injuries will not be deemed severe enough under the new system.

## How long do I have to make a claim?

There is no change to the time limit of three years within which a person needs to either complete the claim or institute proceedings claiming compensation. That three years runs from the date of the negligent act giving rise to the injuries (that is, the accident date). There are further provisions when the injured party is a minor (that is, under the age of 18 at the time of the accident).

One thing that has changed under the post 30 June 2013 legislation is that an injured plaintiff is now meant to give formal notice.

An Injury Claim Form is required to be completed. The regulations require that the Injury Claim Form is to be completed within six months of the injury. Our view is that the three year time limit will, if the circumstances so arise, override any failure to provide an Injury Claim Form but this is yet to be tested.

## What compensation might I be entitled to?

In this regard there are significant changes to the compensation entitlements from those injured prior to 1 July 2013.

For example when assessing the potential for a person to have a claim for non economic loss, you must now have regard to the Injury Scale Value (ISV). This value runs from 0 to 100. Unfortunately an injured person needs to attain a value of over 10 (that is, 11 or more) as a minimum to have a claim for pain and suffering. It is a complex table and requires interpretation by a solicitor experienced in motor vehicle claims. There are over 160 examples of injuries contained in the Regulations. It is important to note that an injured person's condition needs to have stabilised before any assessment can be made as to permanent impairment.

Economic loss is dealt with in two different ways. Past economic loss, that is loss

that exists after the accident and prior to the case being finalised, does not require any threshold but will only be paid at 80% of the assessed value. Future economic loss requires that the person gets to a threshold of more than 7 on the ISV scale (that is 8 or more) as a minimum to be able to claim. Again a person's entitlements are to be reduced by 20%.

It would appear that an injured person's entitlement to have their medical expenses paid is retained.

## What do I need to know?

The first thing you need to know under the new legislation is that an Injury Claim Form needs to be completed which will require notice of the accident, the injuries and other relevant information to be given to the insurer at an early time.

It would be important to get initial advice from a solicitor to put some context around the injury that you have suffered and to ensure you protect, from the beginning, your rights and entitlements to compensation.

As the new legislation and regulations provide such a significant procedural change, we are entering into uncharted waters and it may take a short time before precise advice can be given.

Our best advice for those who suffer injuries as a result of a motor vehicle accident, is to seek initial early advice from a solicitor experienced in the field.



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