IM LAWYERS



Can pedestrians make CTP claim after a motor vehicle accident in Queensland?

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If you're a pedestrian injured in a motor vehicle accident in Queensland, you may be entitled to compensation through the at-fault driver's CTP insurer or the nominal defendant in accidents where the vehicle/driver cannot be identified.

This article explains how CTP claims work for pedestrians, including what to do in hit-and-run cases, time limits that apply to making your claim, and what compensation you may be entitled to. We also outline how an experienced personal injury lawyer can help you navigate the claims process and maximise your entitlements.

How does CTP insurance work for pedestrian accidents in Queensland?

When there is a personal injury claim after a motor vehicle accident in Queensland, the claim is made through the CTP insurer for the at-fault driver, rather than the insurer for the injured person.

The theory behind this is that the insurance for the person who caused the injuries should be liable rather than the person who was injured. This also means that it doesn't rely on the people who are injured having insurance, like pedestrians, bicycle riders or passengers of a vehicle.

The 'C' in CTP stands for 'compulsory' because in Queensland, it is compulsory for all **drivers** to have this insurance policy. In fact, it is purchased during the yearly vehicle registration renewal process.

The 'TP' in CTP stands for 'third party' because the policy covers injuries for third parties (i.e., people other than the policyholder).

That is why, even when you are a pedestrian, you are still entitled to make a CTP claim because your claim will be against the

insurer of the driver responsible for the accident.

What happens if I don't know who the at-fault driver is?

If you don't have any information about the at-fault driver or their vehicle, then you may be entitled to make a claim against the 'nominal defendant'. This is common for pedestrian injury claims in a 'hit and run' scenario. The nominal defendant is a government body that steps in on behalf of the at-fault CTP insurer when the driver cannot be identified or there is no known CTP insurer liable.

How long do I have to make a CTP claim if I am injured as a pedestrian?

The first applicable time limit for CTP claims is the time limit to provide a Notice of Accident Claim form to the at-fault driver's CTP insurer or the nominal defendant as applicable ('the Respondent').

Claims against the at-fault driver's insurer

You can use the Motor Accident Insurance Commission (MAIC) website to find the 'at-fault' vehicle's CTP insurer.

The claim form must be provided within nine months of the accident. The nine-month timeframe may be extended in circumstances where there is a reasonable excuse for delay, for example, severe injuries preventing the injured person from making a claim in time.

Claims against the nominal defendant

If the motor vehicle/at-fault driver cannot be identified, the claim form must be given to the nominal defendant within 3 months of the accident or 9 months of the accident if you have a reasonable excuse for that delay. This 9-month timeframe (where you have a reasonable excuse for delay) cannot be extended.

Time limits if you have consulted a lawyer

If you have consulted a lawyer about your personal injury claim, then there is an additional time limit applied to the Notice of Accident Claim form. Your claim form must be served on the Respondent within one month of the date you consulted with that lawyer.

Time limits for common law claims

There is a general three-year time limit for the commencement of all common law personal injury claims, including those related to motor vehicle accidents.

You can read more detail about time limits in our earlier blog, "How long do I have to make a personal injury claim in Queensland?"

What damages could I be entitled to in a successful CTP claim, as a pedestrian?

In all personal injury claims, the damages (compensation) that you may be entitled to will reflect:

the injuries you sustained;

the impact that those injuries have had on your life since the accident ('past'); and

the likely impact on your life into the future ('future').

The possible types of damages that you could claim, depending on your injuries, include:

General damages

This recognises the pain and suffering caused by your injuries.

Past and future economic loss

This compensates you for any lost wages and time away from work that you may have suffered after the motor vehicle accident because of your injuries.

Past and future medical expenses

This compensates you for costs associated with treatment of your injuries, including travel to and from medical appointments.

Past and future care

This could include paid carers or service providers such as gardeners or cleaners engaged to assist with usual activities you are no longer able to do due to your injuries. It may also include financial recognition of the help provided to you by friends or family if certain thresholds are met (gratuitous care).

Why should I engage a personal injury lawyer?

While we are very good at making the process seem straightforward in this article, there are several parts of a CTP claim, or in fact any claim for compensation for personal injuries, that are incredibly complex and are best handled by an experienced personal injury lawyer.

For CTP claims for pedestrian injuries, some of the more complex items to consider, prove and highlight to the CTP insurer include:

whether the at-fault driver has been negligent (which could lead to common law damages);

the dollar figure to attribute to the loss you have sustained (this involves some complex legal and mathematical considerations);

gathering all the necessary information and making sure it is presented appropriately so as to maximise your compensation.

At IM Lawyers, we offer a first free consultation and run cases on a ‘no win no fee’ basis – so, it costs you nothing to find out where you stand.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.