



## Motor vehicle accident while working? Is it a CTP or a workers' compensation claim?

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If you are injured in a motor vehicle accident while working, it is not always clear whether you should make a [CTP claim](#), a [workers' compensation claim](#), or both. This is a common issue in Queensland when a worker is injured in a road accident in the course of employment, and that accident was caused by another driver.

This article explains the difference between CTP and workers' compensation claims, when both may apply, and how they interact.

In most circumstances, an injured person will only be able to make one of these types of claims. However, sometimes an injury could occur in a way that could mean that they are eligible for both CTP and workers' compensation benefits. In those circumstances, it is difficult to know how to proceed and which claim avenue to take.

For the purpose of this article, we will assume that the workers' employer is insured for workers' compensation insurance through WorkCover Queensland and that there was no negligence on the part of the injured workers' employer contributing to the injury (i.e. the accident was caused by another driver's negligence).

If the employer is insured in any other way, or the circumstances of your injury are slightly different or more complex, then the answer may change slightly. In this situation, you should get some advice specific to your circumstances, early.

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### What type of claims could a worker injured in a road accident be eligible to claim?

Generally, the two types of claims that the worker may be considering commencing if they are injured in a motor vehicle accident during the course of their employment, caused by another driver, are:

a motor vehicle accident/CTP claim against the at-fault driver, given the injuries were sustained in a motor vehicle accident;

a statutory WorkCover workers' compensation claim, given the injuries were sustained in the course of the injured worker's employment.

## Could the injured worker commence both a CTP claim and a workers' compensation claim?

The short answer is yes. The injured worker could commence both the WorkCover claim and the CTP claim.

However, it is important to note that the injured worker is not entitled to be compensated twice, even though they may bring both of those claims through the two different compensation schemes. Therefore, each of the claims may impact the other.

The most common way that this is dealt with is by commencing both the WorkCover statutory claim and the CTP claim within the required time limits to do so.

The WorkCover claim and the CTP claim (assuming that both are successful) will generally pay different compensation items at different times throughout the claims process. These differences are set out in the below table.

Timing of payment	CTP claim	Statutory workers' compensation claim
Periodically throughout the claims process	<ul style="list-style-type: none"><li>• (In some instances) medical expenses</li></ul>	<ul style="list-style-type: none"><li>• Medical expenses</li><li>• <a href="#">Weekly lost income</a></li></ul>
On completion of the claim (which could be several years after the accident)	<ul style="list-style-type: none"><li>• General damages</li><li>• Past and future economic loss</li><li>• Past and future medical and treatment expenses</li><li>• Past and future care expenses (both paid and gratuitous)</li></ul>	<ul style="list-style-type: none"><li>• A smaller <a href="#">lump sum calculated pursuant to legislation</a>, if there is a permanent impairment that flows from the injury.</li></ul>

When quantifying the value of potential damages (compensation) in a personal injury claim, there are some guidelines about what types of compensation can and cannot be claimed. To assist with this assessment process, the damages are broken down into categories called 'heads of damage'. For more information about what each of these 'heads of damage' are, you can read our earlier blog, "What are "heads of damage" in a personal injury claim?"

## Pros and cons of a CTP claim vs workers' compensation claim?

Assuming both claims have been lodged and accepted, a statutory workers' compensation claim will be more likely to begin compensating the injured worker throughout the interim period during the claims process (for benefits like medical expenses and weekly payments for loss of wages). However, the statutory workers' compensation claim also may not entitle the injured worker to as much compensation as the CTP claim.

If the injured worker were only to make a statutory workers' compensation claim, then they may miss out on compensation for loss that they have suffered as a result of their injuries. Conversely, if they only make a CTP claim, they may need to wait several years before they receive any compensation for their losses.

This can be particularly difficult where the injured person is accruing medical expenses and may not be able to earn at the same capacity as prior to the injury.

For those reasons, bringing both types of claims can help the injured person to have the 'best of both worlds'. But remember, they can't double dip. For example, they cannot receive benefits for loss of income or medical expenses from both the CPT and workers' compensation schemes.

## How do I ensure that I am not being compensated twice for the same injury?

Throughout each of the workers' compensation and CTP claim processes, you will be required to inform each insurer that you have commenced the other claim. This means that throughout the claims process, each of the insurers responding to the claim (i.e., WorkCover Queensland and the CTP insurer) will likely request records of the other claim directly from the other insurer.

Ultimately, in the circumstances that we are considering, the person who is responsible for the injured workers' loss is the negligent driver who caused the accident. Therefore, WorkCover Queensland will generally require that they be repaid for any payments to the injured worker throughout the workers' compensation claims process, from any lump sum settlement of the CTP claim.

Therefore, it is important that you engage a lawyer who considers things like any necessary refunds to WorkCover Queensland (and other statutory refunds to entities like [Medicare](#), [Centrelink](#) or [NDIS](#)) early in your claim and provides you advice on settlement and negotiation options that take all of these refunds into consideration.

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## Does this change if the motor vehicle accident occurred while I was travelling to or from work?

Generally, a worker is still covered by workers' compensation insurance in Queensland when they are travelling to or from their work. Therefore, this scenario could still apply if the accident occurred during that journey. For more information, refer to our earlier blog, ["I was injured on a journey to/from work – can I make a WorkCover Queensland claim?"](#)

## Get help from a personal injury lawyer

It is not unusual that one injury or accident could give rise to multiple different claims or types of claims, so it is always important that you seek advice from an expert lawyer to advise you about your options.

Strict time limits and eligibility apply to the various types of compensation available, including workers' compensation (both state-based and the federal Comcare scheme), CTP claims, medical negligence and public liability claims. It's highly recommended to seek advice early to ensure all your entitlements are protected and realised.

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*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.*