

# **Dealing with the Damage to Your Car after an Accident**

People often have questions and concerns about their car after they have been involved in an accident.

If the accident is your fault, then you can only rely on your own insurance company to pay for the damage. They only pay, however, if you have comprehensive, or “full,” coverage. If you have only liability coverage on your car and the accident is your fault, then the only way to get your car repaired is to pay for it out of your own pocket.

If the accident was not your fault, then this report should answer most of your questions about how to handle getting your car repaired, or being paid fair value for it.

## **1. What should I do first?**

Make sure you notify your own insurance company first. They will usually help you find out the name of the other person’s insurance company and will likely work with you to get that company to accept liability, or fault, for the collision. Your company is usually more than happy to do this, as they want to ensure that they do not have to pay for fixing the car.

If your car was towed, make sure you get to your car and immediately get all personal items out of it. Often the car is moved and destroyed quickly.

Take pictures of your car. Some insurance companies will try to dispose of your vehicle as quickly as possible if the car is totaled, or tow it to a location where you do not have access to the vehicle. It’s amazing how insurance companies never have pictures of a person’s car when the car has a significant amount of damage. They seem to always take pictures when there is not a lot of damage so they can use it against the person to try to devalue the person’s injury case.

## **2. Who pays for the damage to my car?**

As long as the other person has insurance and is at fault for the accident, his insurance company will ultimately be responsible for paying for your car. It may take some time for the other company to complete the process of accepting fault. The company is entitled to investigate the collision for a reasonable period of time prior to determining fault and paying a claim.

### **3. What if the other person's insurance is stalling?**

If the other person's company will not take care of your vehicle, you can elect to have your own company pay for the car, assuming you have full coverage. The downside to this is that you will usually have to pay a deductible (\$250 or \$500). The good thing is that your insurance company will go after the other person's company to get their money back as well as your deductible. You will be repaid your deductible when the other person's insurance company reimburses your company.

If the other insurance company does not accept fault and you do not have full coverage, you may be forced to file a lawsuit against the driver who caused the accident and win your case to get his company to pay for the property damage.

### **4. Who pays storage and towing costs?**

The person who caused the collision is responsible for reasonable storage and towing costs. One potential problem, however, is that a claimant has a duty to mitigate damages. In other words, you cannot just leave your car in a tow lot and let it incur unnecessary storage costs. You may need to pay to have your vehicle moved to avoid excessive storage costs. You could ultimately be responsible for any excessive costs if you do not move your vehicle, and therefore failed to minimize your damages.

Make sure you keep receipts for towing and any storage. The insurance company for the at-fault party should pay for these, assuming they were promptly notified of the location of the vehicle.

### **5. Who decides if my car should be repaired or if it is a total loss?**

Whether a car is a total loss, or "totaled," depends on the value of the car compared with the amount of damage. If the damage to the car is more than the car is worth, then it is a total loss, even if the car can still be driven, or easily repaired. Most insurance companies consider a car totaled if the cost to repair the car exceeds 75% to 80% of the value of the car. In other words, if your car was worth \$10,000 prior to the accident and the repair estimate is \$8,000, then the insurance company will likely consider it a total loss and pay you the value of the car.

If the insurance company determines that your car is a total loss, you still have the option of keeping the car. If you elect to keep it, then you will have to deduct the salvage

value (how much the insurance company gets for the totaled car, usually \$250 to \$500) from the amount the insurance company is paying you. In other words, if your car was worth \$5,000, the insurance company would pay you \$5000 if they keep the car, but only \$4,500 if you keep it. This may be a great option if you can repair the car yourself for less than \$4,500.

## **6. What if I think the car is worth more than they have offered to pay?**

The value of a particular car is determined according to industry standards. N.A.D.A. and Kelly's Blue Book ([www.kbb.com](http://www.kbb.com)) will give you very accurate estimates of what your car is worth at the time of the collision. Make sure you look at the trade-in or private party sale value, as opposed to the dealer retail value, to get an accurate idea of what your car was worth. The insurance company is usually willing to negotiate if you can show them why your car is worth more than the typical value of the same make and model. It helps to have good documentation to support your valuation.

Usually there is not enough of a difference in between what the insurance company believes the value of your car to be and what it may be actually worth to merit filing a lawsuit. You do have this option if necessary. If a lawsuit is necessary, you will be required to have expert (a dealer or a mechanic) testimony regarding the value of your car in Court. The insurance company will bring its own expert. The Judge then determines the value, usually somewhere in between the two estimates given by each side, and that is what the insurance company ends up paying.

## **7. What if I owe more on my car than the insurance company will pay?**

Unfortunately, the insurance company is only required to pay you the value of the car. What you owe does not change what the car is worth. People who overpay for a car, or borrow at too high of an interest rate, often end up owing more on their note than the car is actually worth. You can by insurance, called "gap insurance," that is specifically written for this purpose. This insurance will pay the difference between what you owe on the car and the car's value.

## **8. Can I choose where to have my car repaired?**

Yes. You do not have to use the repair shop the insurance company wants you to use. If your body shop charges more than what the insurance company estimated the repair costs to be, the insurance company still has to pay for the repairs. Make sure your

body shop has the name of the insurance company responsible for paying for the repairs. Almost all body shops will work directly with the insurance company to arrange for payment of the repairs. In my opinion, you are more likely to have your car satisfactorily repaired by a body shop that does not rely on a specific insurance company for all of its business.

## **9. When am I entitled to a rental car?**

If your car is a total loss and is no longer drivable, the insurance company is required to provide you a rental car (comparable to your car) after they have used a reasonable period of to investigate the accident. If there is an unreasonable amount of delay in giving you a rental, you can rent a car on your own and force the insurance company to pay you back. You are entitled to keep the rental up until a reasonable time after they pay you for the value of your car. A reasonable time usually means one or two days for you to go purchase another car. You must give the rental back or pay for it yourself after this time. If the insurance company makes you a fair offer for the car and you do not accept the offer, they are no longer obligated to pay for the rental car.

If your car is repairable, then you are entitled to a rental car while your car is unable to safely driven and during the time it is in the shop being repaired.

The law of Virginia states that whenever any insurance company refuses or fails to provide a comparable rental vehicle to any person entitled to recover the actual cost of renting a substitute vehicle, and if the trial judge of a court of proper jurisdiction subsequently finds that such refusal or failure was not made in good faith, such company shall be liable to that person in the amount of \$500 or double the amount of the rental cost the person paid himself, whichever amount is greater.

## **10. What if the person who hit me does not have insurance?**

You have to rely on your own insurance coverage. The main thing to watch out for is paying a deductible. If you have full coverage, most companies will try to make you use your comprehensive coverage and pay a deductible. Legally, you can rely on your own insurance and get paid under your uninsured motorist coverage, which usually has no deductible. In this situation, you should not have to pay a deductible, and it will not affect your insurance rates.

Even if you only have liability insurance on your vehicle, you can get paid for the damage to your car as long as the accident was the other person's fault. If you have just liability coverage on your car, you always have uninsured motorist coverage as well. You only need to rely on your comprehensive coverage when an accident is your fault.

Getting your car repaired or replaced after a collision can be frustrating, expensive and time consuming. Most people do not like being forced to repair, or replace, their vehicle.

I hope this publication was helpful. Should you have any questions, or wish to discuss your situation, please feel free to contact our office at (804) 254-5600 or toll free at (866) 955-5600.