Liability in Auto Accident Claims Explained

Most auto accident lawyer car crash claims start with the other driver, but the driver is not always the only party who may be responsible. An employer, the vehicle owner, a government agency or a parts maker can also play a role. Finding every responsible party is one of the first jobs of an auto accident lawyer, since each responsible party may carry its own insurance.

Driver negligence

Negligence asks whether a driver failed to act with reasonable care. Typical examples include distracted driving, speeding, impaired driving, following too closely and failing to yield. In many states, violating a traffic law can be evidence of negligence, and some states treat it as negligence per se. A traffic citation helps a claim, but fault can be proven without one, and the effect of paying a ticket differs by state. A car accident attorney will compare the driver's conduct with the traffic laws of the state where the crash happened.

Owners and rental companies

If the driver borrowed the car, the owner's insurance policy often covers permissive drivers. An owner who lends a car to someone known to be unlicensed, impaired or reckless may face a negligent entrustment claim. Rental and leasing companies are a special case. Under a federal law called the Graves Amendment, they are generally shielded from liability for a renter's negligence, unless the company itself was negligent, for example by renting out a car with a known brake defect.

Drivers on the job

When a driver is working within the scope of employment, the employer is generally responsible for the driver's negligence under respondeat superior. This can cover delivery drivers, sales staff and others who drive as part of the job. Rideshare crashes raise their own coverage questions, because the coverage that applies can depend on whether the app was on and whether a ride had been accepted. A motor vehicle accident attorney will typically request the employer's policy in addition to the driver's.

Other parties that may share fault

A missing stop sign, a broken traffic signal or a dangerous road defect may point to a government agency. Claims against cities, counties and states face special immunity rules and short notice deadlines, and those rules vary by state. If a defective tire, brake or airbag contributed to the crash or the injuries, the manufacturer may face a product liability claim. NHTSA's recall lookup shows open recalls by vehicle identification number. Some states have dram shop laws that allow claims against a bar that served a visibly intoxicated driver.

When a passenger is hurt

A passenger hurt in a crash may have claims against either driver or both, even the driver of their own vehicle. Coverage can come from the policy on the car the passenger rode in and from the other driver's policy, and sometimes from the passenger's own policy too. Certain policies restrict claims between relatives who live in the same household, so the exact policy language matters.

Comparative negligence and multiple parties

Most states use comparative negligence, which may reduce a recovery by the injured person's percentage of fault, while a few jurisdictions still follow contributory negligence. States also differ in how fault is divided among several defendants. An automobile accident lawyer reviews every possible party, since a single policy may not cover the whole loss. This is general information and not legal advice, and no outcome can be predicted from it.