

## **Step 1. How do I get the other side to pay if they do not agree they are at fault?**

**If you are not insured**, and you are not at fault will need to make a demand to the at-fault driver or owner of the other car for your damages. Your **first step** is to work out how much your damage you have suffered by the collision. This means gathering evidence and quotes for repair or if your car cannot be repaired its market value. Generally in car accidents, the other party is entitled to recover damages caused by the at-fault's party's negligence. The damage in a motor vehicle repair claim is usually made up as follows:

- Repair cost of the damage caused or the market value of the vehicle, whichever the lesser
- PLUS towing costs
- PLUS hire car costs, lost wages or profits (called "demurrage")
- LESS salvage value (if market value of the car is claimed)

The costs you can recover are limited to what is 'reasonable' given the circumstances (such as the age / make / model / condition of the car, and the availability of car repairers in the area). You have an obligation to mitigate or minimise their losses. This means you must keep your costs reasonable. It is generally advisable to get more than one quote so that you can show that your costs are reasonable. The next steps are to:

1. **send a letter of demand**, which outlines your damages and the date in which you want the money paid by; and then
2. if the demand is not paid by the demand date **commence a claim in Court**.

OR

3. **make a claim** in the Australian Financial Complaints Authority (AFCA) if (*and only if*):
  - You are not at fault (The other drivers caused the accident)
  - The damage is less than \$15000 (or you are willing to accept \$15000 as your maximum loss)
  - The other driver is insured (and claims on their insurance)

- The other driver caused the accident

If you do not meet the requirements for AFCA, you are limited to Options 1 and 2, that is send a letter of demand and commence a claim in court (if the demand is not paid). Note too that AFCA generally do not accept cases if the dispute is about fault unless there is strong objective evidence. If the other driver's insurer is contacting you demanding payment, this means they think you are at fault for the damages and fault is disputed. You should go back a step to read more about fault disputes. If you are not sure, you should consider speaking to a lawyer. For contact details and links to state based Legal Aid commissions and community legal centres see the [Getting Help Fact Sheet](#). The following links are only where the amount is in dispute.