

Step 1. I am not at fault, the other party has admitted partial fault, and I am insured

If the other party is insured and only agrees they will pay part of your damage because they think you contributed to the accident they may not agree to pay all your loss leaving you out of pocket. Your options are:

1. agree with the settlement;
2. make a claim with your own insurer;
3. pursue the other party yourself.

If you are insured, make a claim. If you are insured with comprehensive insurance, lodge a claim with your own insurer without delay. This is often the simplest option for you, but you may need to pay an excess, and this may affect your premiums or no-claim bonuses. Your insurer should then sort it out with the other parties/insurer. If you choose this option, you should lodge a claim as soon as possible. What follows between you and your insurer will be determined largely by the terms of your insurance policy. If you have a problem with your insurer during this process you should make a complaint to insurer's Internal Dispute Resolution department. You can find their details using the Australian Financial Complaints Authority (AFCA's) [member search function](#). You can use our ["Raising a Dispute" sample letter generator](#) to help you in this process. **If you have 3rd party property insurance only,** the insurer will accept your claim if they think you are at fault. Your insurer may explain to you if they think you are at fault and why. A third party property insurer won't cover the damages to your vehicle where you are at fault. However, if the other party is not insured and at fault some 3rd party property insurance policies have "Uninsured Motorist Extension." If this is you click on **"I have third party property insurance and am pursuing the other party under UME"** box below. Note that most policies require you to pay an excess if you have contributed to the accident. If your insurer agrees with the other parties assessment that you contributed to the accident, your policy may require you to pay an excess.

The alternative is not to make a claim and "handle it yourself." If that is the case you will need to negotiate a settlement. You can do this either:

1. over the phone; or

2. in writing.

A settlement may be that both parties “walk away” and agree to cover their own repairs. Alternatively, you will need to determine the value of the repairs you require and the contributory percentage you both agree. **About contributory percentage** Where you and the other driver are both at fault you can both be made to pay for any damage you caused to the extent you were at fault. For example if you contributed 50/50 to the accident you can only be made to pay for 50% of the damage to the other vehicle, and you can claim 50% of the cost of repairs to yours. Remember that the value of the cars will determine the outcome of an apportionment of liability. This means that if your car is not worth as much as the other car you may still end up owing quite a lot of money. **Example** *You hit a 2007 BMW in your 1994 Ford laser. The damage to your Laser is assessed at \$2,600 and the damage to the BMW at \$12,500. 50% of \$ 12,500 = \$6,250; 50% of \$ 2,600 = \$1,300. Therefore you owe \$6,250-1,300 = \$4950, in addition to paying to get your own car fixed!* To determine whether the other parties repair costs are fair, you may want to look into approaching your local independent mechanic and provide them with a copy of the invoice from the other party’s insurance company, any photos of the damage and any other evidence such as witness statements about what happened. Ask the mechanic whether they would be prepared to provide you with a written statement/opinion about whether the items that have been repaired or the amount claimed is reasonable based on the nature of the accident. A statement from an independent mechanic is preferable to you simply arguing that in your personal opinion the repairs or amount claimed are not reasonable.