

Step 1. The other party has breached their policy

Not all accidents are covered by insurance. The other party might have insurance and make a claim, but have their claim “excluded” by their insurer. Examples include:

- If driver had a blood alcohol reading above the legal limit;
- They have not paid their insurance premiums; or
- The driver is under the age limit of the policy.

If the other party has breached their policy, then for the purposes of the accident the other party is not insured. If you are not insured, you will need to pursue the driver yourself. 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 party’s negligence. The damage in a motor vehicle repair claim is usually made up as follows:

- The lesser of:
 - the cost of the repair; or
 - the market value of the vehicle LESS salvage value

If the car is cheaper to replace than to repair, then you are generally expected to act reasonably and minimise the loss by replacing the car.

- PLUS towing costs
- PLUS hire car costs, lost wages or profits (called “demurrage”)

The costs you can recover are limited to what is ‘reasonable’ given the circumstances, such as the:

- age, make and model of the car
- condition of the car
- availability of car repairers in the area.

If you want to chase the other party to recover your losses, you need to mitigate or minimise those losses. You cannot recover compensation for losses which you ought reasonably have avoided following the accident. 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. If you want to claim hire car costs, you need to consider what make/model of car would be reasonably comparable to the one that was damaged. If you are considering using a hire car management company (one that gives you a hire car then chases the other party for the cost) – see our [Should I get a courtesy car through a credit hire company? fact sheet](#). 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 if the demand is not paid by the demand date,
2. **commence a claim in Court**.