

Step 1. Why do they deduct an amount for the wreck, the unexpired portion of my registration and the CTP insurance?

When you are not insured and pursuing the at fault party, your entitlement is to “common law damages” to compensate you for your loss. The common law has developed over many years and in motor vehicle accidents your damage is the amount of money it will take to place you in the position had the negligence not occurred. 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”)

If your car is written off, you are entitled to the cost of a reasonable replacement – which is generally reflected by its market value. Market value means what you would have been able to sell your car for immediately before the accident; this includes the on road registration value. If you can get a pro rata refund of your registration from your state road authority (the [Roads and Maritime Service](#) in NSW) then the insurer will generally deduct it from your pay out. When the car is written off, the wreck can be sold. As this is the residual value of the car, this amount is deducted from the payout. To illustrate: *Alexandra is driving home and is hit from the rear by John, John is insured and admits he is at fault. Had Alexandra sold her car that day she would have received \$5,000. Had she sold it the day before – before she had paid the registration – she would only have been able to sell it for \$4,000 as it needed \$200 worth of work to get it through registration and registration was \$800. Alexandra tows her car to a Wrecker for \$300, and they tell her they can sell it for \$500.*

Alexandra is entitled to the following:

- *Market value of the vehicle (\$5000) less pro rata registration refund (\$800)*

which is \$4200

- *PLUS towing costs of \$300*
- *PLUS hire car costs (demurrage) in this case \$0*
- *LESS salvage value (when it is written off) in this case \$500.*

The total Alexandra is entitled to is therefore \$4000 John's insurer offers her \$4,000, which Alexandra accepts. Alexandra also has her \$500 from the Wrecker and her \$800 back from Roads and Maritime Services NSW. She now has \$5300, and can use \$5000 to buy a reasonable replacement car and \$300 to cover her towing costs. If you have further questions about getting a refund of the unused portion of your registration in NSW, contact [Roads and Maritime Service](#) on 13 22 13. If you have further questions about dealing with an insurer, [email](#) or call the Insurance Law Service on 1300 663 464. If you have a general legal question following a car accident, start by calling LawAccess NSW on 1300 888 529.