

## Step 1. The other party is claiming too much money

*If you have made or wish to make a claim on your insurance, you must allow your insurer to conduct negotiations with the other party or their insurer on the question of fault. The information below is to help you if, because the amount claimed from you is less than your excess, you have decided not to claim, or are unable to claim, on your own insurance.* **General Information about damages** In car accidents, the person at fault is legally responsible for the damages. **What can be claimed** If you are at fault, you must pay the other party (or the insurer) for:

- 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 other party (or the insurer) can only recover 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.

**What can't be claimed** The other party (or their insurer) can't:

- recover compensation for losses they should have avoided following the accident - they have an obligation to mitigate or minimise their losses, for example, they can't hire a car for ten weeks when the repairs should have been done in two weeks
- Charge an excessive amount for hire car costs. The hire car should be a make/model that is reasonably comparable to the one that was damaged and for a reasonable amount of time. If you are being chased by a car hire

company, see our: [What do I do if I receive a demand for hire car costs from a credit hire company? fact sheet.](#)

The other party (or their insurer) does NOT have to:

- get more than one quote
- give you access to their car to do your own inspection or get your own quotes
- wait for you to approve repairs
- contact you within a certain time after the accident or keep you informed.
- claim all the damages in one go – they may try to recover the repair costs first and then later the hire car costs or other expenses. You should get advice if you receive multiple statements of claim for the same accident.

Note: In NSW, the other party (or their insurer) has six years to start a case in court. TIP: If the other party is trying to recover the costs for damage you believe didn't happen in the accident, you should get as much evidence as you can to prove it, for example, you hit the car on the left side and they are claiming for damage on the right side. To dispute the amount claimed, see:

- [Sample Letter to other party's insurer disputing amount claimed](#) on our website
- [Sample request for more](#) on the LawAccess NSW website.

TIP: The other party's insurer may have to pay the other party more than what they might get if a court decided the case, because of the terms of their contract of insurance. For example, the other party may be insured for an agreed rather than the market value of their car. The insurer can't recover the higher agreed amount from you. They can only recover the market value or the reasonable repair costs, whichever is less. To respond to a claim following a car accident see:

- [Responding to a Statement of Claim](#) on the LawAccess NSW website.

If you have received court documents, you should get [legal advice](#). You can start by contacting LawAccess NSW on 1300 888 529. You may be able to get free legal assistance from [Legal Aid NSW](#) or your local [Community Legal Centre](#). If you are unable to get free legal assistance, you may need to speak to a private lawyer. To find a private solicitor, contact the [NSW Law Society](#).