

## Step 1. I don't agree with the amount claimed

*If you want to make a claim on your insurance, you must allow your insurer to negotiate with the other party (or their insurer). The information below is to help you if you don't want to or can't claim on your own insurance. 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 in relation to the amount claimed. The information below is to help you if you have decided not to claim, or are unable to claim, on your own insurance.* **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 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 the 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 the 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. You can start by contacting LawAccess NSW on 1300 888 529. Or you can [email](#) or call the Insurance Law Service on 1300 663 464. Please call if the matter is urgent as you only have 28 days to respond to a statement of claim.

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.

### **What have you received?**