

Step 1. The other party admits partial fault

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 (see below) you both agree. You should always get any settlement confirmed in writing. You should also be clear on what it is you are settling – is it all losses arising from the accident, or just the cost of repairs, or just hire car costs. If you only settle the repair cost, you can be chased later for other costs (e.g. hire car) from the insurer, or the other party directly. To find out how to confirm a settlement see:

- [Put it in writing](#) on the LawAccess NSW website
- [Sample terms of settlement](#) on the LawAccess NSW website.

Both at fault: About contributory percentage Where you and the other party are both at fault, you can 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, and can claim 50% of the cost of repairs to your car. TIP: The amount of damage done to each vehicle is important in the apportionment (split up or division). *Example You hit a 2007 BMW in your 1994 Ford laser. You and the BMW driver each contributed 50/50 to the accident. 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. The BMW driver owes you \$1,300, but you owe the BMW driver \$6,250! Therefore you have to pay the BMW driver \$6,250-1,300 = \$4,950, in addition to paying to get your own car fixed!*

To determine whether the other party’s repair costs are fair, you may want to look into approaching your local independent mechanic and provide them with a copy of the invoice/quote from the other party or their insurance company, any photos of the damage and any other evidence such as witness statements of 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. Provided you are able to obtain such a statement, this option is preferable to you simply arguing that in your personal opinion the repairs or amount claimed are reasonable. **What if I need advice about fault?** If you are not sure about fault, including contributory percentage, you should get legal advice. If you own the car, but were not driving at the time of the accident, you should get legal advice about whether you are liable. The other party may choose (rightly or wrongly) to sue the driver, you or both: see the [Owners and Drivers fact sheet](#) on the LawAccess NSW website. If you had an accident while at work, you should get legal advice from an employment lawyer – this can be a tricky area: see the [Driving for work when you are an employee or independent contractor fact sheet](#) on the LawAccess NSW website. Note: The Insurance Law Service is unable to give advice about whether you are at fault or not. 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](#).