

Step 1. The other party has not made and/or will not make a claim on their policy

A person does not have to make a claim on their insurance and you cannot compel (force) them to make a claim if they decide not to. There are many reasons they may not make a claim (for example, they are not covered or the damage is less than their excess). If the other party has not made or will not make a claim on their policy, you will need to make a claim for damages from the other party for them to pay you directly. 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
2. if the demand is not paid by the demand date **commence a claim in Court**.