



## TAC entitlements for pedestrians hit by a motor vehicle

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If you are a pedestrian who has been injured after being hit by a motor vehicle, you may have an entitlement to a [Transport Accident Commission \(TAC\) claim](#). Your injuries may have been caused by a car, bus, train, tram or a motorcycle.

In this blog, we explore:

- first steps after a motor vehicle accident;
- pedestrian entitlements under a TAC claim;
- time limits for lodging a TAC claim;
- possible circumstances where pedestrians may be at fault;
- what happens if the accident was a hit-and-run; and
- lump sum compensation due to permanent impairment.

Being hit by a motor vehicle can be a life-changing event for most pedestrians. If you have sustained injuries, whether they are physical, psychological, long-term or short-term, consulting a lawyer experienced in TAC claims will maximise the entitlements you receive.

[FREE ADVICE FROM A TAC LAWYER: 1300 700 761](#)

## What to do if you are a pedestrian hit by a motor vehicle

## Seek medical attention

Whether you notice any injuries or not immediately after an accident, you should always seek medical attention. Unless you are a medical professional, you never know how severe your injuries may be, and though there may not be any visible injuries, there could be internal damage that may need immediate attention.

## Take notes about the accident and keep all records

The more time that passes after a road accident, the higher chance there is of you forgetting details of the accident. Therefore, once you are safe, note down as much information as possible about the event.

Important information to note down includes:

- information regarding the vehicle that hit you (colour, make, model and number plate);
- details of the driver, including driving license details' and
- contact information of any witnesses present.

Taking photos of your injuries at the time of the accident may also be beneficial, especially if you decide later on to lodge a TAC claim. Taking videos immediately after the accident, if possible and safe to do so, can also be helpful.

## Report the accident to the police

This is where the information you noted down earlier will come in handy. This is especially so if the incident was a hit-and-run. The details you are able to pass on to the police may allow them to catch the culprit who injured you.

## Report the accident to the TAC

Whether you choose to make a claim a day after the accident or months after, an initial report of the accident to the TAC will ensure that they have a clear record of the incident that took place.

## What benefits am I entitled to under a TAC claim?

As an injured pedestrian, you are entitled to the following TAC benefits:

- Loss of wages;

- Medical and like expenses;
- Impairment benefit lump sum compensation; and
- Common law entitlements where your injury has occurred in negligent circumstances and meets the 'serious injury' definition.

To learn more about whether you are eligible for a TPD claim, read our page on ["TAC claims – eligibility and benefits"](#).

## Time limits for lodging a TAC claim?

You have 12 months from the date of the accident, or the date in which your injury became present to lodge your TAC claim.

However, there are exceptions to this timeframe. If you find that 12 months have already passed, you may still lodge a TAC claim, if:

- three years since the date of the accident or the date of injury has not passed; and
- you have reasonable grounds as to why you did not submit your TAC claim within the required timeframe.

If you were a minor (under the age of 18) at the time of the accident and your parent or guardian did not lodge a claim on your behalf within the required timeframe, you still have the ability to make a TAC claim so long as it is made before your 21<sup>st</sup> birthday.

If you're out of time to lodge your TAC claim but want to pursue your compensation options, you should seek legal advice urgently.

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## When might a pedestrian be considered at fault in a motor vehicle accident?

There are some circumstances where a pedestrian may be at fault, despite being the party that has been injured.

For example, if you were illegally crossing the road or acting in a reckless manner (for example, intoxicated or under the influence of drugs).

Nevertheless, each TAC claim is assessed on an individual basis, and in most circumstances, it is the driver's responsibility to ensure that they are in control of their vehicle and are driving at an appropriate speed to be able to react to external situations they may encounter.

## What happens if I was involved in a hit and run?

A hit-and-run occurs when the motorist who has caused an accident has driven off without stopping and exchanging details. In Australia, a hit-and-run is illegal.

If you have been involved in a hit and run, firstly, make sure that you are safe and if required, seek medical assistance.

Once you are safe, contact your local police to file a report. Make sure that you note down all details that you remember about the accident. This is again important in case you become aware of injuries in the future due to the accident and you wish to claim TAC benefits.

You can read more about this in our earlier blog, ["TAC claims involving unidentified drivers"](#).

## TAC common law claims for pedestrians

If you have been injured in a motor vehicle accident, you may be able to claim common law damages (compensation). Common law damages will allow you to recover any loss of past and future earnings as well as compensation for pain and suffering.

To be eligible for a common law claim, your injury must be classified as a serious injury and that you were not at fault for the accident. For an injury to be classified as a serious injury, you must be assessed as having a whole person impairment of 30% or more. Once this has been established, you need to be able to show that your injuries were directly caused by the negligence of another.

If you are currently receiving TAC statutory benefits (like weekly payments and medical expenses), it is important to be aware that if you pursue a common law claim which is then finalised and you receive compensation, certain TAC statutory benefits will cease.

Common law claims can be lodged regardless of whether the vehicle that caused your injury can be identified. Further, if the driver who caused the injury passes away, a common law claim can still be made. This is because the TAC will either be named the defendant in the claim or act on behalf of the deceased individual.

## Get help from a TAC lawyer

Pedestrians are particularly vulnerable road users and where accidents occur, they are highly likely to result in injuries and the option to pursue a TAC claim. At Guardian Injury Law, we understand that each motor vehicle accident is unique to each individual. We assess your circumstances on an individual basis to ensure that the right advice is provided to each client, and the right claim is put forward. We work tirelessly to maximise any compensation payable to you.

## Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

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