



Rights and entitlements if injured by an e-scooter

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There are limited rules and regulations surrounding e-scooters in Victoria and what happens if you as a rider or pedestrian are ever in an accident involving an e-scooter, which results in injury. In this blog, we explore the compensation options available to people injured in an accident involving an electric scooter.

Background to e-scooters in Victoria

E-scooters were introduced to Melbournians in February 2022 by the Victorian Government as a sustainable resource and more efficient use of transport.

Since this introduction, e-scooters have become a popular household mode of transport, and unlike your mainstream car, e-scooters are not restricted to those with a licence. As it's accessible to all demographics, they are seen on our roads and footpaths ridden by adults and children commuting to work, school or for leisure.

What options do I have if I have been hit by an e-scooter?

Pedestrians who have been in an accident with an e-scooter have several options depending on the circumstances of the accident.

Lodge a claim against the e-scooter hiring company

As most e-scooters (especially those in the city) are hired by the public, as an injured pedestrian, you may be able to lodge a claim through the e-scooter hire company's insurer.

This, however, may not be as straightforward, as most e-scooter insurers have included policies that exclude cover if the rider has breached the terms and conditions of their hire policy or if the rider has breached the law.

This means that regardless of where the rider's recklessness caused the pedestrian's injuries, the insurance company is not liable for any injuries caused.

If, however, an accident arises as a result of a manufacturing fault, you may have a claim against the manufacturers of the e-scooter.

Lodge a public liability claim

If your accident was due to unsafe conditions that subsequently caused the accident, you may be able to pursue a public liability claim.

Should your claim be successful, you will be entitled to receive the following:

- Pain and suffering damages/compensation;
- Lost wages;
- Out-of-pocket medical and like expenses; and
- Gratuitous care expenses.

To be successful you need to show that your serious injury was a result of the accident which was caused by the negligence of the local council (if the accident was on public property), or the property owner (if the accident occurred on private property).

The statute of limitations (the time limit to lodge a claim) for a public liability claim is six years for a child or three years for an adult, starting from the date of the injury. This is important to note, as most e-scooter accidents could result in internal head injuries, which may not surface till later.

Lodge a claim against the rider's insurance

Though rare, if you have been injured by an e-scooter as a result of the rider's negligence you may have a claim under the rider's insurance. This is only possible if the rider's insurance policy includes e-scooter accidents.

Lodge a WorkCover claim

If you are injured in an e-scooter accident in the "course of employment", you may be entitled to a WorkCover claim. Such injuries could occur in the following circumstances:

- Delivering goods for your employer who has authorised the use of an e-scooter;
- As a pedestrian delivering goods for your employer or travelling between work locations;
- During an authorised break, for example, a lunch break; and
- other scenarios where your injuries are linked to your employment.

If your WorkCover claim is accepted, you will be able to claim:

- medical and like expenses;
- weekly payments for loss of wages;
- lump sum payments for permanent impairment;
- home help; and
- travel expenses related to attending medical appointments.

For further information regarding WorkCover rights and entitlements, please see our page, "[WorkCover claims: no fault statutory benefits](#)".

Pursue income protection benefits or a TPD claim

If you have to stop work due to injuries you sustained in an e-scooter accident (whether as a rider or a person hit by an e-scooter), you may be able to claim Total and Permanent Disability (TPD) income protection insurance held in your superannuation.

Our page on [Super & Insurance](#) will provide you with further information about income protection and TPD claims.

Am I entitled to a TAC claim after an e-scooter accident?

For pedestrians injured by an e-scooter

In short, pedestrians do not have access to TAC compensation due to an e-scooter accident.

Section 3 of the *Transport Accident Act 1986* states that a TAC claim can only be lodged against those who have been in a transport accident "*directly caused by the driving of a motor car or motor vehicle, a railway train or tram*". According to section 3(1) of the *Road Safety Act 1986*, an e-scooter does not fall within the definition of a motor vehicle.

Therefore, pedestrians will not generally be entitled to lodge a TAC claim.

However, if the e-scooter accident also involved a motor vehicle, then the pedestrian will be entitled to seek TAC compensation.

For example, a motor vehicle loses control on the road and runs up onto the footpath in the direction of an e-scooter rider. The rider takes evasive action to avoid a collision with the vehicle and, in doing so, collides with a pedestrian.

For riders injured in an e-scooter accident

As an e-scooter rider, your rights when injured in a transport accident are the same as those of a pedestrian. This means, if you were riding an e-scooter and you were involved in an accident with a registered vehicle (car, motorbike, bus, train or tram) you may be entitled to a TAC claim.

For further information about TAC claims, refer to our page, [“TAC Claims After a Motor Vehicle Accident”](#).

What to do if you have been hit by an e-scooter.

Seek medical attention

Though e-scooters are legislated to only travel at a maximum of 20km/h, as a pedestrian, that's enough force to knock you down and potentially cause, at minimum, bumps and bruises. Head injuries are very common when it comes to e-scooter accidents, as they mostly tend to occur on hard-surfaced footpaths.

Therefore, seek medical attention straight away, even if you think the injuries are minor. Whether that means calling an ambulance or taking yourself to the nearest doctor. A professional medical examiner will be able to assess any internal or external injuries you may have. This will also create a formal record of the accident and your injuries.

Exchange information with the rider

Make sure to exchange any relevant information you can with the e-scooter rider, in particular, the following:

- Name
- Contact information
- Address
- Insurance details

Obtain witness details

Should you choose to lodge a personal injury claim in the future, witness statements will support your claim. If there are other riders, drivers or pedestrians in the area, make sure that you take down their details.

Record any relevant details

As time goes by, it may become more difficult to record particular details of the accident, therefore make sure to photograph or take any relevant videos of the accident and your injuries. Taking a recording or noting down how you felt after the accident may also come in handy down the track, as injuries may heal but cause psychological harm in the future.

Report the accident to the police

As with all accidents, reporting an e-scooter accident to the police will ensure that a record of your accident has been recorded should you ever need to revisit it in the future.

Get help from a personal injury lawyer

E-scooter accidents can be tricky, especially as it is still a new mode of transport. Although the options for injured pedestrians may seem limited, contacting a personal injury lawyer will allow your accident to be reviewed so that an appropriate mode of compensation can be explored.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

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