



GUIDE TO
CALIFORNIA
CAR ACCIDENTS



STARPOINT LC
ATTORNEYS AT LAW



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TABLE OF CONTENTS

<u>Do I Need an Attorney for a Car Accident?</u>	1
<u>Is California a No-Fault State?</u>	2
<u>What is the Average Accident Settlement in Los Angeles?</u>	4
<u>Types of Car Accident Injuries</u>	5
<u>Can I Get Compensation for Pain and Suffering?</u>	7
<u>Hiring a Lawyer After a Car Accident</u>	9

DO I NEED AN ATTORNEY FOR A CAR ACCIDENT?

Every day, hundreds of cars [get into collisions](#) on California's roads, causing hundreds of thousands of dollars in damage and leaving some motorists severely injured. If you have been involved in a car crash, you might be thinking, "Do I need a lawyer after a car accident?" The answer is certainly "yes."

At Starpoint Law, we advocate for injured motorists and help them obtain the compensation they need. Without an attorney, you will find it difficult to build your case and negotiate an effective settlement, possibly settling for far less than your injuries are actually worth. To protect your rights, reach out to us today.

AN ATTORNEY CAN HELP ESTABLISH FAULT

California is a fault state, meaning that the person who is responsible for the accident pays compensation to victims for personal injuries as well as property damage. In a "no fault" state like Florida it does not matter who is to blame, and anyone who has suffered an injury contacts their own insurer to obtain personal injury protection benefits.

Not so in California. If you have medical bills or property damage, you need to show that someone caused the accident. Then you reach out to their insurer.

This is called "establishing fault." In a handful of cases, it will be easy to establish fault. For example, a driver might confess that they struck you because they weren't paying attention to traffic, or surveillance video might have captured the accident.

However, fault is up in the air in a surprising number of cases. For example, imagine that you are rear-ended. In most cases, the trail car is to blame because they were following too closely. But the driver of the following car might claim that you hit your brakes hard without warning, which caused the accident. In this scenario, you need to find evidence that shows the other driver is to blame.

At Starpoint Law, we have the experience to obtain evidence that shows who is at fault for a collision:

- We can obtain and analyze the police report.
- We can talk to witnesses who saw the accident.
- We can look for video of the collision.
- We can analyze the damage to your vehicle, which can yield important clues about who struck who and at what speed.
- We can ask the other driver questions under oath and get them to confess to critical errors.

Without a lawyer, you will need to handle all these tasks yourself, which takes a lot of time.

A CAR ACCIDENT LAWYER CAN NEGOTIATE A FAVORABLE SETTLEMENT

Once you establish that the other driver is at fault, you need to submit your claim to his or her insurer, requesting compensation. In California, you can be compensated for many losses, such as:

- The amount of money spent on medical care, including rehabilitation and prescription drugs
- Lost wages, if your injuries keep you from working
- Damage to your vehicle or other property
- Pain and suffering, which includes emotional distress and inconvenience

Some insurance companies are not eager to pay out compensation and might reject your claim. Other insurance companies could make a low-ball offer, expecting you to accept it. Unfortunately, many people without lawyers accept very small sums offered by insurance carriers. These injured motorists are aware of how much their injuries are truly worth. Even if they hold out for more money, many people are unable to negotiate effectively to obtain more compensation.

At Starpoint Law, we first draw up how much your injuries are worth, including intangible injuries like pain and emotional distress. Then we strategically negotiate with the insurer to increase the amount they are willing to pay. Negotiation can be a grueling process, which few people are prepared to handle on their own, but we have the skill and experience to get our clients what they need.

[\(back to top\)](#)

IS CALIFORNIA A NO-FAULT STATE?

People often call our law firm and ask, "Is California a no fault state?" Actually, California continues to be a "fault" state, meaning that it is important to identify who is responsible for a [car accident](#). Under a fault system, the person who causes the accident is responsible for paying compensation to victims.

COMPARISON OF FAULT AND NO-FAULT STATES

Some of the largest states in the country are no fault, including New York and Florida. In Florida, for example, motorists buy \$10,000 of personal injury protection benefits, called PIP. After a crash, a motorist contacts their PIP insurer to get payment of reasonable medical benefits and replacement of a portion of lost wages.

Things are different in fault states like California. Here, if you are struck by another car, you don't make a claim with your own liability insurer. Instead, you submit a claim to the liability insurer for the driver who caused the accident.

There are pluses and minuses to each system. For example, under a no-fault system, injured motorists can usually receive benefits much quicker since the insurer doesn't care who is to blame for the collision. However, a no-fault system can also create incentives for people to engage in careless and reckless driving, since they know their injuries will be covered even if they cause an accident.

PROVING FAULT

Fault matters in California. If you actually caused an accident, then the other driver's liability insurer won't pay your medical bills. Your own insurer won't pay, either. For this reason, you need to make sure you have enough evidence to establish that another driver is to blame.

Insurance companies hire investigators to determine fault in accidents, and these investigators will look at evidence like the following:

- Witnesses who saw the crash or were riding in one of the vehicles.
- The police report written by the responding officer.
- The scene of the accident, which might show that a natural hazard like overgrown tree branches obstructed a stop light and contributed to the crash.
- Medical records, which could show how your vehicle was struck.

If the insurance company thinks you are solely to blame, then you might not get any compensation no matter how injured you are. Helpfully, an attorney can gather evidence for you and present it to the insurance company to help establish that you qualify for benefits.

COMPARATIVE FAULT

California law recognizes that sometimes a victim can contribute to her own accident through her own carelessness. This is called "contributory negligence." Once upon a time, any victim who was even 1% responsible for her own accident could not sue for compensation—they were completely barred!

The law has changed for the better. Now, a victim can sue even if she is 99% responsible so long as someone else is at least 1% responsible. For example, a driver might have failed to use a turn signal and quickly stopped at an intersection. A car trailing behind slams into her rear end.

In this example, the driver who was struck bears most of the blame for the collision. But if the trail car was also speeding at the time of the accident, then a jury might find that they bear at least a little responsibility for the crash. If so, the driver of the car that was struck can still receive compensation, but the amount will be reduced by her percentage of fault. This is called [comparative fault](#).

([back to top](#))

WHAT IS THE AVERAGE CAR ACCIDENT SETTLEMENT IN LOS ANGELES?

Car accidents leave many victims with thousands of dollars in medical bills. Even worse, many people cannot return to work, forced to recuperate at home or in the hospital.

At Starpoint Law, we understand that injured motorists need compensation to help them cover unexpected expenses as well as their regular bills. Without money, you might find that you can't afford your rent or mortgage and might fear that you need to move.

Fortunately, if another driver is to blame for the accident, you can receive compensation in a settlement. Car accident [injury settlement amounts](#) depend on many factors, and there really is no "average" settlement. Read on for information about how to properly value your injuries.

THE FACTORS THAT DETERMINE CAR ACCIDENT INJURY SETTLEMENT AMOUNTS

The purpose of a car accident settlement is to compensate you for the losses you have suffered as a result of a crash. To that end, many of our clients receive money for the following:

- Medical expenses. You probably need to visit the doctor, get prescription drugs, and use assistive devices like crutches or a wheelchair. You can also receive compensation for surgery, hospital stays, rehabilitation, and mental health counseling.
- Lost wages. If your injuries prevent you from working, then you will suffer a dramatic loss in income. Many of our clients receive compensation for these lost wages.
- Property damage. Your car was probably damaged in the crash. You can receive money to replace or repair it.

An [attorney can help you](#) estimate the amount of your economic losses. Gather documents like medical bills, receipts, pay stubs, proof of self-employed income, and repair estimates.

Our clients can also receive compensation for pain and suffering, which includes:

- Inconvenience
- Physical pain
- Mental anguish
- Disability
- Disfigurement
- Loss of enjoyment of life

These losses are harder to calculate, but a lawyer can use her experience to arrive at a reasonable number.

COMPARATIVE FAULT

Another factor you must consider is your relative degree of fault for the accident. If your own carelessness contributed to the accident, then you should not expect to receive 100% compensation for your injuries. Instead, the amount you receive will get lowered by your own percentage of fault. Consider the following:

Melissa is struck on the highway when she tries to pass a vehicle driven by someone who does not check their blind spot. However, Melissa is also driving in a distracted manner, checking her cell phone for text messages. In this case, both drivers were careless, and a jury might decide that they share equal blame for the crash—50/50.

If Melissa's injuries are worth \$50,000, then she can only expect to receive half that amount because she is 50% to blame. If she were 80% responsible for the crash, then she would receive only 20%, or \$10,000.

Your attorney will need to talk with you about whether your own negligence contributed to the accident. If it did, then you will need to adjust the amount of compensation you can receive.

CHECK THE AT FAULT DRIVER'S INSURANCE POLICY

California requires that motorists carry a minimum of at least \$15,000 in bodily injury liability insurance, up to \$30,000 in insurance per crash. In most cases, drivers do not buy more insurance than the minimum, so \$15,000 might be all that is available to cover your medical expenses, lost wages, and pain and suffering. (If you have property damage, then a driver should have at least \$5,000 to cover that, also.)

Unfortunately, many people have expenses that exceed the policy amount for the driver who is at fault. In that case, you might have purchased underinsured motorist (UM) liability insurance, which can pay benefits in excess of the at-fault driver's policy. But if you did not buy UM insurance, then you should check with an attorney about your options.

[\(back to top\)](#)

TYPES OF CAR ACCIDENT INJURIES

The force generated by a car accident can leave motorists bloodied and bruised. Many will need to spend time in the hospital, trying to recover from their injuries, while others will be bedridden at home and unable to work.

At Starpoint Law, we help injured motorists get the compensation they need after a devastating crash. Below we summarize some of the most common car accident injuries.

SOFT-TISSUE INJURIES

Soft tissue includes ligaments, tendons, and nerves, any of which can be [injured in a car accident](#). Whiplash, for example, is a soft-tissue injury that occurs when a person's head is forced forward and then snaps back in a whip-like fashion.

The violent movement tears ligaments in a person's neck and can put pressure on nerves. As a result, a person experiences headaches, neck stiffness, and nausea, which can last for months.

To treat soft-tissue injuries, a person should rest, ice, and elevate the affected body part. Wearing a compression garment can also help, though doctors sometimes recommend that you massage the area to reintroduce movement. Massage can be particularly helpful with whiplash, so victims should not immobilize their neck for long periods of time with a stiff foam collar.

CRUSH INJURIES

A heavy weight can damage bone and nerves, but crush injuries can cause more serious problems. Any damage to skeletal muscle can cause the muscle to rapidly break down, which releases certain chemicals into the bloodstream. These chemicals can damage the kidneys and lead to shock or a coma.

Another crush injury is compartment syndrome. The compartment between muscles swells, putting pressure on muscles and nerves. If the pressure is not released, then a person can suffer necrosis and nerve damage.

FRACTURES

High speed car accidents can break any bone in the body, from your big toe to your skull. To heal, a doctor probably needs to set the bone before putting the injured limb in a cast. In some cases, you might need surgery to insert a screw, pin, bolt, or plate.

Bones should heal in due time, though some complications can develop. For example, a broken bone can lead to compartment syndrome mentioned above. Bones might also heal awkwardly if they were not properly set.

TRAUMATIC BRAIN INJURIES

Some people wrongly think that [**traumatic brain injuries**](#) (TBIs) result from a fractured skull. Actually, any hard shaking can jiggle the brain inside the skull, which can change the brain's chemistry and how it processes messages. As a result, a TBI victim can experience a range of problems, including:

- Confusion
- Headaches
- Impaired memory
- Loss of balance
- Loss of coordination
- Sensitivity to light or noise
- Convulsions
- Problems speaking

Moderate or severe TBIs often require rehabilitation to help the victim relearn how to function, such as how to walk or to speak. If a person suffers a mild concussion, then symptoms might clear up in a couple of months with rest and painkillers.

EMOTIONAL INJURIES

Not all injuries are physical. At our firm, we meet with many clients who have experienced

emotional injuries after a traumatic crash. For example, they can suffer from:

- Depression
- Anxiety
- Mood swings
- Post-traumatic stress disorder
- Phobias

These emotional injuries often manifest with debilitating physical symptoms, such as sleeplessness, weight loss, and high blood pressure. As a result, many victims enter a downward spiral, where their emotional injuries make it harder to recover from their physical injuries.

Treatments vary by person. Some clients benefit from psychotherapy, while others need drugs to handle depression, anxiety, and sleeplessness. The road back from an emotionally traumatizing event is often long—sometimes longer than for whiplash to clear or broken bones to heal.

[*\(back to top\)*](#)

CAN I GET COMPENSATION FOR PAIN AND SUFFERING?

Yes. Injured motorists in California can [receive compensation](#) for non-economic losses. Unlike medical expenses and lost wages, it can be hard to determine how much you are entitled to with any certainty. However, your experienced car accident lawyer should be able to rely on his experience to estimate the amount you can receive in pain and suffering.

But what exactly is “pain and suffering”? According to the [state’s jury instructions](#), pain and suffering encompasses many intangible losses, which we detail below.

PHYSICAL PAIN

Broken ribs, traumatic brain injuries, whiplash, and nerve damage can all leave victims in excruciating pain. Even a steady diet of painkillers cannot fully blunt the pain that accident victims feel. This pain can last for months and, after certain injuries, can be chronic. You can receive compensation for enduring this physical pain.

MENTAL ANGUISH

Not all pain is physical. After an accident, many of our clients experience intensely negative emotions, such as:

- Anger
- Depression
- Grief
- Anxiety
- Embarrassment
- Irritability
- Fear

Some victims can even experience **post-traumatic stress disorder**, where they relive the traumatic event over and over. Those with PTSD are at risk of developing other physical ailments, such as weight loss and sleeplessness.

To manage mental anguish, some clients need therapy, counseling, and prescription drugs. You can be reimbursed for all money you spend for medical treatment, including mental health treatment. However, you can also receive compensation simply for suffering the negative emotions, regardless of the amount of money you spend. For example, a jury might decide that suffering from depression is worth \$30,000, even if you only spend a couple hundred on antidepressants.

LOSS OF ENJOYMENT OF LIFE

Many physical injuries impair a person's ability to enjoy themselves. For example, if you became paralyzed, would you still be able to enjoy your favorite hobbies? Could you play with your children or grandchildren? Probably not.

Even people with relative minor injuries like strains, sprains, or fractures might see their quality of life diminish, at least temporarily. This loss of the enjoyment of your life deserves compensation. Of course, no amount of money can ever really make up for these losses, but a jury will do its best to arrive at a number that is fair.

DISFIGUREMENT

Wounds to visible parts of the body are particularly upsetting. For example, someone who suffers scarring or burns on their face could have their entire sense of self damaged. Someone who loses a limb could be haunted by the loss for years.

Some disfigurement might respond to reconstructive surgery, which costs money. But the costs of surgery (like the costs of mental health therapy) are medical expenses, which are an economic loss. The compensation for disfigurement under pain and suffering refers to the intangible losses associated with having our bodies deformed in an accident.

DISABILITY

Being disabled can compromise a person's ability to earn money. But it is also a loss independent of whether you can work. Not enjoying the full use of your physical or mental faculties is a depressing experience and one you can be compensated for. The greater the disability, the more a client can probably get.

For example, someone permanently disabled because of spinal cord damage or a traumatic brain injury can receive more than someone temporarily disabled with a slipped disc. However, never assume that even a temporary disability is too minor to warrant compensation.

[\(back to top\)](#)

HIRING A LAWYER AFTER A CAR ACCIDENT

Many people try to handle their own insurance claims [after a car accident](#). A large number are surprised to find that they are in over their heads and need legal help. There is no exact answer as to when to hire an attorney after a car accident. Some people can handle some of the initial work themselves, while others would benefit from getting an attorney right away. Below, we summarize the key stages in a car insurance claim and explain how a lawyer can help.

SOMEONE NEEDS TO INVESTIGATE THE ACCIDENT

California is a “fault” state, meaning that the person who caused the accident and injuries must pay compensation to victims. If you are to blame for a crash, then you can’t make a claim on another driver’s insurance policy or on your own. However, if someone else is to blame for hitting you, then you can submit a claim to their insurer.

Proving fault is essential. There are many different pieces of evidence that can help establish who is to blame for any collision:

- A police report. You need to get a copy and read it.
- Witnesses to the accident. If the police officer didn’t talk to them, then someone must. They might be able to testify as to who is to blame.
- The damage to your vehicle. Analyzing the damage can yield clues about who caused the accident.
- Video of the crash. Many stores have surveillance video which can sometimes record accidents.

If you do not have an attorney, then you probably need to do all this investigative work on your own. Of course, in some accidents, no one is disputing fault. The other driver might have admitted that he or she was to blame. But if fault is in dispute, then you need as much evidence as possible to show the other driver is to blame. Without it, you won’t be getting compensation for your injuries.

Many of our clients are badly injured and need to focus on their recovery. By [hiring us](#), they remove a heavy load from their shoulders and gain peace of mind that someone is building the strongest case possible on their behalf.

SOMEONE NEEDS TO NEGOTIATE WITH AN INSURER

Occasionally, injured victims don’t need to negotiate anything. If you have only a few thousand dollars in damages, then the insurance company might quickly agree to reimburse you for your expenses. However, in our experience, the more money you are seeking, the more likely an insurer is to resist immediately agreeing with your demands.

Instead, the insurance company might make a counteroffer. Often the counter offer is much too low. If you don’t accept it, you need to negotiate with the insurance company to increase the amount of compensation. Many people don’t feel comfortable or confident enough to negotiate, so they reach out to hire us.

SOMEONE NEEDS TO FILE A LAWSUIT IF NEGOTIATIONS BREAK DOWN

Not every case can settle. If not, then you need to file a lawsuit to receive compensation. Lawsuits are long and complicated, and few people can handle their own. Small claims court is reserved for cases with a low dollar amount, so if you are seeking more than \$10,000, you need to file in regular civil court. You should certainly hire an attorney to help you.

[\(back to top\)](#)



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