

# Motor Vehicle Crash – Personal Injuries

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

If you are involved in a car crash you must exchange details with others involved.

## I've just been in a crash – what do I do?

You must exchange details with:

- Any other driver involved in the crash
- Any who was injured in the crash. and
- The owner of any property (including any vehicle) damaged in the crash.

## Should I see a doctor?

Seeing a doctor straight after a car crash is always a good idea. The doctor will treat and record any injuries that you have suffered. This could be important later if it is suggested that you have in any way fabricated or exaggerated your injuries.

## What is the MAIB?

As part of your registration costs for your vehicle you pay an amount to fund the [Motor Accidents Insurance Board \(MAIB\)](#). The MAIB provides benefits to residents of Tasmania who are injured as a result of the operation of Tasmanian registered motor vehicles. In certain circumstances non-residents may be entitled to benefits.

## What will the MAIB pay for?

The MAIB will pay what are termed "scheduled benefits", which include:

- reasonable medical expenses to a maximum of \$400,000, including rehabilitation costs
- travelling costs for medical treatment provided the distance travelled exceeds 20 kms one way
- funeral expenses, the amount depending on when the death occurred
- death benefits based on the age of the deceased's dependents
- a weekly disability allowance of the lesser of either 80% of an employed person's weekly wage or 3 times the average adult weekly wage, provided they earn in excess of \$250 per week. If the person did not earn more than \$250 per week at the time of the car crash, then the allowance is the lesser of \$200 per week or the average adult weekly wage. If the driver was convicted of exceeding 0.05 arising from the car crash, the amount of the allowance will be reduced, depending on the reading and, in some cases, will not be paid at all
- an allowance for self-employed people of the lesser of either 80% of the cost of paying someone to carry on their business or 3 times the average adult weekly earnings
- a housekeeping allowance
- limited counselling expenses to persons who meet certain criteria.

## How do I make a MAIB claim?

If you are the driver or registered owner of a vehicle involved in a crash where a person is injured, you must submit a "[Notice of Accident](#)" form to the [MAIB](#). If you have been injured you will need to complete an "[Application For Benefits](#)" form and send it to the [MAIB](#). If you are claiming loss of income your employer must complete an "[Employers Confirmation of Loss of Salary](#)" form. All of these forms are available from the [MAIB](#), most insurance companies, some medical facilities, and lawyers. MAIB benefits are payable regardless of whether you were the person who caused the crash or not.

## What else might I claim?

You may also make a common law claim for damages if you can prove that the person responsible for your injuries was negligent. This may be the driver of the car in which you were travelling, or any other person involved in the crash. You have 3 years from the date of the crash to sue for common law damages.

## What if the crash was my fault?

If the crash was your fault and someone was injured, then the MAIB will represent you and take over responsibility for defence of any claim made against you. When that claim is resolved the MAIB will pay any amount of damages awarded. You do not have to pay. The MAIB may recover what it has paid out if you were convicted of a serious driving offence over the crash or were driving an unregistered/uninsured vehicle at the time of the crash.

## What if I don't know the details of the other car or driver?

If you cannot identify the vehicle that caused the crash or the driver, or if the driver has died, or cannot be found, you are still entitled to seek common law damages from the MAIB. Within 3 months of the crash, you must advise the MAIB in writing of the problem and state that you intend to seek damages. You must provide the MAIB with details of the circumstances of the crash.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.