MOTOR VEHICLE MATTERS

Motor Vehicle Accidents

Do you know what to do, and not to do, after a motor vehicle accident? Ensure you follow the right steps after a car accident by reading this QuickLaw guide.

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For all your motor vehicle accident answers, follow our guide below:

1. What must a person do after a motor vehicle accident (“accident”)?
2. What must a person NOT do after an accident?
3. Can a person claim damages to his/her motor vehicle from the Road Accident Fund (“RAF”)?
4. How does a person know if the other driver was negligent?
5. What happens if a person is not insured?
6. How can LegalWise assist you?

1. What must a person do after a motor vehicle accident (“accident”)?

- ◦ Call the police or report the accident at the nearest police station:
    - within 24 hours if a person is killed or injured; or
    - on the first working day after the accident if no person was killed or injured.
- ◦ Write down the name of the police officer spoken to and the accident report’s reference number.
- ◦ Co-operate with all emergency personnel and police who respond to the accident.
- ◦ Get the details of all other motor vehicles involved in the accident, such as the drivers' names, identity numbers, addresses, telephone numbers, description of the motor vehicles, the registration numbers, and any relevant details from the licence discs; the date, time and address of the accident; the weather and road conditions when the accident occurred; and any other information that may be relevant.

- If an employee is driving a motor vehicle on behalf of his/her employer, then the details of the driver and the employer must be taken.
- Write down the names, addresses, and phone numbers of all potential witnesses of the accident.
- Take photographs or a video of the following:

- the scene of the accident, from all angles;
- the surrounding area;
- the injuries; and
- any damage to property.

- Draw a sketch plan of the scene of the accident and make sure that it contains a fixed point so that it can easily be traced. Also make a statement about how the accident happened. This sketch and statement will remind a person of all the details relating to the accident at a later stage.
- If a person has been injured, a doctor must be consulted immediately, even if the injury is not serious.
- If the person is insured, that person has to notify his/her insurance or broker as soon as possible. Write down the name of the person spoken to at the insurance and the reference number of the claim.

2. What must a person NOT do after an accident?

- Move his/her motor vehicle; unless it is necessary for safety or required by law.
- Subject him/herself to further injury by standing or waiting in an area near traffic or other safety hazards.
- Leave the scene of an accident until the police tell him/her to do so.
- Throw away any potential evidence, such as defective products, important documents, or torn or blood-stained clothing.
- Engage in discussions of fault with anyone as that can be considered evidence in court – do not admit liability.
- Agree to settlement terms without discussing the matter with an attorney.

3. Can a person claim damages to his/her motor vehicle from the Road Accident Fund (“RAF”)?

- No, the RAF does not cover damages to a person’s property, such as:
- damage to his/her motor vehicle;
- damage to his/her other property, for example, clothes; or
- damage to his/her fence or house when someone drives off the road and into the house.
- If a person wants to claim for his/her damaged property, s/he will have to institute a claim in court against the driver of the motor vehicle and/or his/her employer if s/he was driving a company motor vehicle.
- A person has a right to claim for damages caused by injury or death from the RAF if s/he is a victim of an accident as a result of the wrongful (negligent) driving of another person. The RAF may compensate a victim of an accident for injury, and in the event of death it may compensate the dependents of that victim for their loss.

4. How does a person know if the other driver was negligent?

A person alleging negligence will have to show that the other driver did not act reasonable in the circumstances, that the driver should have been able to foresee the damages s/he caused and should have taken reasonable steps to prevent such damages. These are some examples of negligent driving:

- driving at an excessive speed or in excess of the speed limit;
- failing to keep a proper look-out;
- failing to keep the motor vehicle under proper control; or
- driving whilst under the influence of alcohol or drugs.

5. What happens if a person is not insured?

- If a person is insured, s/he will have to claim damages from his/her insurance. The insurance will then have to claim from the person who caused the damages to the insured person’s motor vehicle or property.
- If a person is not insured, s/he will have to claim from the person who caused the damages to his/her motor vehicle or property.

- If a person has a claim for less than R20 000, s/he may pursue his/her claim in the Small Claims Court (legal practitioners are not allowed in the Small Claims Court).
- If a person wants to claim more than R20 000, s/he will have to pursue his/her claim in the Magistrate's Court or High Court with the assistance of a legal practitioner, such as an attorney.

6. How can LegalWise assist you?

If you are a LegalWise Member and require more information or advice please contact your nearest LegalWise Branch, call, e-mail or WhatsApp us. For more information about our membership options visit our legal services page or to join visit our join now page.

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