

A Guide to Texas Motorcycle Accidents

In 2016, there were 490 motorcyclist fatalities on Texas roadways, the third largest total in the entire United States that year.

Thousands more motorcyclists are seriously hurt each year, sustaining catastrophic and life-altering injuries. A motorcycle crash is significantly different than a crash involving two enclosed passenger vehicles. Motorcyclists do not have nearly the same level of protection as passengers in a car, truck, SUV, or van. Injuries stemming from motorcycle accidents are often debilitating and fatal.

Read on to learn more about motorcycle accidents in Texas and how the legal process may unfold if you choose to pursue an injury claim.

I. What to Do after a Motorcycle Accident

If you ever fall victim to a careless driver on a Texas roadway and are involved in a motorcycle crash, there are steps you can take to protect your rights as an accident victim.

In 2017, over 500 people [died in a motorcycle accident](#). If you have been struck, there are certain steps you need to take to protect your right to compensation. For example, remember to do the following.

Call the Police

A responding police officer should come out and write a police report on the accident. This report will contain helpful information, such as the date, time, and location of the crash. The report should also identify who was involved in the crash as well as any witnesses.

The police officer might also determine who is at fault for the collision. The police officer's determination is not the final say, because he or she might lack all the information necessary. However, it is a good jumping off point for beginning your own investigation.

Ask for Insurance Information

In Texas, the person responsible for the crash pays compensation to those who are injured. After the crash, swap your insurance information with any driver involved in the crash.

Take Pictures of the Accident

Pictures are definitely worth a thousand words. If you can get up and move around, take a picture of your motorcycle and the vehicle that hit you.

Ideally, you can get pictures before the vehicles are moved to the side of the road. These pictures will show what the crash scene looked like in the immediate aftermath.

Photographic evidence helps establish:

- Who hit who
- Where you were hit
- The seriousness of the collision
- Any hazards that might have contributed to the accident, such as potholes or hidden stop signs

You can use your smartphone to take pictures or ask someone else to take them. Of course, you might be in a lot of pain and be unable to move around, in which case you should ask someone else to take the pictures for you.

Avoid Saying Anything to the Other Driver

After a crash, you and the vehicle that hit you might disagree about who was responsible for the crash.

For example, a driver that rear-ended you might claim you did not use a turn signal, so the driver did not know to stop. You might be 100% sure you used your turn signal and that the driver struck you because he was distracted.

Liability will impact who pays compensation for the accident, so you do not want to say anything that might hamstring your case.

Something as small as a simple apology can be used against you to show you are taking responsibility for the crash. Instead of engaging in small talk, stand to the side of the road and wait for the police officer to arrive.

Receive Immediate Medical Treatment

It is no secret that motorcycle accidents can cause devastating injuries. Many bikers end up paralyzed or in incredible pain. All they can do is wait for the ambulance to arrive.

Even if you are feeling okay after a crash, you need to go to the hospital or doctor right away. Some injuries are slow to develop, but prompt medical treatment can give you a good chance of recovery. Remember to follow your doctor's advice so that you do not make your injuries worse.

II. Common Injuries in a Motorcycle Accident

Motorcyclists and their passengers tend to suffer more serious injuries during a collision than passengers in motor vehicles.

Why? A car provides ample protection around occupants which absorbs most of the force generated by the collision.

By contrast, bikers are fully exposed to any vehicle that strikes them. Some bikers will suffer a direct hit from a car or truck. Others will suffer serious injuries when they are flung from the bike and strike a stationary object (like a telephone pole) or skid along the road.

If you have been involved in a motorcycle crash in Texas, you may be suffering from one or more of the following injuries:

Fractures

Any bone in the body can break, but many motorcycle accidents result in broken legs, arms, feet, or hands. When a bone protrudes through the skin, then a person has suffered a compound fracture which requires immediate treatment so that it does not become infected. Many bones can heal with only a cast, but others will require surgery to keep the bones together with a pin or screw.

Road Rash

As a motorcyclist slides along asphalt, the heat and friction can peel off one or more layers of skin. Road rash is a particular bad type of skin injury, where the skin typically is entirely peeled off. Road rash can lead to scarring and infection.

Traumatic Brain Injuries

Any blow to the head can change how the brain works, resulting in confusion and impaired memory, speech, or mobility.

Traumatic brain injuries range from relatively mild to life threatening. The more serious the injury, the more time a victim will need to spend in the hospital and the less they will recover. Serious brain injuries can leave someone permanently disabled and unable to care for themselves.

Head Injuries

Injuries to the skull, eyes, and ears are common, even when the motorcyclist is wearing a helmet. A hard blow to the head can cause blindness or reduce the ability to hear.

Internal Organ Injuries

Organs in the chest can be injured when a broken rib spears an organ. Other organs will fail because of blunt force trauma. Oftentimes internal injuries won't be apparent for days or weeks after the crash.

Spinal Cord Injuries

Any damage to the spinal cord can result in a loss of mobility or loss of sensation (or both). The spinal cord is well-protected by vertebrae, but they can crack or shatter after a traumatic impact. When the spinal cord is completely severed, a person is paralyzed below that point.

Biker's Arm

Motorcyclists instinctively brace themselves for impact by wrapping an arm around their chest. When the arm suffers a direct impact, the nerves can be damaged. This is called "biker's arm."

Common symptoms include muscle weakness and inability to use fingers. Physical therapy can sometimes help, but some bikers will have a permanent disability.

Whatever your injury, remember to follow your doctor's advice and continue to seek treatment as long as you are suffering from pain or discomfort. Any deviation could compromise your ability to receive compensation.

III. Settlement Process for a Motorcycle Accident

Many disputes involving motorcycle accidents never go to trial but instead settle.

In fact, well over 90% of cases settle, which can work to your benefit. By settling your dispute, you can guarantee that you will receive some money and avoid the unpredictability of trial.

However, the settlement process is not easy and not something that you should attempt on your own. To maximize the amount of compensation you receive, you need to carefully assess the circumstances of the accident and be prepared to negotiate aggressively with the liability insurance company. Below we present a general guideline for how to settle a claim.

Make a Claim with the Insurance Company

Drivers in Texas are [required to carry](#) at least the following in insurance—\$30,000 in bodily injury liability insurance per person, up to \$60,000 per collision, and \$25,000 for property damage.

You should get this information after the motorcycle accident, and you can call up the insurance company to make a claim or have your lawyer do it. One benefit of having a lawyer is that they will limit what you tell the insurance company. Remember that insurance adjusters for the party that caused the motorcycle wreck will try to find ways to reduce their payout. When in doubt, do not speak with them and defer them to your attorney instead.

If your motorcycle only suffered property damage and you have collision coverage, then you might contact your own insurer and tell them what happened. They can then work with the insurance company that represents the driver who struck you.

File a Lawsuit, if Necessary

Even if you hope to settle your case, you might still need to file a lawsuit. The threat of a lawsuit is the only real incentive an insurance company has for giving you a settlement in the first place. If you can't take the at-fault driver into court, then there is no reason for an insurer to pay you money.

Texas law gives motorcycle accident victims a short window of time to file a lawsuit after the crash. It is best not to wait. If you miss the deadline, a judge will dismiss the case and you will not receive any compensation for your injuries, regardless of how badly you are injured.

Your lawyer can start the lawsuit by filing the necessary paperwork in the correct court. In your complaint, you will explain important circumstances surrounding the accident and make a demand for compensation. You then need to send a copy of the complaint and other documents to the defendant you are suing.

Lawsuits can be long and drawn out, taking a year or longer from start to finish. Realize that you can settle your case at any moment, even during the trial if it has already begun. The defendant will feel greater pressure to settle the longer the case takes, and it is not unusual to receive a settlement offer right before the jury renders its verdict.

Review the Initial Insurance Company Offer

An insurance company will want to thoroughly investigate an accident before agreeing to pay you money. The more serious your injuries, the less likely they are to immediately pay up. Instead, an insurer is probably looking for evidence that you caused the crash and are to blame. If so, the insurer can get out of paying compensation, since you are at fault.

During the investigation, the adverse insurance company may ask for a recorded statement. You can expect to receive several calls from them in the days following the crash. If you have hired an attorney to represent you, do not speak with insurance companies without

having a discussion with your legal counsel first. With your attorney beside you, you can clean up any confusion and tell the adjuster exactly what happened.

Once the insurance company has collected all evidence, it should determine whether to accept your claim, reject it, or make a counter-offer.

Typically, any counter-offer will be low—far less than your injuries are really worth. At that point, you and your attorney will assess how to respond.

Negotiate with the Insurance Company

Negotiations often involve a back-and-forth, with each side moving a little closer toward a number each side can agree with. Negotiations are usually handled through letters, though sometimes the lawyers might need to meet together to hammer out final details. Realize that your attorney cannot accept a settlement without your approval. In fact, it is unethical to do otherwise. However, you can give your lawyer permission ahead of time to accept any settlement offer that is above a certain amount.

Your lawyer should keep you updated about how negotiations are unfolding and advise you about whether you should accept less money if negotiations begin to stall. You might also need to press ahead with your lawsuit.

Signing the Settlement Agreement

Every settlement agreement comes with strings. In particular, the defendant will agree to a settlement only if you agree to not pursue additional compensation for the same accident.

You will need to sign a waiver or release to this effect, which is legally binding. For this reason, you absolutely must get all the compensation that you can in your settlement, otherwise you will not have enough money to pay for all of your medical care and replace all your lost wages.

Before you sign, your lawyer should review the settlement agreement and make sure that it protects your rights.

Receiving Your Money

Your lawyer should deduct his fees and costs from the settlement amount. You might also owe Medicare or your insurance company money if they paid for your initial medical treatments. Once all paperwork has been taken care of, you will receive a check.

Conversely, if you are unable to reach a settlement than you will need to prepare for trial. Going to trial can be very stressful, and your lawyer should do everything possible to make sure that you are ready. It is important to remember that your injury claim has the potential to go to trial, and that you should only hire an injury law firm with significant

experience taking cases to trial. Find a law firm with attorneys that aren't afraid to take difficult cases to court and fight for your compensation.

IV. Average Settlement in a Motorcycle Accident

Many people reach out to our office to ask what the "average" settlement is for a motorcycle accident. Often, they are unsure about whether pursuing compensation is worth their time, especially if their injuries are not life-threatening.

The fact is that there is no "average" settlement. Every accident case has truly unique facts and circumstances.

As the largest personal injury firm in Texas, we have obtained favorable settlements for many people injured in motorcycle accidents. And we know what factors will influence the amount of compensation you can receive. To properly evaluate the value of your injuries, consider the following:

How Much Money Have You Spent to Treat Your Injuries?

Injured victims can receive compensation for all economic losses caused by the accident. Economic losses can take many forms, but basically consist of any money you had to spend as a result of the collision. For example, you can receive compensation for the following losses:

- Money spent on medical care to treat your injuries. This will include surgery, doctor's visits, hospital overnights, mental health treatment, prescription and over-the-counter drugs, assistive devices like crutches or wheelchairs, and rehabilitation.
- Wages lost because you could not work. If you are holed up in the hospital or at home, then you probably cannot work. You can receive 100% of these lost wages in compensation.
- Property damage to your motorcycle. Your bike might be totaled and need to be replaced. At a minimum, it probably needs to be repaired. You can request compensation to cover these costs.

Other economic losses may include future expenses. For example, if your injuries are very serious, you will probably need ongoing medical care or treatment, and you can receive compensation for these amounts. You might also be unable to work or to return to your old job, and many of our clients receive lost future wages as well.

How Serious are Your Non-Economic Losses?

Motorcycle accidents cause losses that are harder to measure in money. Nevertheless, you can also receive compensation for certain intangible harms, such as:

- Pain and suffering. Bodily injuries cause physical pain and inconvenience, which warrant compensation.
- Mental anguish. The accident might have caused severe emotional trauma, resulting in fear, shock, depression, and anxiety.
- Disfigurement. Scars or disfigurement in visible areas can be especially distressing, such as facial scars.
- Physical impairment. Being unable to play with your grandchild or enjoy your hobbies represents a loss you can be compensated for.

It is not always easy to estimate how much a jury will value your non-economic losses. However, we can use our experience to calculate a reasonable amount. Generally, the more serious your physical injuries, the more you will receive for these intangible losses.

Did You Contribute to Your Injuries?

Texas recognizes that sometimes a victim's own negligence contributes to their injuries. This contributory negligence will reduce the amount of compensation you can receive. Specifically, any amount you receive will be reduced by your percentage of fault, so if you forgot to use a turn signal before being rear-ended, you might be 40% responsible for the crash.

In the above example, a person's injuries might be worth \$100,000. But because they are 40% responsible, they can receive only \$60,000 maximum.

Speak to an Experienced Texas Motorcycle Accident Attorney

Motorcycle crashes are traumatic events that can cause significant physical and financial hardships on you and your family. If you were hurt in a motorcycle accident and are unsure what to do next, we are here to help.

[Thomas J. Henry](#) is a leading personal injury law firm and has helped many motorcycle victims get the compensation they deserve. Contact us today and speak with an attorney about your case. We offer free legal consultations to potential clients.

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