

Auto Basics and Introduction to Personal Auto Policy

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COMPENSATION OF AUTO ACCIDENT VICTIMS

Under the legal system in the United States, persons who are injured or who incur property damage losses as the result of auto accidents that are the fault of other drivers are entitled to compensation and damages.

Automobile insurers and state governments have designed these approaches to compensating auto accident victims:

- Tort liability system
- Financial responsibility laws
- Compulsory insurance laws
- Uninsured motorists coverage
- Underinsured motorists coverage
- No-fault insurance

Tort Liability System

The **tort** liability system, which is based on fault, is the traditional and most commonly used method of seeking compensation for injured auto accident victims in the U.S. Most tort liability cases arise out of **negligence**. If a driver operates an auto in a negligent manner that results in bodily injury to another person or in damage to another's property, the operator can be held legally liable for **damages** incurred by the injured person. To avoid legal liability, auto owners and operators must exercise a high degree of care to protect others from harm.

Under the tort liability system, injured auto accident victims must prove that another party was at fault before they can collect damages from that party. The amount of damages can be determined through negotiations between the two parties or through a lawsuit and court settlement.

The major advantage of the tort liability system is that it provides a remedy for victims of negligent or irresponsible drivers who cause accidents. Injured victims are compensated for their costs, and the costs are allocated to the responsible party. The tort liability system may also act as an incentive for drivers to act responsibly in order to avoid lawsuits.

Tort

A wrongful act or an omission, other than a crime or a breach of contract, that invades a legally protected right.

Negligence

The failure to exercise the degree of care that a reasonable person in a similar situation would exercise to avoid harming others.

Damages

Money claimed by, or a monetary award to, a party who has suffered bodily injury or property damage for which another party is legally responsible.



The disadvantages of the tort liability system include these considerations:

- Substantial time delays in reaching a settlement either through negotiation or through the courts
- Significant legal and administrative costs related to settling lawsuits or pursuing a case to judgment
- Punitive damage awards by juries that may be considered excessive

Financial Responsibility Laws

Financial responsibility law

Law enacted to ensure that motorists have the financial ability to pay for any property damage or bodily injury they might cause as a result of driving or owning an auto.

Financial responsibility laws require motorists to provide proof of financial responsibility (such as liability insurance) under these circumstances:

- After an auto accident involving bodily injury or property damage exceeding a certain dollar amount
- After a conviction for certain serious offenses, such as drunk driving or reckless driving, or after losing a driver's license because of repeated violations
- Upon failure to pay a final judgment that results from an auto accident

Motorists who fail to provide the required proof of financial responsibility can face suspension of their driver's license and vehicle registration. Proof of financial responsibility can include an insurance policy, a certificate of deposit, a surety bond, or a certificate of self insurance, depending upon the jurisdiction.

Financial responsibility laws provide some protection to victims of auto accidents against irresponsible drivers. These laws work in conjunction with the tort liability system to ensure that at-fault drivers will not only be held liable for accidents they cause, but also that they have a mechanism in place to pay for the financial consequences of those accidents.

Some potential disadvantages of financial responsibility laws include these considerations:

- Most financial responsibility requirements become effective only after an accident, a conviction, or a judgment.
- Financial responsibility laws do not guarantee payment to all accident victims. Persons injured by uninsured drivers, hit-and-run drivers, or drivers of stolen cars might not be compensated.
- Injured persons might not be fully indemnified for their injuries even when injured by motorists who can prove financial responsibility. Most financial responsibility laws set minimum financial requirements, which may not fully compensate a victim.



Compulsory Auto Insurance Laws

Most states have enacted **compulsory auto insurance laws** that require auto liability insurance for all motorists to drive legally within the state. In lieu of auto insurance, a motorist can post a bond or deposit cash or securities to guarantee financial responsibility in the event of an auto accident. In addition, many states require the insurer to verify insurance coverage and/or to notify the state if a policy is canceled or is not renewed. Other states may require insurers to submit information regarding the automobile insurance policies they have issued within that jurisdiction.

One advantage of compulsory insurance laws, as compared to financial responsibility laws, is that motorists must provide proof of financial responsibility before an accident occurs. By requiring proof of financial responsibility prior to an accident, compulsory insurance laws go beyond financial responsibility laws by ensuring that accident victims are compensated for their losses. Compulsory insurance laws work in conjunction with the tort liability system to ensure compensation for victims of auto accidents that are the fault of other drivers.

These are frequently cited disadvantages of compulsory insurance:

- Compulsory insurance laws do not guarantee compensation to all accident victims. Accidents and resulting injuries can be caused by drivers who do not comply with the law, such as hit-and-run drivers, drivers whose insurance has lapsed, out-of-state drivers with no insurance, drivers of stolen cars, or drivers of fraudulently registered vehicles.
- Compulsory insurance laws provide incomplete protection. The required minimum amount of insurance may not meet the full needs of accident victims. In some states, the required minimum limit for bodily injury coverage is as low as \$10,000 or \$20,000 per person.
- Compulsory insurance laws may not reduce the number of uninsured motorists. Some drivers do not insure their vehicles because insurance is too costly. Others let coverage lapse after demonstrating proof of insurance to satisfy vehicle registration requirements.
- Insurers argue that compulsory laws restrict their freedom to select profitable insureds. In addition, insurers fear that state regulators might deny needed rate increases, resulting in underwriting losses.
- Consumer advocates argue that if insurers are allowed to increase rates to compensate for accepting all applicants for insurance, rates might become unfairly high for good drivers. In effect, good drivers could be subsidizing rates for the high-risk drivers that insurers are required to insure.
- Compulsory insurance laws do not prevent or reduce the number of automobile accidents. This argument expresses one of the most serious problems associated with automobile insurance.

Compulsory auto insurance law

Law that requires the owners or operators of automobiles to carry automobile liability insurance at least equal to certain minimum limits before the vehicle can be licensed or registered.

