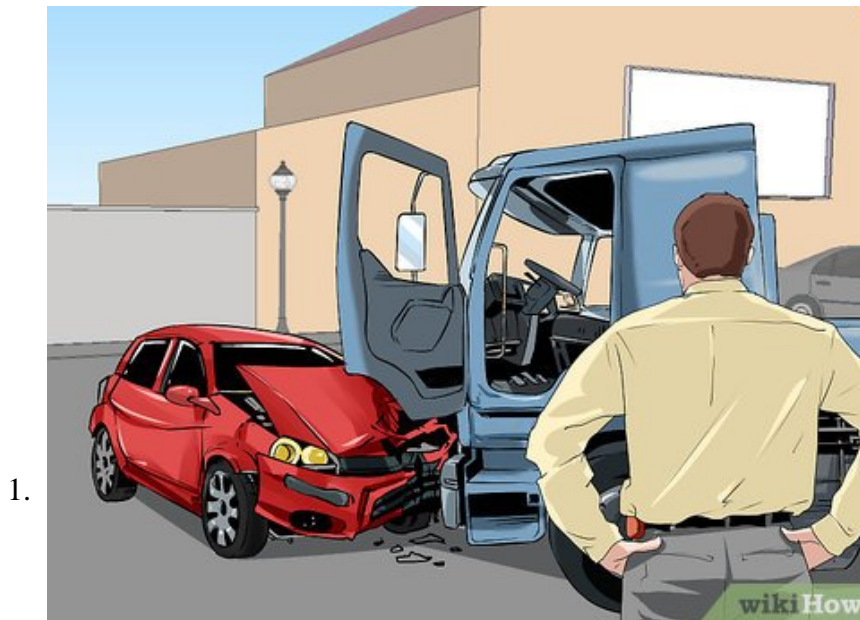


How to Achieve a Settlement After Being Involved in a Truck Accident

If you're unlucky enough to be involved in a truck accident, you may have suffered property damage, experienced injuries, and lost income as a result. Even more so than other road accidents involving cars and other small vehicles, the...

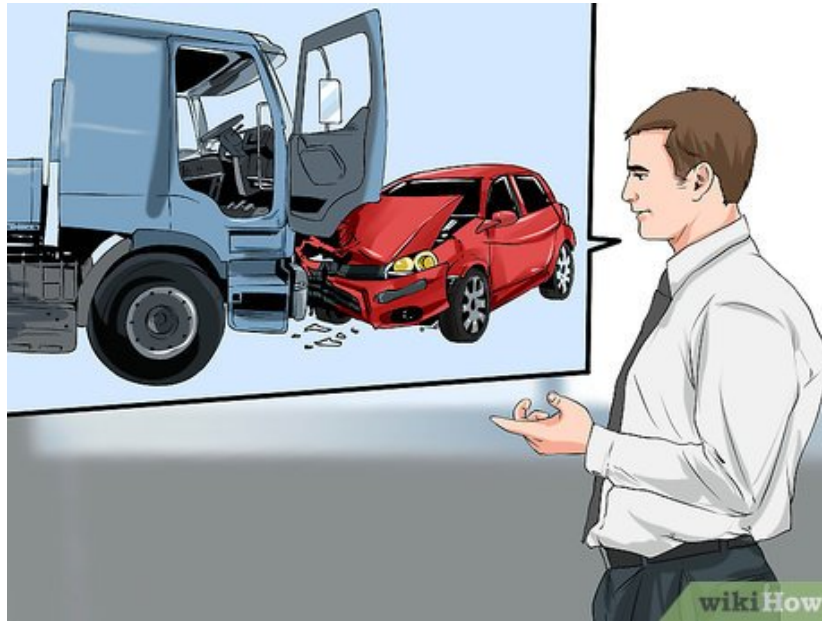
Part 1 of 3:

Taking Initial Steps at the Scene of the Accident



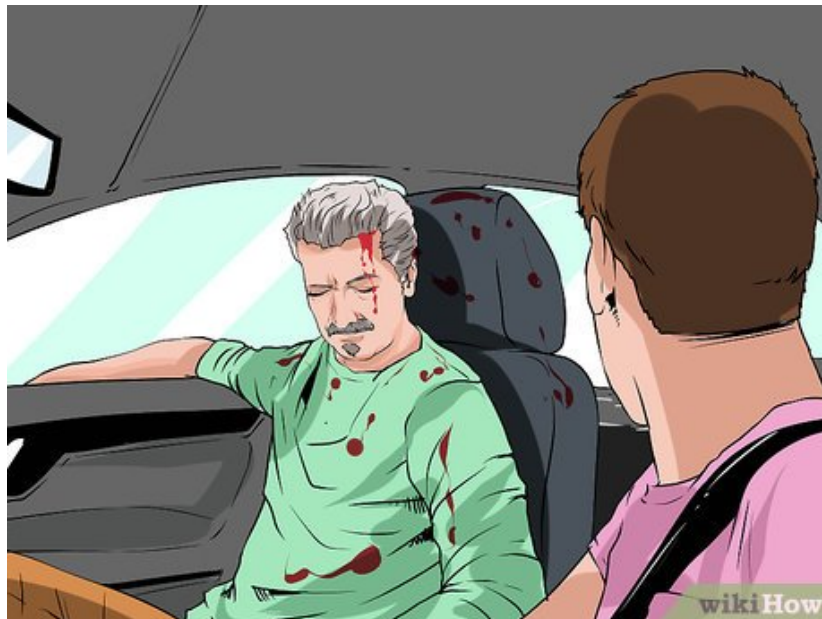
Stay at the scene. The worst thing you could do is leave the scene of an accident, even if you think it was something minor. Unless you talk with the other driver, you may not know if he or she will report that you caused the accident (whether you did or not).^[1]

2.



Stay calm. Perhaps the most important thing you can do immediately following an accident is to remain calm. This will help you focus on all the remaining details and collect information that will help you with your claim. If you get overly excited, you will miss things or may say things that could hurt your case down the line. Try to keep calm and limit what you say and do.

3.



Deal with any injuries to yourself or others. If you are injured, then you should stay put until medical staff arrive to help you. If you are not injured and can help anyone else who was involved, you may wish to do that.^[2]

1. Remember that unless someone is in immediate danger, you should leave any injured person alone until professional medical help arrives. Consider the scene of the accident and determine whether you need to remove yourself or others due to possible fire, explosion or other imminent danger.

4.



Contact the police for any accident. If you or someone at the scene has a cell phone, call 9-1-1 right away. Even if you believe the accident is minor, you should contact the police. A police officer on the scene can help move the vehicles safely out of the road or can help direct traffic while you and the other driver exchange information. At the very least, you will want a police officer to write a formal report of the accident. A police report that contains the facts of the accident can make a big difference in reaching a settlement (assuming that the facts are in your favor).^[3]

5.



Exchange personal identification information with the other driver. After any immediate health concerns have been addressed, talk with the other driver and share basic contact information. This will include all of the following:^[4]

1. name
2. address
3. telephone number

4. license plate
5. car description - make, model and year
6. name and contact information for any passengers



Share information about insurance coverage. You should ask the other driver for his or her insurance carrier and policy number. You should be prepared to share your information as well.^[5]

1. Sharing insurance information is not an admission of fault on either side. It is an ordinary step in dealing with an accident.
2. Insist on collecting the other driver's insurance information, even if he or she says, 'Let's just settle this without insurance.' Many drivers will want to avoid an insurance claim, out of fear that their premiums may increase. As a result, you may get someone who simply offers you a cash payment. The choice is yours, but until you have any damage reviewed, you cannot be certain what the repairs will cost. Cars (or people) can sometimes be damaged in ways that are not immediately evident. You can opt later not to file an insurance claim, but at this stage you should get the information.

7.



Ask the truck driver about his or her employer. When you are involved in an accident with a big-rig truck driver, it is likely that the driver was on the job for an employer, rather than just driving for himself. Ask about his or her employer. This may provide you with an additional defendant, who may be more able to pay for the damages you suffered.

8.



Take good notes about the accident. Before you leave the scene, you should write down some notes about the accident. In your notes, you should try to answer the following questions:^[6]

1. What is the exact location? Make note of any side streets or intersections.
2. What time did the accident occur?
3. Describe the weather, particularly if it may have contributed to the accident.
4. Describe your location on the road (which lane you were in, which lane the other vehicle was in) and the movement of each vehicle.

9.



Take photographs of the scene. If you have a cell phone that contains a camera feature, take some photographs of the accident scene before the vehicles are moved. Try to get pictures that will show the cars' positions and demonstrate how the accident happened. Take pictures of the damage to each car as well.^[7]

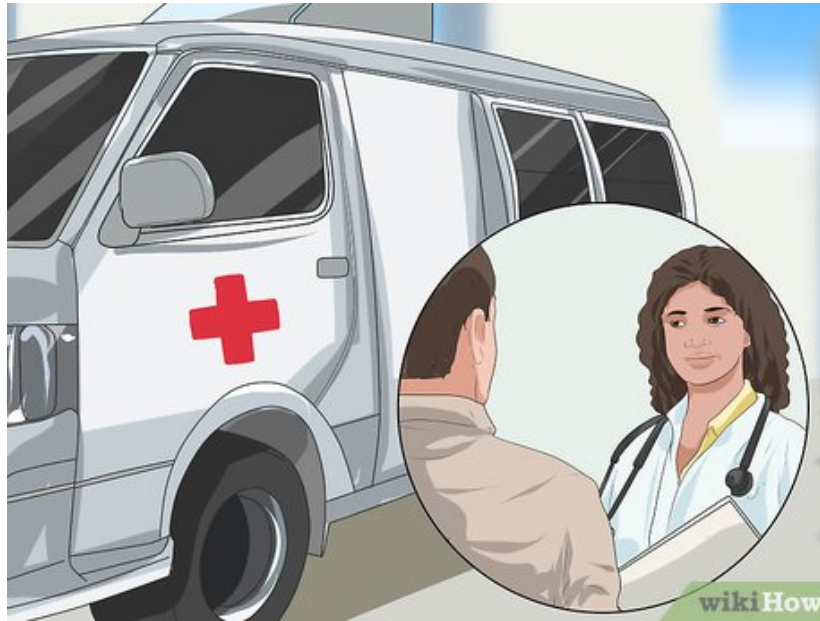
1. It is important to photograph both vehicles, not just yours. Although your car is the one that concerns you, you should photograph both vehicles. Having pictures from the scene of the accident will prevent the other driver from making an unsubstantiated claim later on and blaming it on you at this accident.

10.



Identify any witnesses. Very often, other cars will stop if they saw what happened, or you may be able to identify a pedestrian who saw the accident. Get their names and contact information, if you can. Ask each to verify what happened, so you will know if they will support your claim eventually.^[8]

11.



Report to a hospital and record all medical expenses. If you were badly injured in the accident, you will likely be taken to a hospital by ambulance. If you are less injured, or if you think you were not injured at all, you should still report to your own doctor or an emergency room to be checked. Inform the medical staff that you were in an accident and ask to be checked for injuries. Get a written report. Keep a record of the expenses for this visit and any other medical visits.^[9]

1. Your state law will determine whether you can collect from the other driver or his or her insurance company for medical visits that are covered by your insurance policy. In some cases, you can only collect for out-of-pocket costs, such as a co-payment.

12.



Record all expenses of any kind related to the accident. Keep notes of all costs that you incur as a result of the accident. You may wish to start a notebook or a folder to hold receipts and notes. You may not be able to collect reimbursement for every item you record, but keeping the notes will help you in negotiating a settlement later. You should record and maintain:^[10]

1. lost wages
2. rental car costs
3. the value of damages to any personal property in your car.

Part 2 of 3:

Submitting Your Initial Claim

1.



Contact your insurance company as soon as possible. Regardless of how you think the claim will resolve itself eventually, you need to notify your insurance company that you have been involved in an accident. An insurance agent will ask you for detailed information about the accident. Answer all questions as thoroughly and honestly as you can.^[11]

2.



Talk with your insurance agent about the process for collecting. Your agent will be able to inform you about the laws of your state and about the process going forward. You will want to find out if you live in a 'no fault' state and if you are entitled to claim against the other driver or only against your own policy.^[12]

1. The states with 'no fault' insurance laws are the District of Columbia, Florida, Hawaii, Kansas, Kentucky, Michigan, Minnesota, New Jersey, New York, North Dakota, Pennsylvania, and Utah. If you live in one of these locations, your claim may be limited to collection against your own policy, regardless of which driver may have caused the accident.



Meet with a claims adjuster. A claims adjuster is an employee of your insurance company whose job is to examine your vehicle and estimate the damage. The insurance agent will probably give you the contact information for an adjuster when you make your first contact. Set up a time and location to meet and review the damage.^[13]

1. Some adjusters will have you visit their place of business, while others will travel and come to you. If you have the opportunity, select a time and place that are convenient. You should not have to lost additional time from work to meet with a claims adjuster.

4.



Obtain one or more additional independent estimates. Don't just rely on the claims adjuster's estimate. You have the right to take your vehicle to a body or repair shop of your own selection to get an estimate of the repair cost to your vehicle.^[14]

Part 3 of 3:

Negotiating a Positive Settlement

1.



Consult with an attorney to settle beyond the insurance claim. If you are dissatisfied with resolving the payment through your insurance company, you may hire an attorney. An attorney who deals with accident claims will be able to advise you of your rights and your likelihood of collecting.^[15]

1. Particularly if you suffered a chronic injury that will need ongoing care, an attorney can help you maximize your collection.
2. Accidents with big-rig trucks are more likely to cause significant damage or injury, due to the size and weight of the truck. This works in your favor when looking for a larger settlement.^[16]



Share with your attorney all the details of the accident and your expenses. Make sure that your attorney is aware of the police report, the statements you have already received from any witnesses, and the costs that you have already incurred. The attorney will discuss your overall case and help you decide whether the case should go to trial.^[17]

1. If it appears that your case is not strong, or that you were partially to blame for the accident, your attorney may advise you that the initial offer you received, either from your insurance company or from the other company, is the best you will do. At that point, you may choose to accept the offer and be done with the case.
2. Alternatively, if the attorney believes you have a strong case, with the potential to prove significant damages, he or she may advise you to proceed. Your next step is to go to trial, or at least contact the other driver to settle without a trial.



Research state and federal laws regarding trucking regulations. Drivers of semi-trailers are controlled by several state and federal regulations. These regulations cover such things as the driver's license, truck maintenance, and cargo capacity.^[18] You or your attorney will need to research these regulations to look for deficiencies. If the driver or the driver's company neglected to meet federal or state standards for maintaining the truck, for instance, you could have a strong negotiating point in discussing a settlement.



Contact the other driver through his or her attorney, employer, or insurance company. Either on your own or through your attorney, the next step toward reaching a settlement is to contact the other driver and set up a meeting. At this stage, you will need to let the other driver know that you intend to proceed with a complaint and trial, if necessary, unless the accident can be settled.



Prepare for the negotiation meeting. The key to a successful negotiation is to arrive prepared. Usually the better prepared side will come out of the negotiation meeting with the more positive result.^[19] As part of your preparation, you need to collect the evidence that supports your claim and the evidence of the damages you have suffered. This evidence of damages should also include any medical reports about future pain and suffering.

1. Part of the preparation for a negotiating meeting also includes researching the other driver's potential resources. There is no point in demanding millions of dollars, for example, from a driver who has very limited resources himself and would never be able to pay. However, if, at the time of the accident, the truck driver was working for a large trucking company, you may be able to collect a great deal from the company. Your attorney can help you look into this.
2. You will need to consider any defenses that the driver may raise. For example, if the driver admits a level of responsibility for the accident, but then says that the true fault was a problem with the brakes, you may get tied up in a product liability dispute with the brake manufacturer. Details like this could make a trial very long and drawn out.

6.



Investigate the truck driver's possible negligence. This level of negotiation may be difficult to do without filing a complaint first. If a complaint is filed, you or your attorney then have subpoena powers and the tools of discovery to compel certain information. But if you can answer any of these questions before filing a complaint, they may help with settling your case:^[20]

1. Was the driver's CDL license active or suspended?
2. Does the driver have a criminal record or a history of tickets?
3. Does the driver have a history of accident involvement?
4. What was the truck carrying, and was it within legal load limits?
5. Was the driver in compliance with sleeping regulations?
6. Was the driver under the influence of any drugs or alcohol?

7.



Attend the meeting, with your attorney. At a negotiating conference, you and/or your attorney will discuss the damages that occurred and your view of the case. You will discuss enough of your evidence to

convince the other side that you have a strong case, without disclosing everything. Part of this meeting is to size up the other side's defense, compared to your own case, and make an informed decision about the likelihood of winning at trial.^[21]



Make a demand, and try to reach a settlement point. Eventually, you will present a monetary amount that you expect to collect as a result of the accident. This figure should be reasonably connected to the actual damages that occurred, along with an amount that your attorney believes you could collect from a judge or jury if the case were to go to trial. The other driver, or his attorney or insurance representative, will likely counter. This can go back and forth, until you eventually reach a figure that both sides will agree on.^[22]

1. Be prepared to give up something to reach an agreement. Part of negotiating means being willing to compromise for something less than what you fully want. Some possible ways to do this are to take a lower amount than your original demand or accept delayed payments over time.



Be prepared to walk away from the negotiation. If the other side is evidently not coming close to your demand, and if you believe that you have a strong enough case, you need to be willing to break off the negotiation and go to trial. Sometimes, just threatening to end the negotiation may be enough to show the other side that you are serious, and could bring a better offer.^[23]

10.

PRIVATE SETTLEMENT FORM Rev 01

1. Details of Accident
Date / Time: _____
Location: _____

2a. Motor-vehicle registration no. _____ driven by _____
(Name & NRIC)

2b. Motor-vehicle registration no. _____ driven by _____
(Name & NRIC)

3. There were no personal injuries or death involved.

4. The parties have agreed to settle this matter amicably as follows:

*a. Neither party shall be liable to compensate the other party for any loss or damages (direct or indirect) incurred or to be incurred as a result of the accident.

*b. without any admission of liability, _____ (Party _____ compensation) has paid a sum of \$_____ which _____ (Owner receiving compensation) hereby acknowledges there of in full and final settlement of all damages and cost incurred to be incurred as a result of the accident.

*c. That _____ (Name & NRIC no.) have received the aforesaid vehicle in good running order and damages that were caused as a result of the above-mentioned accident were repaired to satisfaction.

5. Both parties have not and will not make a police report of this accident.
Both parties will not file any subsequent claims for this accident.

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Get a final settlement in writing. After you have reached an agreement for a settlement amount, you (or your attorney) will need to finalize a written settlement agreement. A written agreement is designed to detail the amount of the agreed payments, a schedule for such payments to happen, and to set forth certain legal terms about the accident. In particular, the party who is making the payments will probably want the settlement agreement to include a clause stating that the settlement is in 'full and final' satisfaction of 'any and all' claims related to the accident. This language means that if some future injury arises later, you may be barred against claiming for it. You should have your attorney review any written settlement agreement carefully before you sign it.

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