

The men and women who drive tractor-trailers over our nation's highways are called professional truck drivers for good reason. These drivers are well-trained in the operation of their vehicles, drive thousands of miles every year, and are well aware of the hazards on the roadways.

However, there are thousands of crashes annually involving commercial trucks and passenger vehicles. A study by the National Highway Safety Administration showed that the driver of the passenger vehicle was primarily at fault in 63% of the collisions with tractor trailers. Frequently, the truck driver is fortunate and is able to walk away from collision. However in 2006, there were over 1,000 truckers killed in wrecks with passenger vehicles. Thousands of other truckers suffered serious injuries which affected their ability to earn a living.

The legal system offers an opportunity for truckers injured on the job to recover for their injuries. Because these are occupational injuries, most truck drivers injured in a wreck with a passenger vehicle are covered by worker's compensation.

Worker's compensation laws vary from state to state. Some are more generous to the injured truck driver; others are tilted strongly in favor of the company. Almost all provide three main features: (1) a reduced wage subsidy while the worker is off work, typically between 50-80% of the average weekly wage, (2) providing medical care, and (3) a settlement for permanency associated with the injury. Sometimes, injured truck drivers have the option of choosing what state's laws they wish to use to pursue their worker's compensation case. Because the levels of compensation vary from state to state as does the extent to which the company controls the medical care of the injured driver, if you are hurt in an accident of any kind while working as a truck driver, you should consult with an experienced worker's compensation lawyer.

Another avenue of recovery that is available when a truck driver is injured in a wreck with a passenger vehicle is a liability claim against the insurance company of the other driver. The basis of the claim is that the other driver was negligent in causing the accident. This is shown by evidence that the other driver was speeding, driving while intoxicated, weaving through traffic, crossing over the center line, or otherwise violating the rules of the road.

There are significant differences between what is recoverable in a worker's compensation claim and an auto liability case. The biggest difference is that under the worker's compensation laws of most states, pain and suffering is not a compensable element of the case. In an auto liability case, that is almost always recoverable. The ability to receive compensation pain and suffering in an auto liability case often make pursuing these kinds of cases economically worthwhile to the injured truck driver.

In most states, you can pursue both a worker's compensation case and an auto liability claim – you do not have to choose one or the other. However, the worker's compensation insurance carrier is usually entitled to be reimbursed for the benefits that they paid out in connection with the worker's compensation case. The thought behind allowing the

worker's compensation insurance carrier to recover the benefits they paid out in the worker's compensation case is that it was not their fault you were hurt on the job either, and allowing them to recover part of the money you receive from the insurer of the at-fault driver really puts the cost of the worker's compensation case on the party who is truly to blame for the accident, instead of on your employer or their insurance company. The interplay between the worker's compensation case and the auto liability case can be very complex, so you should be careful to consult with an experienced personal injury lawyer to make sure that you understand your rights and obligations when you make an auto liability claim for a work-related accident.

Unfortunately many times the worst drivers – the ones who are responsible for many of the truly horrific wrecks – have the worst insurance, if they have any valid auto liability insurance at all. When the at-fault driver has minimal or inadequate insurance or has no insurance at all, the injured driver may be able to look to the insurance covering the truck he was driving to receive full compensation for his injuries.

Commercial vehicles are required by federal regulations to carry a minimum of \$750,000 in liability insurance, and even more if the carrier hauls hazardous materials. When a company purchases liability insurance, it may also purchase uninsured and underinsured motorist coverage. Uninsured and underinsured motorist coverage is different from liability insurance. Liability insurance covers the members of the motoring public against accidents caused by the fault of the driver. Uninsured motorist coverage and underinsured motorist coverage covers the driver behind the wheel of a commercial vehicle against accidents caused by the careless driving of the motoring public. Handling uninsured and underinsured motorist coverage cases involving commercial vehicles like tractor trailers is an extremely complex undertaking, and should not be attempted without the help of an experienced personal injury lawyer.

Uninsured motorist coverage is just what it sounds like and more. It covers accidents with drivers who never had any insurance, whose insurance has lapsed, who were excluded drivers on the policy covering the car they were driving, and other situations where the car is not covered by valid insurance, such as when it is being driven by someone who stole the car. In most states, uninsured motorist coverage also covers collisions with hit-and-run drivers.

Underinsured motorist coverage is a little more complicated. It makes up the difference between the damages sustained by the injured driver and the amount of liability insurance the at-fault driver has, up to the policy limits. For example, if the injured driver sustained \$100,000 in damages, but the at-fault driver had only \$25,000 in insurance coverage, then the underinsured motorist coverage would pay the additional \$75,000 in damages sustained by the injured driver that exceeds the insurance coverage of the at-fault driver. Underinsured motorist coverage is especially important when the driver suffers severe or catastrophic injuries which require surgery or result in an extended period of lost time from work.

Most often, companies will tell injured drivers that they cannot have information about uninsured or underinsured motorist coverage or that they cannot make a claim on the policy because the company fears that its rates will go up. However, injured drivers are entitled to that information because they are considered “insureds” under the policy, just as much as the company. Many times, it requires the assistance of a lawyer to obtain information regarding the uninsured motorist or underinsured motorist coverage from the company.

Sometimes, companies will decline to purchase underinsured or uninsured motorist coverage. This is referred to as rejecting the coverage. State laws set often forth a set of requirements that must be followed in order for the rejection of the coverage to be valid. When the technical requirements are not followed, the rejection is considered invalid, and the limit of the uninsured and underinsured coverage will be treated by the courts as equal to the liability limits.

In one case our office is handling, the company had liability limits of \$1 million, but rejected identical limits for its underinsured coverage in favor of a \$25,000 limit. The client was in an accident with a driver who carried only \$25,000 in coverage and suffered an injury to his neck with will require a fusion operation. In reviewing the company’s insurance policy, we noticed that the manner in which the rejection of the policy limits was handled did not comply with the requirements of the law for the state where the terminal for the truck was located, and asked the court to find that the rejection of the underinsured limits of \$1 million was invalid. This will result in our client recovering thousands of dollars in additional compensation for the very serious injury he suffered.

Most truck drivers are aware that they can get worker’s compensation benefits when they are hurt on the job, but may be unaware of the choice-of-law aspects to their claim which may allow them to pursue their worker’s compensation case in a state which is more favorable to labor than management. Also, truck drivers who are involved in accidents with a private passenger vehicle may make liability claims against the insurance company for the at-fault driver as well as under the uninsured and underinsured motorist policy of the company whose vehicle they were driving at the time of their injury. Pursuing these kinds of cases can be a very complex undertaking, and there are strict time limits involved, so any driver who is injured as a result of a collision with a private passenger vehicle should seek the help of an experienced personal injury attorney as soon as possible.