

10 Tips for Handling Car Wreck Cases

August 2012- make sure that you check my website www.Roane-Law.com for the newest version as the law changes frequently

1. Property damage- claims must be made within 30 days of the wreck. Otherwise, the adjusters may try and say that you waited too long. See 11 NCAC 04 .0421 Make sure that the check is for "property damage only" in the memo portion. Some insurance companies will try and write "full release" instead, which could waive your claim.

2. Depreciation- you can typically get depreciation for your vehicle in the amount of around 10% of the total cost of the repairs. If your car is totaled, go to www.KBB.com or similar site to [price your car](#). Make sure that you point out any upgrades that you have made such as car stereos, new tires, etc. Don't argue list price of other cars that you see for sale. Fair market value is what they must pay, not list price.

3. Treatment- make sure that you go to the doctor if you are having problems. Don't just tough it out. Insurance companies will try and say you weren't actually hurt unless you go and get checked out. If you try and wait just one day, they will argue that is a "gap" in treatment. They will try and insinuate that something happened during that one day besides the car wreck. Even if the insurance company can't prove it, they will still use it to make you a low offer. It is better to get checked out anyway, just to make sure. Sometimes, you may be more injured than you realize and you don't want to make your condition worse.

4. Medpay- many insurance policies have medical payments coverage that you can use to pay your bills. Medpay is no-fault coverage, so you can get this even if you are at fault. You pay for it, so you use it. If you use your medpay, it will not make your insurance go up. Passengers in your car can also access your medpay. So, if your kids are with you, make sure that their claims are set up as well. If you don't have medpay on your policy now, then add it. It isn't expensive, and it can prevent you from getting stuck with medical bills.

5. Recorded statements- be careful as the insurance companies may try and trick you into admitting a wreck was partially your fault. While you do have a duty to give your own insurance company information, you don't have a duty to the other person's insurance company. Usually, it isn't a good idea to give a recorded statement to the liability insurance company. Again, if it is your insurance, you must talk to them. Don't be fooled by the other insurance company. Even if they don't trick you on fault, they can set you up for impeachment later. For example, they may ask what medications you were taking, where were you going, what time were you supposed to be there, etc. Even though these things may not seem important, later they will hire an insurance defense attorney who will look into these things. If you forgot that you were taking some medication, they will suggest that you were hiding information or lying about it.

6. Medical treatment- once you settle your case, it is over and you can't re-open it later. So, if you are having ongoing treatment or problems, it may be best not to settle. Wait and see exactly what your future holds. If you need a surgery down the road, make sure that is included in your

claim. Many insurance companies have "hit squads" that will write you a check for \$500 and give you a "promise" to pay future medical bills. Don't fall for that trick as they will usually fight you on every bill. A promise with an insurance company is not a promise at all. Even if you get it in writing, who decides what medical treatments are related to the car wreck? They do. They will then deny medical payments saying that you are just getting old, or this was preexisting, or give you no reason at all.

7. Lawyers- you may not really need a lawyer for a case worth less than \$10,000. While it is always safer to hire one, it may not be necessary and you will save yourself 33% attorney fees. You may want to try and settle small cases yourself first. If they won't settle, then hire a lawyer or at least talk to one. I know that most attorneys don't say this, but they may have a reason for telling you to "call them now". Just make sure you don't make any statements or sign anything without carefully thinking about what you are doing. At this firm, we don't take these cases for the very reason that I don't think that I can add any value to the case. However, if you call or email us, we will be glad to give you some free information on how to do it yourself.

8. Case value- this is very difficult. Even many attorneys who don't actually try jury trials don't know how much cases are worth. Juries don't just give money away, this isn't California. On the other hand, juries in North Carolina are fair. If you get your medical bills paid, lost wages and some pain and suffering it may be a fair settlement. However, factors such as permanent injuries, scarring, liability weaknesses, pre-existing conditions will all greatly affect value. Finally, if you got one of the big three: (Allstate, Nationwide or State Farm) they rarely pay full value. Usually, this is the most important factor on getting the case settled, if it is one of the big three we have to go to trial. Unfortunately, you may need to take your attorney's case value with a grain of salt as well. Many law firms handle thousands of cases at a time. They are looking for quick settlements, because litigation and trial is risky and expensive. So, if your attorney tells you to settle, think for yourself. Don't ignore your attorney, but you need to ask questions. What is the basis for the attorney's value? How many cases has the attorney tried in the last five years? What are the results? At the larger law firms, make sure that you aren't just being pushed into a settlement.

9. Testimony- if you are having your deposition taken or testifying at trial, then be truthful. Jurors and defense lawyers just know when you are truthful. Nothing is worse than trying to make the case a little better. Tell the truth. The same goes with your doctors, make sure that you don't exaggerate speeds or deny prior conditions. They will write this down in their notes. Later during litigation, you will be asked about this. So, even though the wreck might have felt like 35 mph, don't tell your doctor this. Only tell your doctor actual speeds. You can get some estimate of speed from the crash report. You can also look at the property damage on the cars. While damage doesn't always reflect speed, it can give us some general idea. Don't forget to tell your doctors and attorneys about prior injuries. We all have them, it is no big deal. If the prior condition was made worse, the insurance company is responsible for the change. If you had a slight amount of pain in your low back before the wreck, then suddenly it was really bad, they are responsible. Your doctors will ask you about pain levels, often on a 1/10 scale. Make sure to be accurate, and then review these pain levels before a recorded statement or deposition or certainly trial. Don't suddenly say at trial that your pain was a 10 out of 10 when you told your doctor it was a 5 out of 10.

10. Trial- insurance isn't admissible. So, it will be you suing the other driver. The defense lawyers will try and trick the jury and argue that it is wrong for you to be trying to get money from the other driver. If you mention insurance, the jury will probably be dismissed, the judge will get mad, and you will start over. If we could just tell juries the truth, then it would be much easier but we can't. This makes it tough for juries. Sometimes the other driver is really young or nice. The jury may feel sorry for them. You may feel sorry for them, and we often do. The other driver has no control over the case. They can't tell the insurance company to settle.