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AUTOMOBILE INSURANCE IN ONTARIO

The Insurance Contract

Once you know what coverage you want, an insurance contract is established between you and your insurance company. The terms of this contract are approved by your provincial government acting through the Superintendent of Insurance, who monitors the actions of insurance companies to protect your interests.

Your insurer is obliged to pay your insured losses. However, you, too, have certain obligations. Coverage may be denied if you don't fulfill your part of the contract. For example, if you should be found legally liable for a collision causing serious injury or death to another person while your license was suspended, your insurer will pay that claim up to minimum policy limits but you will have to reimburse your insurer for what it paid out. (The intention here is that an innocent third party not suffer because of your actions which invalidated your coverage. This is known as "absolute liability". In such circumstances, any damage to your own vehicle would not be covered by the policy.

Insurance companies operating in Canada are generally well managed and they're closely monitored by regulators. Bankruptcies are rare. Nevertheless, everyone insured by a private insurance company in Canada is protected by a special fund administered by the Property and Casualty Insurance Compensation Corporation. It is financed by the general insurance industry to protect policy holders. In the unlikely event that your car insurance company were to become insolvent, this special fund would ensure that all pending claims were paid, up to a ceiling of \$250,000 or the limit of the policy, whichever is lower. PACICC will also refund 70% of the unearned (unexpired) portion of your premium (maximum payout \$700 per policy) applicable from the date of the insurer's collapse.

In Canada, every licensed driver has access to insurance. If he or she is considered to be a high-risk driver, insurance may cost considerably more than for an average driver, but it is available.... At least to the extent of minimum required limits. Where basic insurance is provided by private insurers, an organization called FACILITY ASSOCIATION enables all licensed drivers who require insurance to obtain it.

What are my obligations under my car insurance policy?

If you don't have a copy of your car insurance policy, ask for one. The policy states what the insurer will do for you should you suffer a loss and it also states your

obligations under the contract. It is your responsibility to familiarize yourself with your policy. If you have any questions about it, it's best to ask your broker for explanations before you suffer any loss. Then you will have no surprises if you do have to make a claim.

You are expected to be completely honest in providing information on your application for car insurance. Failure to do so could void your insurance.

What car insurance coverages are available?

The financial protection offered through car insurance covers many areas:

- 1) It protects you against claims if you are responsible for a collision causing injury or death to another person. Similarly, you are protected in the event that you damage someone else's car or property (Third Party Liability).
- 2) It can protect you, your family and your passengers against financial losses caused by injury in an automobile collision and it can provide financial compensation for dependants in the event that the injury causes your death. (Accident Benefits)
- 3) It can protect you in case you or your passengers are injured by an identified at-fault uninsured motorist where there is no fund to compensate victims of such incidents . (Uninsured Automobile).
- 4) It can also protect you against the cost of damage to your car from collision or other causes. (Collision, Comprehensive, All Risks or Specified Perils).

Your insurance broker can advise you on the best protection for your personal needs at a fair price. Also, when purchasing a new car, it is advisable to investigate the cost of insurance in advance. You will probably find that the cost varies according to the type of vehicle, and this may have a bearing on your purchase decision.

Are Basic compulsory coverages enough?

The short answer to this question is, "No, probably not." For example, if you were held responsible for a collision causing serious injuries to others, the \$200,000 Third Party Liability will not go very far if you were to be sued (in one of the many jurisdictions in North America where this is allowed). If that is all the insurance you carry, you will be responsible for any damages awarded over that amount.

In Ontario, you are not required to insure damage to your own vehicle. Are you prepared to pay for all such damage yourself? Suppose you roll your car or it slides off an icy road into a ditch? What if your car catches fire, is dented by hail, or is stolen?

Car insurance coverages and policy conditions are legislated by the Ontario government. However, there are numerous choices of limits, deductibles and optional

coverages available so coverage can vary between individual persons. Although there are differences in rules and coverages among provinces, the basic principles remain the same. There are also agreements between governments which can affect your coverage.

If Car Insurance policies within Ontario provide the same coverage, why do all insurance companies not charge the same premiums?

The simple answer is “competition. “Insurers differ in structure, size, corporate philosophy and the customer base that they target. Some may have developed special skills and efficiencies that other do not have; some may give higher standards of service than others; each is unique and so pricing can vary substantially. While it pays to compare prices, it’s a good idea to compare service too.

Where does my car insurance apply?

You must purchase your car insurance in your province of residence within a legally specified period of time after moving there. It is valid only while the vehicle is being used in Canada and the USA. Canadian car insurance policies do not provide coverage in Mexico; coverage must be arranged at the point of entry.

What will my insurance company pay for if I damage someone else’s property?

In Ontario, regardless of fault in an accident, each party would claim from their own insurers for damage to their vehicles. Your insurance company will pay for repairs to any other property damaged by your vehicle, such as fences, poles, guardrails, trees or buildings.

What is covered by Accident Benefits?

Medical: Reimbursement for the cost of medical treatment not covered by any medical, surgical, dental or hospital plan or law and various rehabilitation costs.

In Ontario it pays up to \$100,000 to cover medical and rehabilitation expenses and up to \$72,000 for attendant care expenses. If you are seriously injured (catastrophic), pays up to \$2,000,000 for all medical, rehabilitation and attendant care expenses.

Funeral: Payment towards funeral expenses of those killed in a car crash. In Ontario it pays \$6,000.

Disability income: A weekly reimbursement based on various factors such as the injured person’s employment status or net wages before the crash and degree of disability. Basic accident benefits provided under the Ontario plan is \$400/wk or 80% of your net salary, whichever is less.

Death: A payment following the death of an insured person; in Ontario the basic

amount is \$25,000 to a surviving spouse and \$10,000 to each surviving dependant.

If my economic loss exceeds the no-fault accident benefits of my policy, can I sue to person responsible for the accident?

In Ontario, your ability to sue for Loss of Income is subject to conditions: you can sue for medical, rehabilitation and related costs only when injury is very serious (catastrophic, as defined by law).

Can I sue for pain and suffering caused by an at-fault motorist?

Ontario allows suits only if the injured person “dies, or sustains permanent serious disfigurement and/or impairment of important physical, mental or psychological function” (the court assesses damages and a deductible applies).

What coverage is available to me under an automobile insurance policy if I am injured as a pedestrian?

If you or a member of your family is injured by another motorist while you are a pedestrian, you are covered by the Accident Benefits section of your own automobile insurance policy. If your expenses exceed the limits under your Accident Benefits coverage or a death occurs, you can also sue the responsible motorist if you meet the conditions under which they are permitted.

What happens if I injure a pedestrian or cyclist with my car?

In Ontario, he or she will claim under the Accident Benefits section of his or her own policy; however if the pedestrian or cyclist does not have car insurance, he or she may claim under the Accident Benefits section of your policy.

When a motorist injures a pedestrian, the motorist is presumed responsible, unless he or she can prove otherwise.

What coverage is available to pay for damage to my vehicle?

Coverage for damage to your own vehicle is optional. A number of different coverages or combinations are available. If you choose to All Perils coverage, that is all you need. Another possibility is to choose Collision or Upset and Comprehensive. This would give you quite broad coverage including glass breakage. For older vehicles, however, you may wish to drop collision coverage, particularly if relatively minor damage would cost more to repair than the vehicle is worth.

Collision or upset: covers loss or damage caused by collision with another object or by upset (usually rollover).

Specified perils: covers loss or damage caused by fire, lightning, theft or attempted

theft, windstorm, earthquake, hail, explosion, riot or civil commotion, falling or forced landing of aircraft or falling aircraft parts, rising water, or by the stranding, sinking, burning, derailment or collision of any boat, railcar, truck or other conveyance that is transporting the vehicle.

Comprehensive: covers loss or damage from any peril other than by what is covered as “collision”. Some losses are excluded, however, examples include theft by a member or the household, damage arising from mechanical failure or corrosion, and the loss or theft of audio tapes or compact disks not actually in the player.

All perils: covers all types of losses except those that are specifically excluded. This is the broadest coverage available.

What will my insurance pay for if my car is damaged in a collision?

If you have collision coverage, your insurance company will pay for the repair or replacement of your car, or pay you the actual cash value of your car in the condition it was immediately before it was damaged. Of course, you will be responsible for the deductible.

If your vehicle can be repaired, your insurer is responsible only to pay to fix the damage. If your vehicle is made significantly better, you must contribute. For example: if a rusty door panel that had been dented in a collision were to be replaced with one that is not rusty, you may be expected to contribute financially towards the “betterment” of your vehicle

If the estimated repair cost, plus the salvage value of the damaged vehicle, exceeds the cash value of the vehicle before it was damaged, the insurer may decide to treat the vehicle as a write-off instead of paying to repair it. It will pay you the pre-accident value of the car (usually less the deductible) and take possession of the wreck.

When your insurer settles your claim on the basis of repairing, rebuilding or replacing your damaged vehicle, the bottom line is that you should end up with a car that is as good as yours was before it was damaged.

Repairers sometimes use reconditioned or used parts. The parts must be of the same kind and quality as the originals and must not adversely affect the operation of the vehicle

When your car is being repaired, you may wish to get additional work completed which is not directly related to the collision damage. This is permissible, but the extra work has to be at your own expense.

Waiver of depreciation: When a new car is driven from the dealership for the first time, the market value begins to drop immediately. However, you can buy insurance coverage for your new vehicle which, for a limited time, will compensate you for insured

losses as if the car was brand new. This feature can be particularly useful when a relatively new car is badly damaged or stolen.

Does a deductible always apply?

The collision deductible applies to any claim for damage to your own vehicle that you make on your policy, if the collision is your fault, or in the case of a “hit and run”.

What happens if my vehicle is damaged in a crash but I don't have collision coverage?

If the collision was the other driver's fault, you would claim from your own insurer under the Direct Compensation portion of your policy. No deductible applies, unless you chose a deductible at the time you purchased your policy. If the accident was your fault, you would be personally responsible for your damages. In Ontario, motorists who do not carry car insurance cannot sue another motorist to claim for reimbursement for damage to their cars.

How important is responsibility or fault in a car crash?

Owners of cars with drivers who are at fault (or partially at fault) in a crash often must pay higher insurance premiums if the policy is renewed. However, the insurance company may be unwilling to renew the policy if there are Criminal Code convictions and/or frequent at-fault claims. In Ontario, insurers must file with the government regulator a list of conditions under which they will not renew a policy; this doesn't give them much room to make allowances for special circumstances.

How does the type of car I drive affect the cost of my insurance?

The type of car you drive generally does not affect the premium you pay for Third Party Liability insurance. It does, however, affect the cost of coverage for physical damage to your car. Insurance companies rate vehicles according to their safety record and cost to repair or replace them. Collision, Comprehensive and Direct Compensation insurance premiums vary according to these ratings.

The Canadian Loss Experience Automobile Rating (CLEAR) system rewards car owners with lower premiums for buying vehicles that experience fewer and smaller losses. For example, some vehicles may be more susceptible to theft than others; some may be better designed and less easily damaged; some are less expensive to repair; some protect their occupants better than others.

What other factors affect the cost of my car insurance?

Car insurance premiums vary according to the likelihood of your being involved in a collision or having your vehicle stolen. Factors such as geography, climate, and traffic congestion affect the frequency and cost of claims. And it's the cost of claims, more

than anything else, that determines your premium.

Insurance companies consider a number of aspects when determining an individual's premium. The key ones are: type and age of vehicle; whether you use your car for pleasure or business; where you drive; how far you drive; your driving record; your insurance claims record; and other drivers in your household who use your vehicle. In some provinces, your age, gender and marital status may also affect your premiums.

Does my automobile insurance policy provide any coverage when I drive someone else's car?

Under certain circumstances, yes. A Temporary Substitute Automobile is one that you are using while your vehicle is being repaired or serviced (or when your car has been stolen).

The policy of the owner of the vehicle you are driving is primary (that is, it's the first in line to respond to claims). Your policy would be called upon to pay only if the other vehicle did not have insurance or if the limits were insufficient to pay a judgment. There is no coverage for damage to the vehicle itself, unless it can be proven that you were legally responsible for the damage.

It is important not to remove insurance coverage from a vehicle that has been destroyed or stolen before it has been replaced by another vehicle. By doing so, you would be eliminating the benefit provided for the temporary substitute vehicle that you may be operating at the time.

Coverage also applies to private passenger vehicles other than those described in the insurance policy when driven by you or your spouse. Your policy will cover Third Party Liability, Accident Benefits, Uninsured Automobile and Direct Compensation – Property Damage.

Examples of when this coverage might be triggered if you are in a collision are:

- you are driving a rental car on vacation;
- you are driving a friend's car at his or her invitation;
- you have borrowed a visitor's car for a trip to the store.

Does my automobile insurance policy cover any drivers other than myself?

Yes. It covers any person who is qualified to drive and who operates the vehicle with your permission against liability imposed by law. The Accident Benefits coverage applies to any person while an occupant of your vehicle or temporary substitute vehicle. It also covers you, your spouse and any dependent relative of either while they are an occupant of any other private passenger vehicle.

Are there any other coverages I can buy with my automobile insurance?

A number of other options are available which tailor your policy to your particular needs. You should discuss your insurance needs with your broker, agent or company representative to obtain a more complete explanation of what is available and to ensure that you are adequately protected. Some of the more commonly purchased optional coverages (known as endorsements or change forms) are:

- **LOSS OF USE** (also known as coverage for Transportation Replacement). This coverage reimburses you for expenses incurred due to a loss of use from an insured peril in procuring alternate transportation while your vehicle is laid up as a result of an insured peril.
- **FAMILY PROTECTION ENDORSEMENT** When a third party is at fault for a crash in which you or family members are injured there is always the possibility that the third party could be uninsured or have a low limit of liability. It is possible to purchase an endorsement to increase that limit to the same liability limit that you have on your own policy. When you cannot fully recover your damages for bodily injury, this endorsement covers the difference between the value of your claim and the third party's limit of liability insurance, subject to your own Third Party Liability limit. This coverage applies only to you, your spouse and any dependent relatives of either.

How do I make a claim?

Contact your broker, agent or company representative as soon as possible to advise that you've incurred a loss. In cases of injury in a car crash, theft or break-in, or where the property damage exceeds an amount prescribed by law, the police must be told promptly as well.

If you are involved in a collision, you are responsible for protecting your vehicle from further loss or damage. The insurer, however, will pay for this if you have purchased Collision or All Perils coverage.

You must not order repairs, other than those needed for protection of the vehicle from further loss or damage, until the insurer has consented or has had a reasonable time to inspect the damage.

You cannot simply abandon a wrecked vehicle to the insurer without the insurer's consent. However, when your insurer has replaced or paid for a wrecked vehicle, the wreck or whatever is left of it (salvage) belongs to the insurer.

You must not voluntarily assume liability (responsibility) for any accident or settle any claim, except at your own cost.

Once your insurance company has been advised, a claims specialist – an “adjuster” –

will be assigned to look after your claim. The amount you receive for your claim will depend on the type of coverage you bought.

What is the role of the claims adjuster?

The adjuster's job is to determine the facts relating to the claim and the extent to which the claim is covered by insurance. The adjuster also attempts to reach an agreement with the other people involved regarding the amount of their loss and extent of their responsibility. Your insurance company pays for the adjuster.

How long after an incident can I make a claim?

You must notify your insurer as soon as possible (some policies specify seven days) about any incident involving the automobile

- that must, by law, be reported to police, or
- for which you intend to make a claim under the policy.

Most policies state that a written declaration ("proof of loss") must be made within 90 days of the incident.

If you don't make your claim within this time, your insurance company may not be legally bound to honor your claim. In practice, however, most companies will honor a claim made within one year if there is a reasonable explanation of the delay.

How are claims settled?

Claims are generally resolved in a friendly fashion through negotiation. In the unlikely event that you intend to sue your insurer, check your contract for any time limits that may apply.

The automobile insurance policy is a legal contract between you and your insurance company. As with any contract, the courts have the final decision in any disagreement between you and your company, or in any dispute between you and another person involved in the same incident. In such cases, the court decides who is responsible and may also decide the extent of damages to be paid. Some disputes can be resolved by arbitration. In some jurisdictions, an ombudsman employed by the insurer or by the insurance regulator may be able to help.