

A photograph of a modern office interior, overlaid with a teal circular gradient. The scene shows a row of tall, dark wooden pillars supporting a ceiling with exposed ductwork and lights. In the background, there are glass-walled offices and a white chair on a dark rug in the foreground.

**STATUTORY  
BENEFITS  
LIABILITY  
READY  
RECKONER**

## LIABILITY FOR STATUTORY BENEFITS

Number of vehicles	Fault / No Fault	"Mostly at Fault" Outcome	Driver Beyond 26 Weeks	Other Parties Beyond 26 Weeks
<b>Single vehicle</b>	<b>No fault</b> – driver stung by a bee and loses control / driver swerves to avoid a kangaroo or other stray animal while driving at a reasonable speed and maintaining a proper lookout.	No actual fault and no deemed fault.  Driver <u>not</u> mostly at fault.	Driver's payments continue	N/A
<b>Single vehicle</b>	<b>Actual fault</b> – driver speeding and misjudges bend, hits tree / driver driving too fast at dusk with kangaroos present / driver driving too fast on fresh gravel road.	Driver actually at fault and, in the absence of anybody else at fault, is mostly at fault.	Driver's payments cease	N/A
<b>Multi-vehicles</b>	<b>No fault</b> – unexpected mechanical failure	No actual fault and no deemed fault.  Not mostly at fault.	Driver's payments continue	Other driver / passengers' payments continue
<b>Multi-vehicles</b>	<b>Actual fault</b> – driver proceeds through red light and hits another car	Driver actually at fault and probably mostly at fault.	Driver's payments cease.	Other driver / passengers' payments continue
<b>Multi-vehicles</b>	<b>Mixed fault</b> – driver makes right hand turn across traffic and is struck by a speeding vehicle.	Evaluation of relative culpability.  Driver <u>probably</u> mostly at fault.	Driver's payments probably cease.	Other driver's payments probably continue.
<b>Pedestrian</b>	<b>No fault by driver</b> – Adult pedestrian runs onto the road.	Actual fault by pedestrian. Pedestrian mostly at fault	Pedestrian's payments cease	N/A
<b>Pedestrian</b>	<b>Driver at fault</b> – driver runs down pedestrian lawfully on crossing	No fault by pedestrian.	Pedestrian's payments continue	N/A

<b>Pedestrian</b>	<b>Mixed fault</b> – driver speeding and pedestrian running across road without looking.	Evaluation of relative culpability.  Pedestrian probably mostly at fault.	Pedestrian's payments probably cease.	N/A
<b>Pedestrian</b>	<b>Neither driver nor pedestrian actually at fault</b> – swarm of wasps, one stings pedestrian who stumbles onto the road whilst waving the wasps away, another stings the driver who is distracted and hits pedestrian despite driving at reasonable speed and hitting brakes.	Pedestrian not at fault and does not have to prove somebody else was at fault.	Pedestrian's payments continue.	N/A

## How to use these guidelines

The Supreme Court clarified in *AAI Limited v Singh* [2019] NSWSC 1300 that s 3.2(5) of the *Motor Accident Injuries Act 2019* deems the Relevant Insurer liable to pay Statutory Benefits but does not deem the owner or driver to be at fault.

Furthermore, in strong obiter remarks, the Supreme Court in *Singh* held that the deeming provisions in Part 5 of the Act, relevant to 'no-fault accidents', can not be used to deem a driver "wholly or mostly at fault" in the Statutory Benefits arena.

These Guidelines set out the practical impact of *Singh* in Statutory Benefit claims arising from single vehicle accidents, multi-vehicle accidents and pedestrian accidents.

## FURTHER INFORMATION

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