



**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
Single vehicle	No fault – driver stung by a bee / driver confronted by kangaroo or other stray animal / driver suffers unexpected medical emergency / driver suffers unexpected mechanical failure / driver otherwise 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
Single vehicle	Actual fault – 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
Multi-vehicles	No fault – unexpected stray animal / unexpected mechanical failure / unexpected mechanical failure / driver otherwise driving at a reasonable speed and maintaining a proper lookout / driver loses control and hits another vehicle	No actual fault and no deemed fault. Not mostly at fault.	Driver's payments continue	Other driver / passengers' payments continue
Multi-vehicles	Actual fault – 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
Multi-vehicles	Mixed fault – 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.
Pedestrian	No fault by driver – adult pedestrian runs onto the road / adult pedestrian crosses road at night in dark clothing	Actual fault by pedestrian. Pedestrian mostly at fault	Pedestrian's payments cease	N/A

Number of vehicles	Fault / No Fault	"Mostly at Fault" Outcome	Driver Beyond 26 Weeks	Other Parties Beyond 26 Weeks
Pedestrian	Driver at fault – driver runs down pedestrian lawfully on crossing	No fault by pedestrian.	Pedestrian's payments continue	N/A
Pedestrian	Mixed fault – 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
Pedestrian	Neither driver nor pedestrian actually at fault – 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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