

Determining Accident Liability - Portland Accident Lawyers

After a vehicle accident and other personal injury and wrongful death events, damage recovery and/or monetary compensation cannot take place until [liability is established](#). It is important to understand exactly what accident liability is and how it is legally determined.

What is Accident Liability?

Liability is the financial and legal accountability of an individual or business owed to another as a result of an accident causing damages, injury, or death. It is up to the victim, or victim's legal counsel, to prove liability. Many factors affect the determination of liability, and the type of accident is a major one.

Determining who is liable in a motor vehicle accident is a different process, for example, than that of a slip and fall incident, and often times multiple parties may be at fault. There are also laws that vary by state.

Determining Liability

Sometimes there is no question of liability, and other times it is an extremely gray area and difficult to prove. Not only is the burden of establishing liability that of the plaintiff, but also proving the extent of the damages.

The more serious the injuries are, it stands to reason the defendant could potentially be liable for large sums of money regarding compensation. In these cases, defendants are often willing to invest substantial funds in their defense, and usually will present theories to support that the plaintiff may actually be the one liable.

Levels of Liability or Fault:

There are four different levels of fault established in common law, and these are:

- Wanton conduct or recklessness
- Intentional misconduct
- Negligence
- Strict liability

If a driver has engaged in reckless and/or intentional misconduct, as in driving while under the influence (DUI), the question of fault is fairly obvious and easier to establish. In cases of negligence, however, the establishment of liability can be much more difficult to prove.

If a driver has violated a driving statute, proof of liability is sometimes as easy as citing the specific statute that was violated and resulted in negligence. The burden then lies with the defendant to prove their negligence as a result of a statutory violation did not cause

the accident. In other words, if the violation had not been committed, would the accident have occurred anyway?

Every accident and the specifics surrounding it are different, which can make it a complicated burden to prove liability so a victim and/or their family can recover the fair compensation they are due.

It is easy to see why an attorney's advice might prove to be very beneficial to accident victims in helping them with damage recovery and monetary compensation, especially in cases where proof of fault or liability can become quite complicated.

What to Do After an Incident

The more time that passes after the accident, the harder it will be to remember important details. It is critical to write down notes and specifics of everything you can remember after an accident occurs; don't consider anything too trivial or insignificant because it may turn out to be of major importance later.

For example, after an automobile accident, you should:

- Obtain a copy of the police report and make sure it is accurate
- Obtain witness contact info and get their statement as soon as possible
- Get pictures of the accident scene quickly before it changes
- Get pictures of all involved vehicles before they are repaired
- Be careful discussing the case with an insurance adjuster or signing any paperwork

It is wise to consult with a Portland accident attorney for advice on any actions before you take them to avoid possibly jeopardizing the outcome of the case. To learn more about what to do after an accident, read [7 Common Mistakes That Can Wreck Your Oregon Accident Case.](#)