

Subordinate Courts 2010), which involve the other aspect of motor accident claims, namely quantum of damages for personal injury.

Finally, I would like to thank all my colleagues who have contributed their time and effort towards this endeavour, in addition to handling their judicial duties. I am confident that, in time, this guide will be the guide for parties to turn to when they attempt to resolve their traffic accident claims.

See Kee Oon
Chief District Judge
State Courts of Singapore

March 2014

CONTENTS

<i>Foreword</i>	v
<i>Preface</i>	vii
INTRODUCTION	1
I. Aim of the guide	1
II. Contents of the guide	1
III. Disclaimers	1
IV. Common vehicles and parts	2
V. Checklist: Things to do after an accident	13
VI. Investing in an In-Vehicle Video Recording Device	19
VII. The process of making claims	20
VIII. Insurance & payment of compensation	21
IX. The Motor Insurers' Bureau of Singapore	21
CHAPTER 1	23
Liability of Driver or Motorist	23
I. General duty of driver or motorist	23
II. General guidelines for assessment of liability	24
III. Scenarios	25
<i>A. Junctions</i>	27
<i>B. U-turns</i>	59
<i>C. Roundabouts</i>	67
<i>D. Straight Roads</i>	70
<i>E. Car parks</i>	77
<i>F. Opening of Vehicle Doors</i>	84
<i>G. Front-To-Rear Collisions/Reversing</i>	89
<i>H. Chain collisions</i>	92
CHAPTER 2	97
Pedestrians	97
I. Introduction	97

II.	General principles	97
III.	Consequences of breach by pedestrians	99
IV.	Scenarios	100
V.	General factors affecting the liability of pedestrians and drivers..	108
VI.	Child pedestrians	108
CHAPTER 3		110
Cyclists		110
I.	Introduction	110
II.	Responsibilities of cyclists at pedestrian crossings	110
III.	Scenarios	111
CHAPTER 4		124
Passengers		124
I.	General duty owed to passengers	124
II.	General duty of passengers	124
III.	On wearing of seatbelts	124
IV.	Scenarios	125
CHAPTER 5		130
Defences		130
I.	Introduction	130
II.	Contributory negligence	130
III.	Agony of the moment	132
IV.	Inevitable accident	133
V.	Involuntary act	134
VI.	Agreement to run the risk: <i>Volenti non fit injuria</i>	135
VII.	Illegality: <i>Ex turpi causa non oritur actio</i>	136
VIII.	<i>Res Judicata</i>	137
IX.	Limitation of action	138
ENDNOTES		140

I. AIM OF THE GUIDE

Anyone involved in a motor accident is likely to attest to it being a stressful and unpleasant experience. You may have sustained physical injuries and you have no idea how serious they are. To add to your anxiety, your vehicle may have been totally or seriously damaged. Immediately after the accident, some common questions which would, no doubt, race through your mind are:

- What do I do now? What are the immediate steps to take?
- Who should I call or notify?
- What do I say to the other party/parties involved in the accident?
- Which party was at fault?
- Am I partly to blame for the accident? And if so, how much blame should be apportioned to me?

The guide ("Guide") provides answers to the above questions to road users who find themselves in a motor accident. It is also meant to be a quick reference aid in the assessment of liability of the parties involved in motor accident cases.

The Guide should also encourage negotiated settlements between the parties before filing their claims with the courts.

II. CONTENTS OF THE GUIDE

This Guide contains a range of liability indications for a series of different motor accident scenarios. Motor accident scenarios involving motor vehicles, motorcycles, bicycles and pedestrians will be covered. Each motor accident scenario will be illustrated by a pictorial diagram.

The Guide therefore gives an indication of the likely apportionment of liability of the parties involved in common accident scenarios. Where applicable, the liability indications are based on actual liability findings distilled from reported cases.

III. DISCLAIMERS

The Guide's primary focus is on the preliminary issue of liability. It does not

provide any guidelines on the level of compensation to which an injured party may be entitled. On that issue, the reader ought to refer to the publication *Guidelines for the Assessment of General Damages in Personal Injury Cases* (Singapore: Academy Publishing, 2010).

The liability indications in this Guide are given essentially for the purpose of assisting the parties achieve an early resolution without the need for court proceedings, where a claim for compensation has been made. Whilst every effort is taken to compile a comprehensive series of motor accident scenarios, it is recognised that the Guide is unable to capture every single possible eventuality. The Guide is therefore not exhaustive.

Being a Guide, the liability indications are not binding on the claimant, the driver or motorist against whom the claim is made and his insurers. Furthermore, as the question of liability in each case depends on the particular facts and circumstances arising in that case, there will be cases where the courts may depart from the liability indications set out herein. The reader involved in a road traffic accident should seek legal advice when in doubt.

As a quick reference aid, the Guide is not meant to be an academic textbook. Relevant citations of cases for specific motor accident scenarios can nevertheless be found in the end-notes to this Guide.

Views expressed by the Contributors are not necessarily those of the State Courts, the publishers nor the editors of the Guide. Whilst every effort has been made to ensure that the information contained in this work is correct, neither the State Courts, the publishers, the editors nor the Contributors can accept any responsibility for any errors or omissions or for any consequences resulting therefrom.

IV. COMMON VEHICLES AND PARTS

A party involved in an accident is expected to provide an accurate description of how the accident happened when that party makes or lodges a report of that accident. It is therefore of utmost importance that road users ought to know how to describe the parts of vehicles commonly found on the roads of Singapore. Such a road user will then be able to provide a clearer picture of the collision between the vehicles and the point(s) of impact. Depicted in the following pages are diagrams of such vehicles with their main parts labelled.

A. Parts of a motor car – FRONT

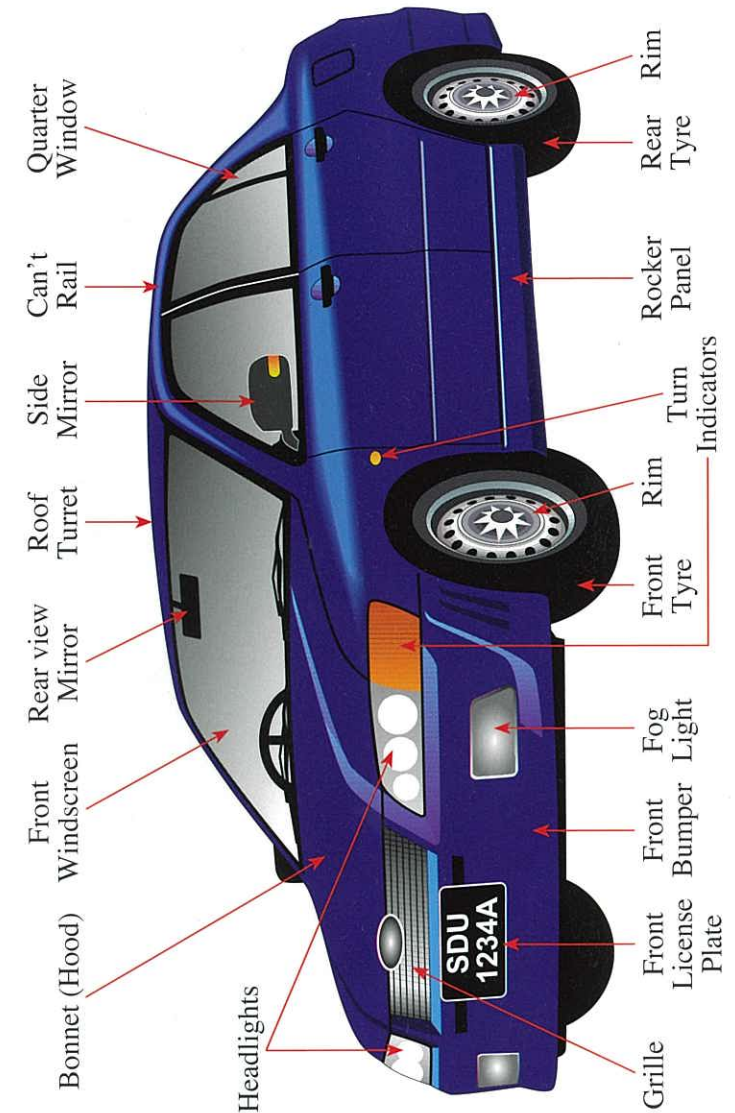


Diagram i.1

B. Parts of a motor car – BACK

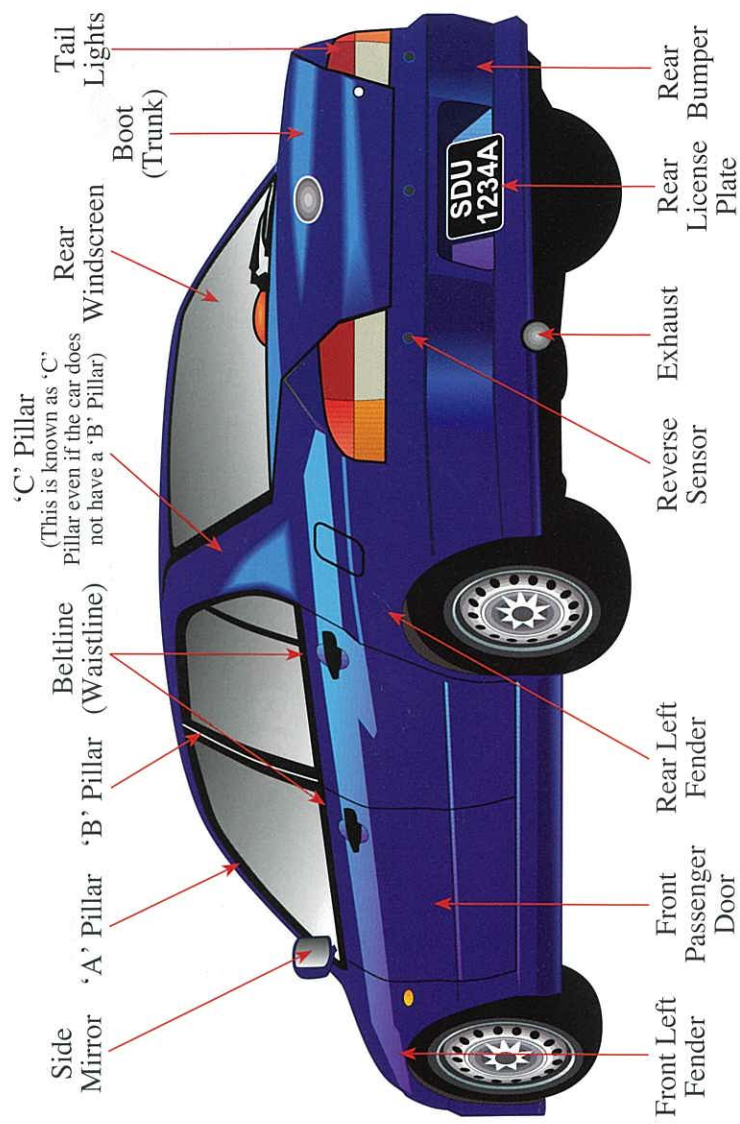


Diagram i.2

C. Parts of a lorry/pick-up – FRONT

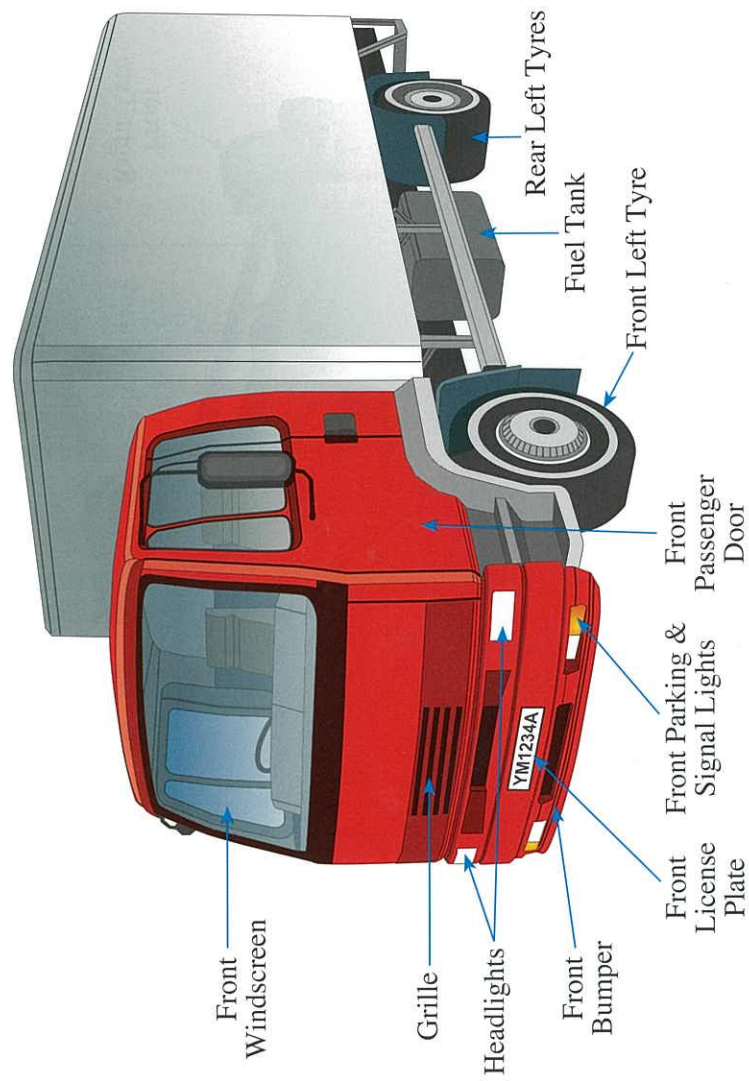


Diagram i.3

D. Parts of a lorry/pick-up – BACK

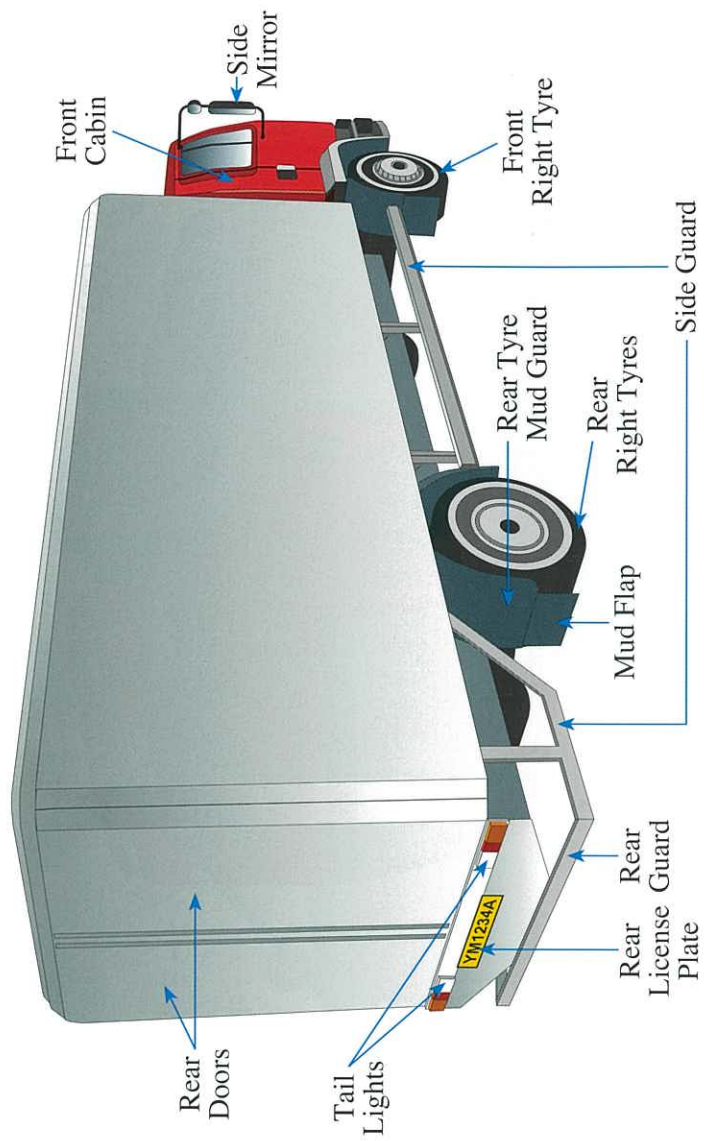


Diagram i.4

E. Parts of a motorcycle – FRONT

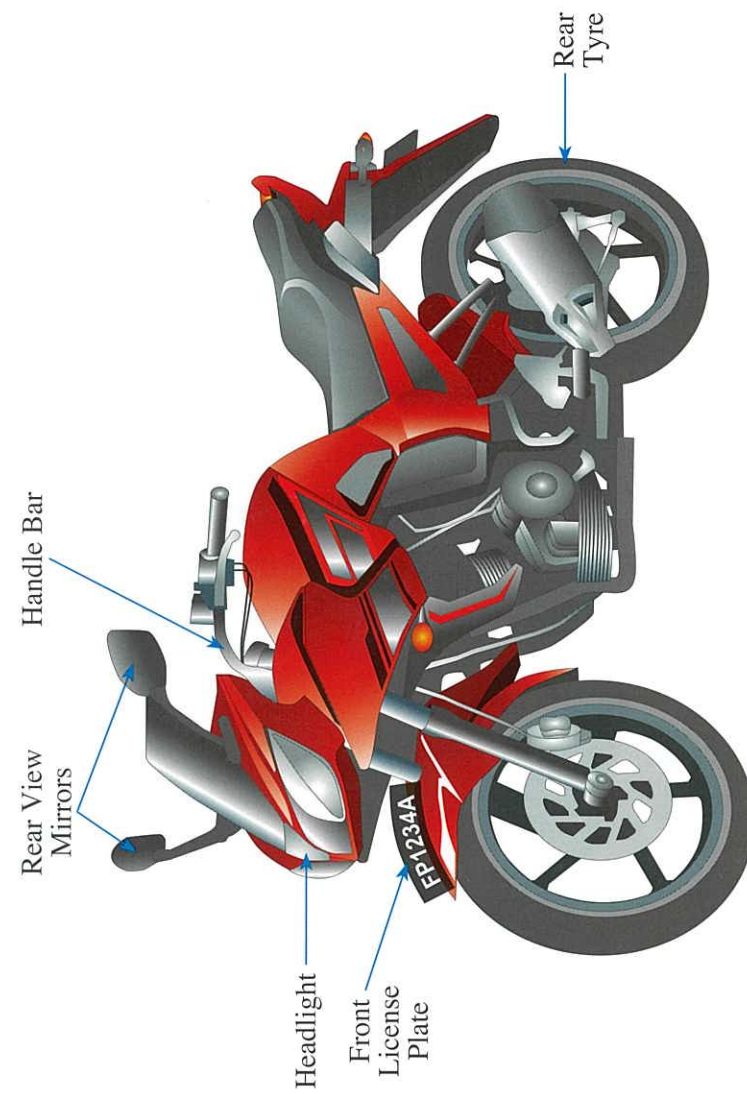


Diagram i.5

F. Parts of a motorcycle – BACK

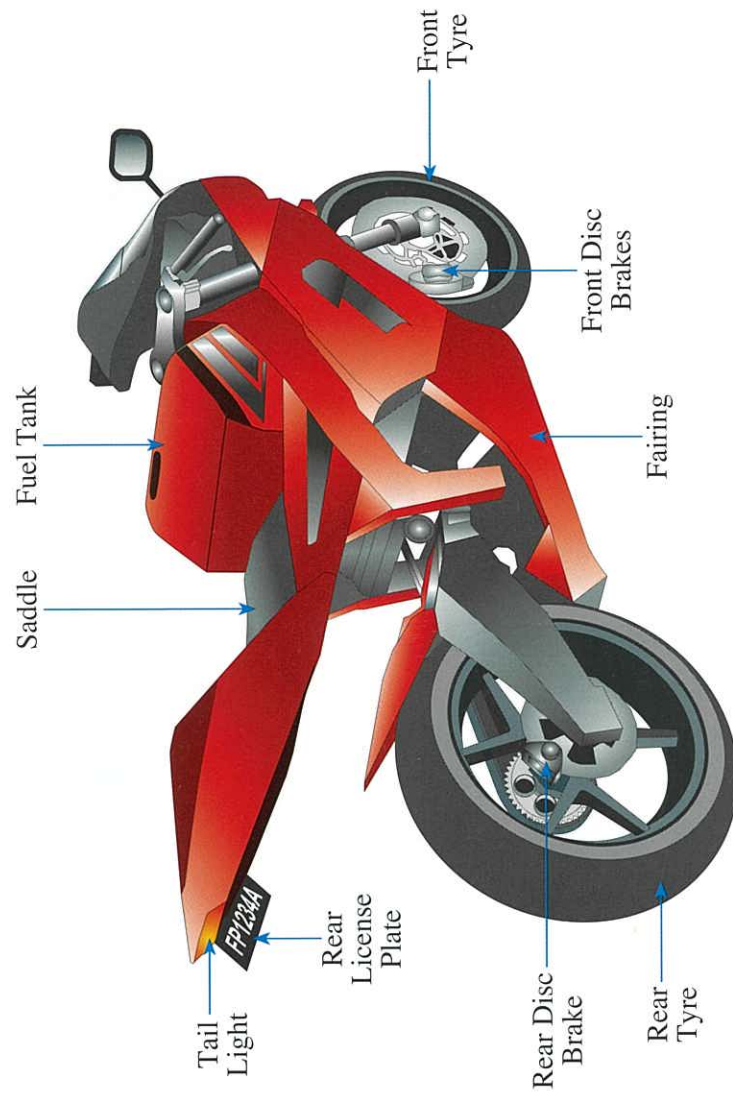


Diagram i.6

G. Parts of a bus – FRONT

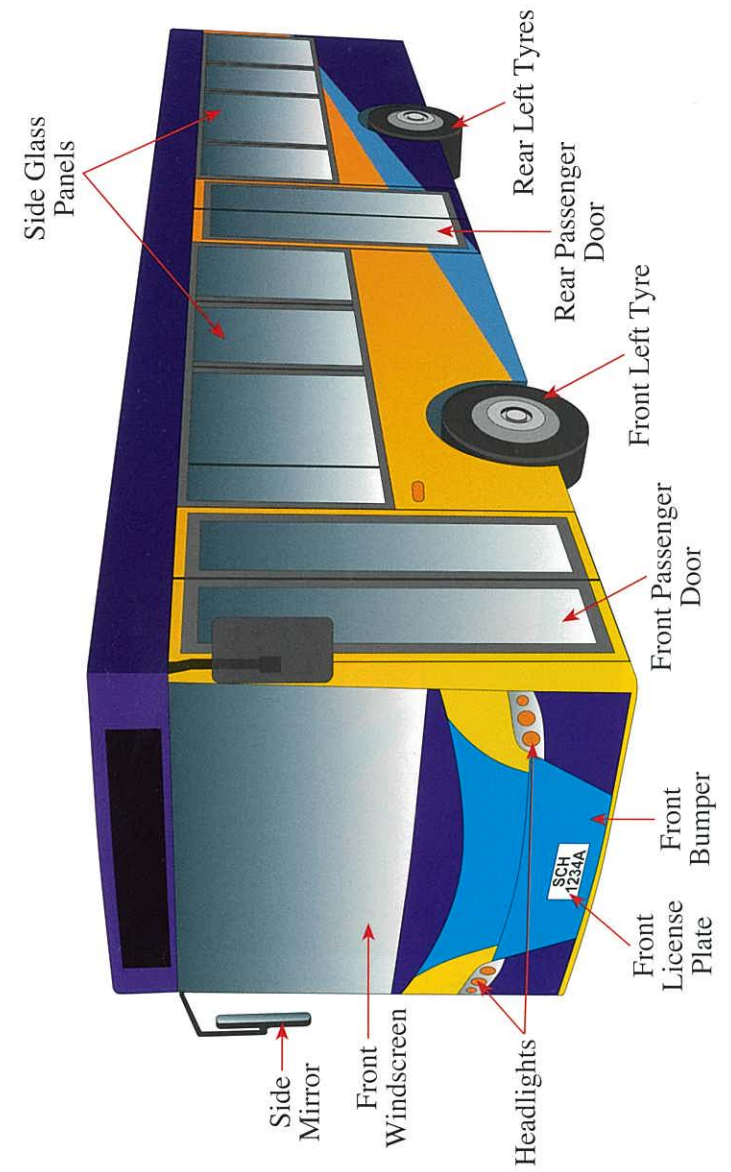


Diagram i.7

H. Parts of a bus – BACK

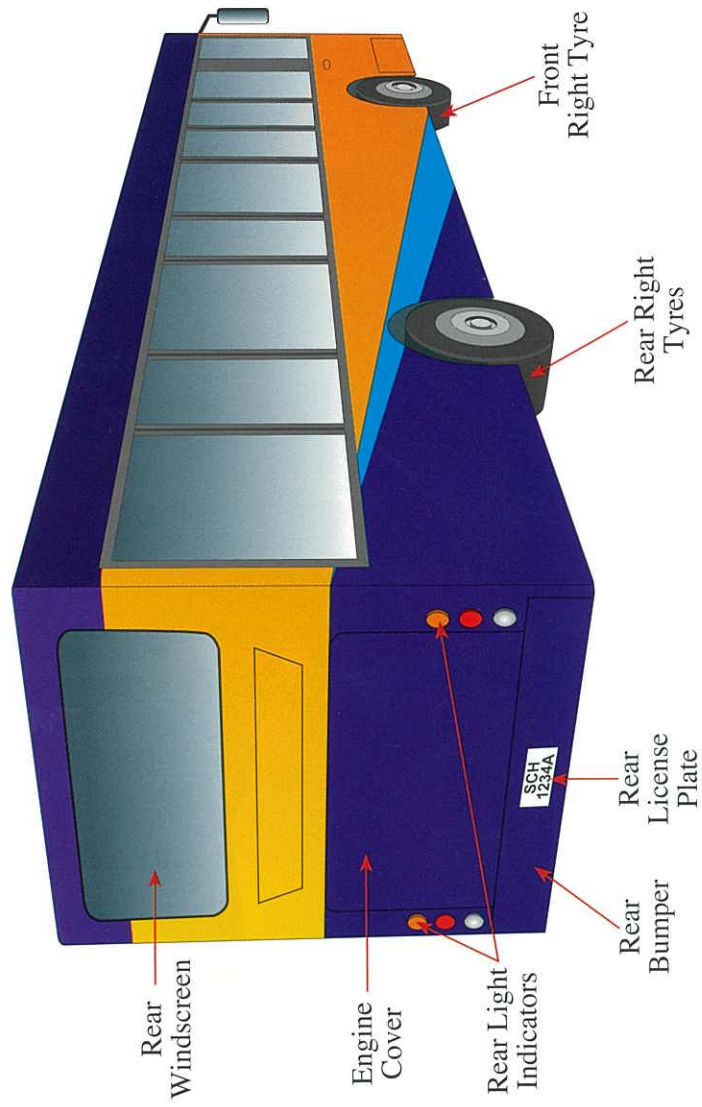


Diagram i.8

I. Parts of a bicycle – FRONT

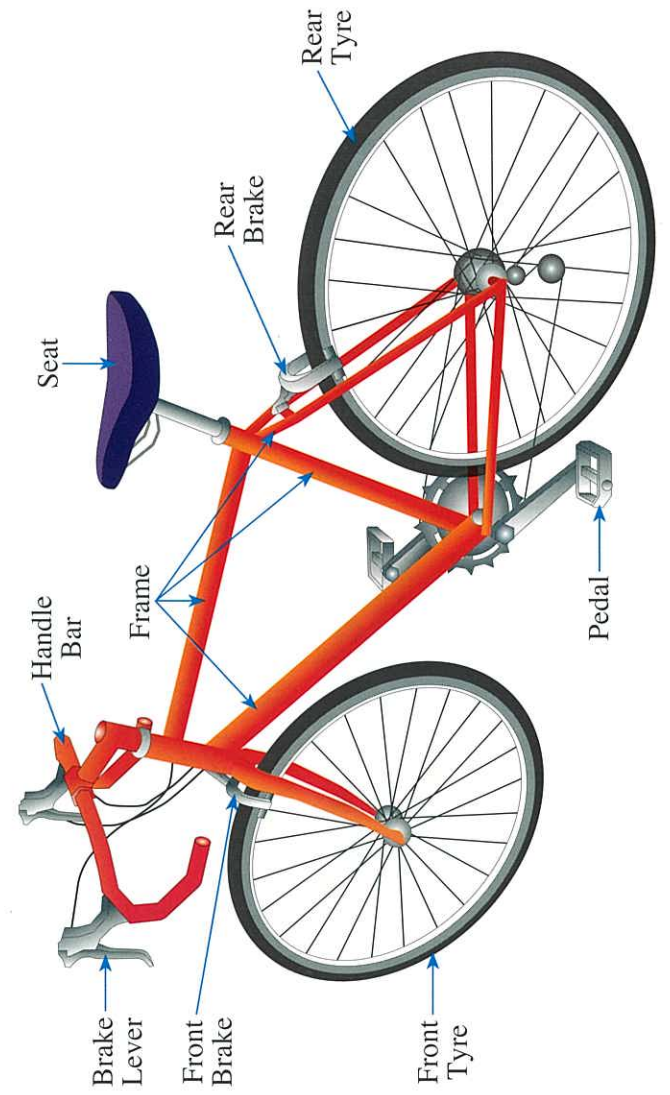


Diagram i.9

J. Parts of a bicycle – BACK

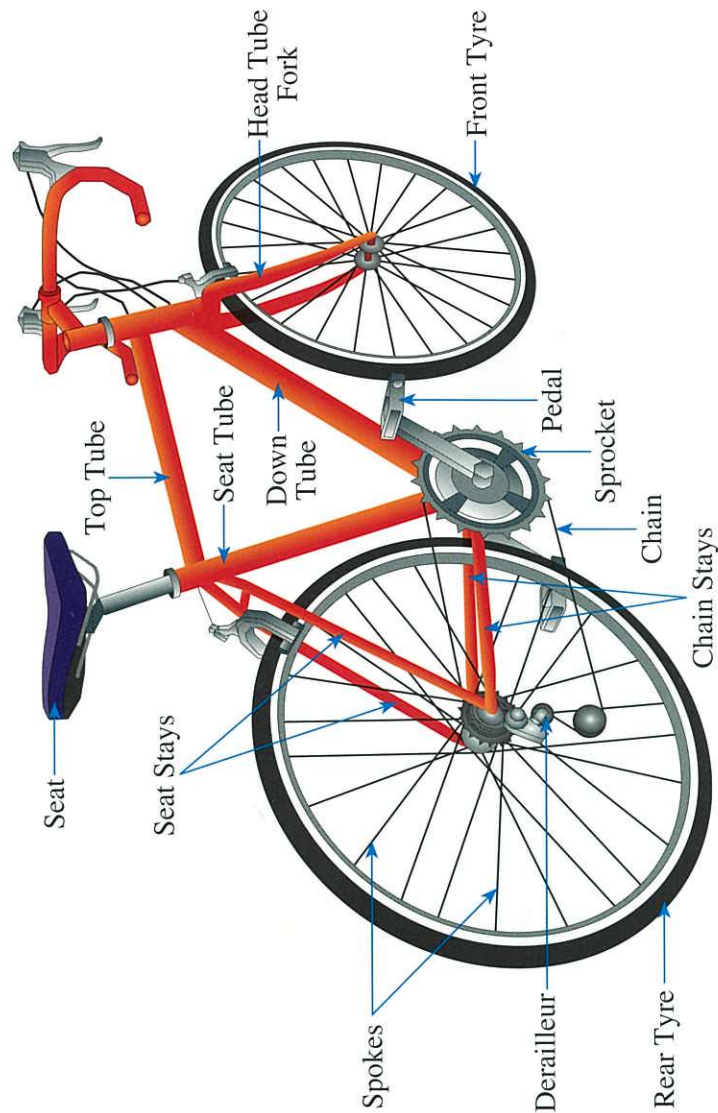


Diagram i.10

V. CHECKLIST: THINGS TO DO AFTER AN ACCIDENT

More often than not, road users do not know what to do when they are involved in an accident. The checklist below seeks to provide you with a step-by-step guide on what to do and what not to do if a vehicle that you are driving (or travelling in) is involved in an accident. For clarity, certain steps of the checklist below are accompanied with illustrations.

LIST OF THINGS TO DO:

- ☐ Do remain calm. A driver involved in an accident may suffer from shock especially if the accident was sudden and serious. This often results in confusion and disorientation – you may find yourself in a state of mind wherein you are unsure of what you are required to do next.

It is therefore important to remain calm and to think clearly as you carry out the following steps below.

- ☐ Stop your vehicle. Turn off the ignition switch/engine of your vehicle and apply the hand brake, if any. You are required to stop at the scene of the accident.



Diagram i.11

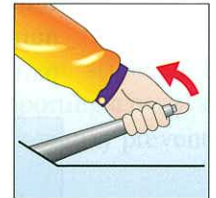


Diagram i.12

- ☐ Check that it is safe to get out of your vehicle before doing so. As you step out of your vehicle, you may wish to bring with you a camera (or smart phone with camera function), paper and pen.



Diagram i.13



Diagram i.14

- ☐ Warn other motorists. You may use vehicle breakdown signs, lights and reflectors to warn other road users of the accident.

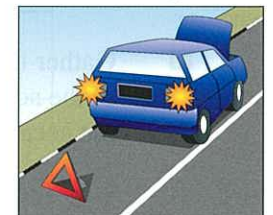


Diagram i.15

- ❑ Call for medical assistance and the police if there is injury/death. If there is an injury to a party (driver or passenger) to the accident, the first priority is to immediately call for an ambulance and the police (995/999). You should provide first aid *only* if you are trained to do so.

In the event of a serious accident where a party is injured or has died, vehicles or bodies are not to be moved unless instructed by the police at the scene. This is because the police will need to draw their sketch plan as part of their investigations.

- ❑ Exchange particulars with all other parties to the accident. Take down the registration numbers and names of all insurance companies of all vehicles involved in the accident. Take down the names, NRIC or passport numbers, addresses and contact numbers of the drivers, passengers and/or injured pedestrians (if any).

If there are any witnesses, take down their particulars and contact numbers. You should also provide your particulars to the other parties involved in the accident.

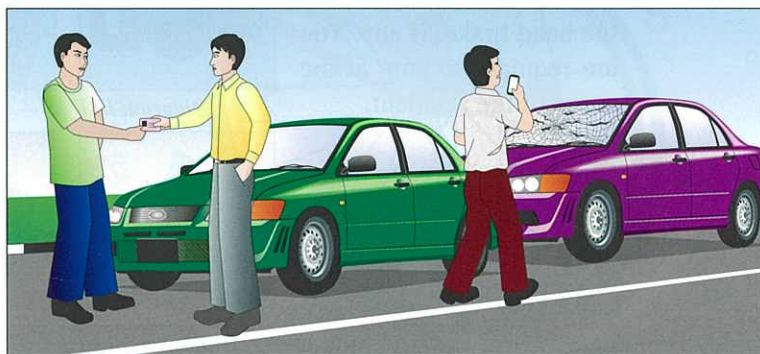


Diagram i.16

- ❑ Gather the evidence. Make a note of the date, time and location of the accident as well as the weather and road conditions during the accident.

Take photographs of the accident scene (without any of the vehicles being moved). The photographs taken ought to be

sufficiently wide-angled to capture the relative positions of all the vehicles involved and the *entire* scene of the accident (including lane markings, skid marks and debris from the impact).

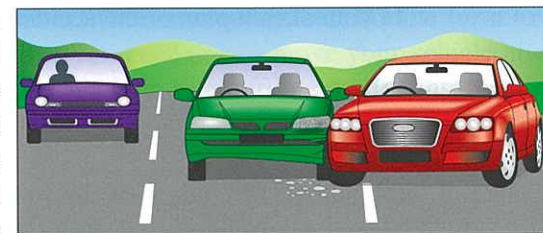


Diagram i.17



Diagram i.18

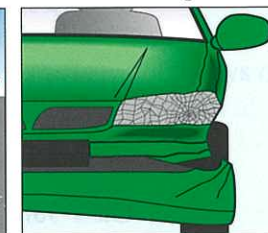


Diagram i.19

Take photographs of the damaged parts of all the vehicles involved in the accident.

If you do not have a camera, draw a sketch plan of the accident site, the position of the vehicles and landmarks, if any.

Properly taken photographs of both the accident scene and damage and detailed sketch plans are vital in supporting a party's claim. If the pictures and sketch plans are clear, they may prevent the other party/parties from disputing liability.

See also an example of a typical accident sketch plan below:

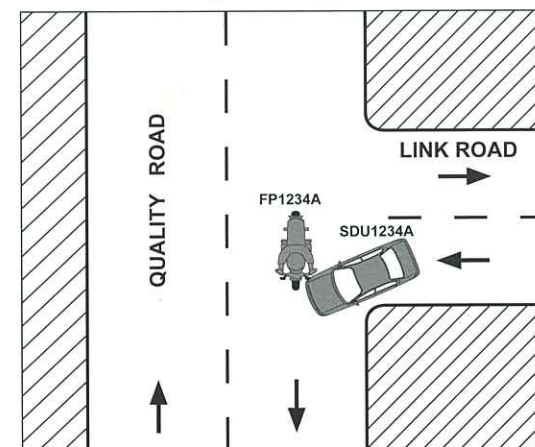


Diagram i.20

In your sketch plan of the accident,

(a) use a different icon for each type of road user involved, for example, a car, motorcycle or pedestrian; and

(b) indicate the names of the road where the accident occurred and other significant features for example, road markings, arrows on the road, traffic lights, nearby landmarks and the direction of travel (for instance, PIE in the direction of Changi near the CTE exit).

- ☐ Report the accident to your insurance company.

On 1 June 2008, the Motor Claims Framework (“MCF”) was introduced by the General Insurance Association of Singapore (“GIA”). It is intended to be a policy condition which motor insurers will enforce. The MCF sets out procedures for motorists to follow when their vehicles meet with an accident. Under the MCF, all accidents, regardless of how minor, and even if the damage is not visible, must be reported to your insurers within 24 hours or by the next working day.

It does not matter if you intend to claim from the insurers or third parties; you must still lodge a report with your insurers. With this new policy, all insurers will operate a 24-hour hotline. Even if you enter into a private settlement with the driver of the other vehicle involved in the accident, you must still report the accident to your insurers. You may wish to visit the GIA’s website at www.gia.org.sg for more information.

Should you, as a vehicle owner, fail to report to your insurers within 24 hours of the accident, you may find yourself prejudiced. If you fail to report, your insurers will have the right to reject your claim or to claim from you any sums paid by them for a third party claim made against you or your driver. This may result in a loss of your No Claim Discount when you review your policy next.

You should also contact your insurers at their hotline for a tow truck in the event that you need one to move your vehicle after the accident. You may also wish to contact your insurers for advice on the accident.

- ☐ Make a police report, if necessary. You are required to make a Traffic Police report as soon as possible or within 24 hours of the accident if the accident involves:

- ✓ Injury requiring hospitalisation or medical leave of 3 days or more;
- ✓ Death;
- ✓ A hit-and-run;
- ✓ A pedestrian or cyclist;
- ✓ A government or foreign vehicle; or
- ✓ Damage to government property.

In the abovementioned circumstances, you are also required to complete the GIA Motor Accident Report (“MAR”) Form.

You should make a written report at any police station or Neighbourhood Police Post. If you are hospitalized as a result of the accident, you may make your report as soon as you are discharged from hospital. You should provide all the information/evidence that you have gathered/collected in your report. The report must be made in English. If you have difficulty with the English language, ask someone to help you write a report or you can explain the accident to the police officer who will translate it into English for you. Please see the Singapore Traffic Police website at <http://driving-in-singapore.spf.gov.sg/> for full details on how to make a Traffic Accident Report.

You should ensure that the details of the accident and the sketch plan contained in the police report and/or GIA report are complete and accurate.

The police report is important because it is the official written record of the accident. Your insurance company, the police and lawyers will refer to it if you are making any claim for

compensation or if there is a claim made against you or your driver. If you delay in making the police report or a GIA report after an accident without good reason, there may be adverse inferences drawn against you.

For non-injury accidents (and excluding the scenarios set out above), you are not required to make a police report but you will still need to complete and submit the GIA MAR Form to your insurer within 24 hours or by the next working day. You should be able to request a copy of the GIA MAR Form from your insurer.

- ❑ Inform your insurers immediately if you receive any Writ of Summons, Traffic Summons or any other correspondence from third parties. You should provide full details of the documents to your insurer.

LIST OF THINGS NOT TO DO:

- Do not hit-and-run.
- Do not get into a heated argument with the other parties involved in the accident.
- Do not admit or discuss liability with the other parties involved in the accident.
- Do not move your vehicle before taking photographs of the accident scene and damage to the vehicles as set out above. A common belief is that in respect of minor and non-injury accidents, you should move the accident vehicles to the road shoulder so as not to obstruct traffic or pose any hazard to other road users. A better approach would be to take the necessary photographs as soon as possible (observing your safety in the process) before moving the vehicles. This is especially important if the accident you are involved in is not a clear cut liability situation.
- Do not take photographs which *do not* capture the relative positions of all the vehicles involved and the *entire* scene of the

accident. Such photographs do not provide a complete picture of the accident and they therefore may not be useful in supporting your claim. See 'List Of Things To Do' above for information on the type of photographs that you should take in relation to both the scene of the accident and damage to vehicles.

- Do not send your damaged vehicle to unauthorised repair workshops. This is to avoid any complications in making your claim. Hence, you ought to check with your insurers at their hotline before discussing or negotiating with any tow truck operators who appear at the accident scene. You should also consult your insurers before sending your damaged vehicle to a repair workshop.

You should arrange for your damaged vehicle to be moved to the approved reporting centre for a survey to be conducted and for repairs, within 24 hours of the accident or by the next working day. If, however, you wish to claim against the insurer of the other vehicle, you are required to give the other vehicle's insurer an opportunity to inspect your vehicle before commencing repairs ('pre-repair inspection'), unless this requirement is waived by the insurer concerned. The insurer should carry out and complete the pre-repair inspection within two (2) working days. You are entitled to compensation for loss of use of the vehicle for the duration of the pre-repair inspection.¹

VI. INVESTING IN AN IN-VEHICLE VIDEO RECORDING DEVICE



Diagram i.21

Nowadays, it is common to find a product such as the in-vehicle video recording device installed in vehicles travelling on the roads of Singapore. Some would say that it is now a vital accessory to the vehicle. The in-vehicle camera is usually affixed on the rear view mirror of the car (see illustration above). Its primary function is to capture clear and visible footage of the road traffic before and after an event (in our case, the motor accident). The usually high resolution footage of the accident will then be relied on as evidence in a party's claim.

In the event of a motor accident that was caused through no fault of yours and with no witnesses to support your claim against the other party/parties involved, the in-vehicle camera will be able to capture important video footage of the accident. That footage may then be used as evidence which may minimise ambiguity. It may also prevent the other party/parties from raising false allegations or from denying liability.

Various models of the in-vehicle camera can be readily purchased at specialist retail outlets at reasonably affordable prices. In view of the benefits set out above, the in-vehicle camera may be a worthwhile investment to all road users. That being said, you should carry out your own research on which brand and model available in the market suits your purposes best.

Indeed, if you have an in-vehicle camera installed in your vehicle and you find yourself caught in a motor accident, apart from adhering to the checklist above, you should ensure that you download and forward the video footage taken by your in-vehicle camera to your insurers. You should also ensure that you retain a copy of the said footage as back up.

VII. THE PROCESS OF MAKING CLAIMS

For assistance on how you go about making claims or what you should do if a claim is made against you, please refer to the Law Society of Singapore's website at <http://www.lawsociety.org.sg/forPublic/YoutheLaw/RoadAccidents.aspx> for more details.

It should also be added that in the event you suffer personal injuries as a result of a motor accident and do not know the particulars of the other party that caused the accident, you may make a claim with the Motor Insurance Bureau ("MIB").

VIII. INSURANCE & PAYMENT OF COMPENSATION

Every driver or motorist in Singapore must be insured against liability which he may incur for personal injury or death that may be caused to other road users in the driving or use of his motor vehicle.² Failure to have in force a valid insurance policy in respect of such third-party risks is an offence punishable by a fine or imprisonment or both. In addition, the driver or motorist shall be disqualified from holding or obtaining a driving licence.³

The driver or motorist may, if he so wishes, also insure himself against property damage that may be caused to other road users.

When an accident occurs, the motor insurer is liable to indemnify the insured driver or motorist in respect of any liability covered by the insurance policy.⁴ Accordingly, the insurer will pay the compensation, the amount which has either been agreed between the parties or awarded by the Court, to the claimant. Where the compensation exceeds 'the relevant amount' (currently \$5,000 for general damages for pain and suffering and loss of earning capacity and/or loss of future earnings), the insurer must pay the compensation together with any costs payable, to the Public Trustee who will hold the monies in trust for the claimant.⁵ If the Public Trustee considers the amount of any compensation agreed between the parties to be 'manifestly inadequate', he may require the parties to obtain the approval of the Court.⁶ The Public Trustee will distribute the monies received by him to the claimant directly after deducting and paying to the claimant's lawyers the costs due to them.⁷

Where the insurer has cancelled or avoided the insurance policy (usually because of a breach of policy conditions by the driver or motorist) and the claimant has obtained a Court judgment against the driver or motorist for compensation in respect of personal injury or death, the insurer must notwithstanding the cancellation or avoidance of the policy, pay the compensation and costs directly to the claimant or where the compensation exceeds 'the relevant amount', to make the payment to the Public Trustee in trust for the claimant.⁸ In such event, the insurer may seek to recover the monies paid out from the driver or motorist.

IX. THE MOTOR INSURERS' BUREAU OF SINGAPORE

The MIB is an independent body that was set up by insurers in 1975. The MIB is funded by all motor insurers in Singapore. Its primary purpose is to compensate people injured in road accidents caused by negligent motorists who

are untraceable or uninsured. The MIB provides a safeguard for consumers who are victims in road accidents.

In accordance with the Untraced Drivers' Agreement and the Uninsured Drivers' Agreement between the Government, the MIB and general insurance companies, the MIB provides cover for bodily injury claims as follows:

- The Untraced Drivers' Agreement requires the MIB to consider compensation for victims of 'hit-and-run' accidents where the motor vehicle is untraceable; and
- The Uninsured Drivers' Agreement requires the MIB to meet unsatisfied Court Judgments against identified motorists who may have been uninsured.

You should only make an application to the MIB *after* you have made *reasonable* enquiries to determine if the motorist who has caused the accident is in fact untraceable or uninsured. Those enquiries will include but not necessarily be limited to contacting the uninsured motorist, the Traffic Police to confirm if accident has been reported, and obtaining details of the registration of the vehicle from the Land Transport Authority. All applications to the MIB must be submitted in writing, within three years from the date of the accident.

The registered office of the MIB is at 180 Cecil Street, Bangkok Bank Building, #07-03, Singapore 069546. You may wish to visit the GIA's website at http://www.gia.org.sg/public_mib.php for more information on the MIB and the process of making an application to the MIB.

CHAPTER 1

LIABILITY OF DRIVER OR MOTORIST

I. GENERAL DUTY OF DRIVER OR MOTORIST

When a motor accident happens, an injured party or person who has suffered loss ("the claimant") has a right to claim compensation for the injury or loss from the person whose action caused the accident ("the tortfeasor"). In order to succeed in a claim for negligence against the tortfeasor, the claimant must establish the following:

- a) that the tortfeasor owes a duty of care to the claimant;
- b) the tortfeasor has breached that duty; and
- c) the loss suffered by the claimant is foreseeable.

A driver of a motor vehicle has a duty to observe ordinary care or skill towards other persons who are using the road whom he could reasonably foresee as likely to be affected by his actions. The exercise of ordinary care or skill does not mean that a driver should foresee "every extremity of folly which occurs on the road".⁹ On the other hand, he should not assume that other road users will exercise reasonable care. In discharging the duty of care, he is expected to anticipate any act which although negligent, is reasonably foreseeable in the experience of the ordinary road user.¹⁰

On his part, the claimant has a duty to take care of his own safety. The tortfeasor may succeed in the defence of contributory negligence if the claimant's failure to take such care was a contributory cause of the accident.¹¹ Therefore, where the damage or injury is the result partly of the claimant's own fault and partly of the fault of the tortfeasor(s), the claimant will not be entitled to recover compensation in full. Instead, liability for the motor accident may be apportioned and the damages recoverable by the claimant would be reduced accordingly having regard to the claimant's share in the responsibility for the accident.

As many motor accidents occur as a result of the fault of two or more parties, it is helpful to set out the general guidelines for evaluating apportionment of liability in various common scenarios, along the lines of which claims may be settled.

II. GENERAL GUIDELINES FOR ASSESSMENT OF LIABILITY

The following general guidelines apply to the evaluation of liability for motor accidents for the purpose of an early settlement of the dispute:

Situation	Suggested resolution of liability
Where there are two conflicting sets of facts presented by the parties and there is a genuine doubt as to which is more likely to have occurred	50-50 basis
Where the facts are not disputed	Resolve according to the liability indicated in the scenarios shown
Where the facts are disputed, but one version is more likely to be true based on one or more of the following: a. photographs taken at the scene of the accident; b. police sketch plan of the scene of the accident; c. video footage of the accident; d. photographs showing the damage to the vehicles; e. statement given by an independent witness (i.e. a witness who is unrelated to and not acquainted with any of the parties and has no interest in the outcome of the matter) as to how the accident happened; or f. Traffic Police has taken action against, or the Court has convicted one of the parties for the commission of a traffic offence. Parties may consider not disputing the facts and abiding by the liability indicated as there would normally be evidence uncovered in the course of investigations or Court proceedings which enabled the Traffic Police or the Court to arrive at their decision. (Traffic Police action includes a warning, a notice to commence prosecution or an offer of composition for careless driving ¹² , inconsiderate driving ¹³ or dangerous driving ¹⁴ .)	

The liability indications in this Chapter are given primarily for the purpose of assisting parties who are contemplating whether to make a claim for

compensation following a motor accident and whether and how to resolve the matter expeditiously, if a claim is made. Solely for the purpose of facilitating an early settlement, it is recommended that the parties consider sharing liability at 50:50 where conflicting versions of the facts are presented and there is no evidence in favour of either party. However, if a claim involving conflicting versions of the facts cannot be resolved amicably and proceeds to Court for trial, the Court will grant judgment in favour of the driver whose evidence the Court finds more credible. As such, a 50:50 outcome at trial is highly improbable.

While common traffic accident scenarios across a wide spectrum are covered in this Chapter, the scenarios are not exhaustive. To some extent, each case depends on its own facts. There could be factors or nuances in a particular motor accident which this Guide is unable to provide for. A party involved in a motor accident is therefore encouraged to seek legal advice if the particular accident he was involved in does not appear as one of the scenarios depicted. He should also seek legal advice if the factual scenario of his particular accident does not substantially match any of the scenarios depicted. This refers to a situation where the particular factual scenario is distinguishable from the scenarios depicted because of the presence or absence of certain fact(s) in the particular accident that might have an impact on the apportionment of liability.

III. SCENARIOS

BRIEF NOTES ON THE DIAGRAMS

- The red and blue cars, labelled as Vehicles X and Y respectively in the diagrams in this Chapter are representative of all classes of motor vehicles driven on public roads in Singapore for which the driver or motorist must hold a valid driving licence¹⁵, namely:

Class 1	Invalid carriages specifically designed and fabricated for use by persons with physical disabilities e.g. motorcycle with side car for handicapped person
Class 2B	Motorcycles with an engine capacity not exceeding 200 cc or which are propelled by electric motors
Class 2A	Motorcycles with an engine capacity between 201 cc and 400 cc
Class 2	Motorcycles with an engine capacity exceeding 400 cc

Class 3A	(i) Motor vehicles without clutch pedals (vehicles with automatic gear transmission) and with an unladen weight not exceeding 3,000 kg and carrying not more than 7 passengers excluding the driver and (ii) Motor tractors and other motor vehicles without clutch pedals with an unladen weight not exceeding 2,500 kg
Class 3	(i) Motor vehicles with an unladen weight not exceeding 3,000 kg and carrying not more than 7 passengers excluding the driver and (ii) Motor tractors and other motor vehicles with an unladen weight not exceeding 2,500 kg
Class 4A	Omnibuses (public transport buses)
Class 4	(i) Heavy motor vehicles with an unladen weight exceeding 2,500 kg and built to carry a load or people and (ii) Motor tractors of an unladen weight exceeding 2,500 kg but not exceeding 7,250 kg
Class 5	Motor vehicles with an unladen weight exceeding 7,250 kg and not constructed to carry any load

- Bicycles are not included in the above classification as a driving licence is not required for the use of a bicycle on public roads in Singapore. Nevertheless, motor accidents involving cyclists are discussed separately in Chapter 3 of this Guide.
- 'Driver X' in the diagrams refers to the driver of Vehicle X and 'Driver Y' to the driver of Vehicle Y respectively.

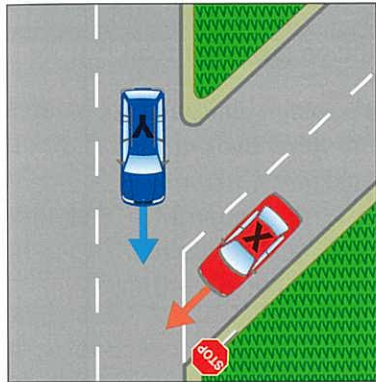
A. JUNCTIONS



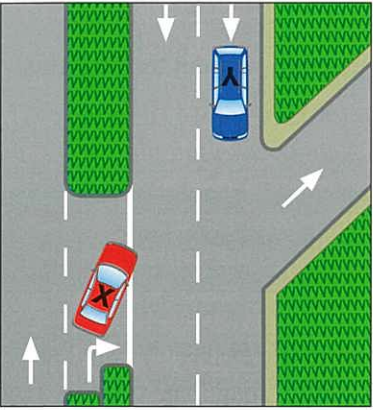
GENERAL NOTES



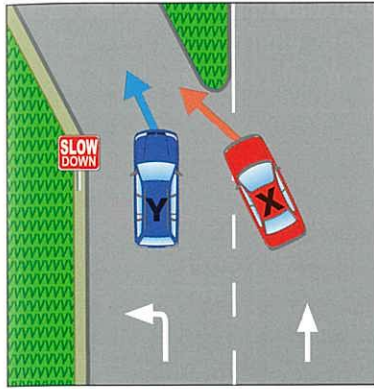
'Controlled junction' refers to a traffic junction where traffic flow is controlled by traffic lights;

'Uncontrolled junction' refers to a traffic junction without traffic lights.

(i) Y-Junctions

	SCENARIO	REASON(S)	X %	Y %
Y-JUNCTIONS (Uncontrolled)				
1.	 <p style="text-align: center;"><i>Diagram 1.1</i></p> <p>Vehicle X – Turning into the major road from a minor road with a “stop” line/ “stop” sign at the junction adjoining the major road</p> <p>Vehicle Y – Moving straight ahead on the major road from the right</p>	<p>Reason(s): Driver Y on the major road has right of way, but should keep a lookout for vehicles entering the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X approaching the major road from a minor road should stop at the stop line or parallel broken white lines to give way to oncoming traffic on the major road.¹⁶</p>	80	20

	SCENARIO	REASON(S)	 X %	 Y %
	Y-JUNCTIONS (Uncontrolled)			
2.	 <p style="text-align: center;"><i>Diagram 1.2</i></p> <p>Vehicle X – Turning right and crossing the major road to enter a side road on the opposite side</p> <p>Vehicle Y – Moving straight ahead on the major road from the left</p>	Reason(s): Driver Y on the major road has right of way ¹⁷ , but should keep a lookout for vehicles turning across his path at the intersection. Driver Y should also take evasive action to avoid a collision. Driver X making a turn at an intersection should give way to straight-going traffic on the major road. ¹⁸	80	20

	SCENARIO	REASON(S)	 X %	 Y %
	SLIP ROADS			
3.	 <p style="text-align: center;"><i>Diagram 1.3</i></p> <p>Vehicle X – Turning into a slip road from the straight-going lane</p> <p>Vehicle Y – Moving on a turning lane into the slip road</p>	Reason(s): Driver X must keep to the designated direction of travel in accordance with the directional arrows. Driver X should not attempt to turn into a slip road from the straight-going lane. ¹⁹ Driver Y should approach the slip road with caution and take evasive action to avoid a collision.	90	10

Y-JUNCTIONS (UNCONTROLLED): FACTORS AFFECTING DRIVER Y'S LIABILITY

Factor present	How Driver Y's liability may be affected
Driver Y is travelling at an excessive speed, beyond the speed limit ²⁰	Increase liability by 10%.

Driver X has completed/substantially completed the turn into the major road from the minor road and Vehicle Y has collided into the rear or rear side of Vehicle X

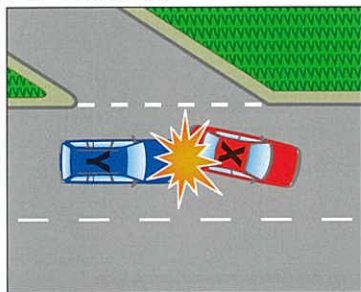


Diagram 1.4

Increase liability by 5-10%.

Reason(s): Driver Y would have greater opportunity to avoid the collision than if Driver X has only just begun to make the turn.

There is no "stop" line/"stop" sign where the slip or adjacent road joins the major road but a broken white line or continuity line

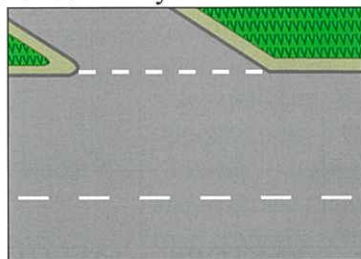


Diagram 1.5

Increase liability by 5%.

Reason(s): Driver Y should exercise more caution. The vehicle turning out from the minor road (Vehicle X) must give way to oncoming traffic on the major road but need not stop at the junction if it may safely turn into the major road.

Vehicle Y has substantially passed the junction and Vehicle X has collided into the rear/rear side of Vehicle Y

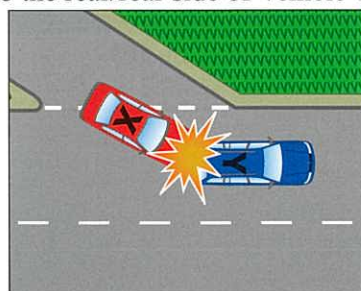
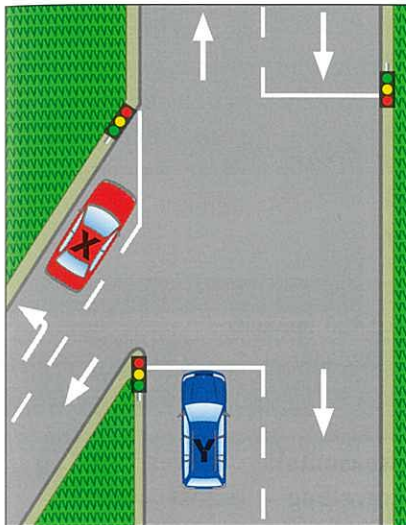


Diagram 1.6

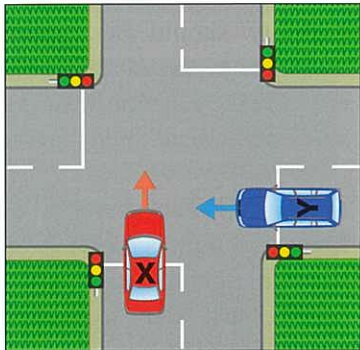
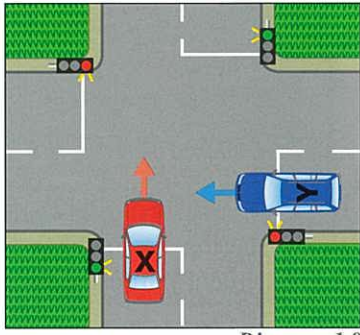
Decrease liability by 5-10%.

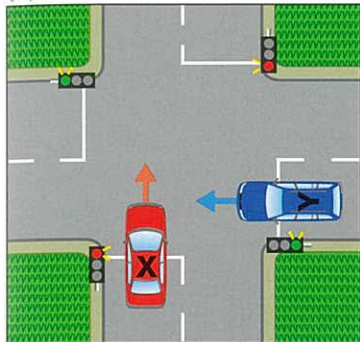
Reason(s): Driver Y would have had less opportunity to avoid the collision.



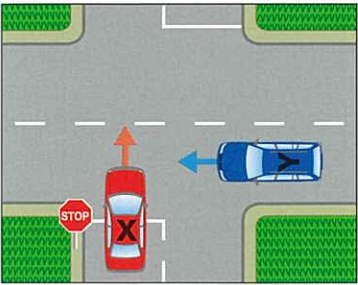
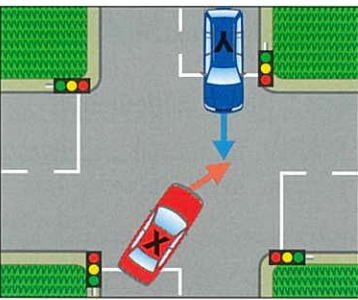
Y- JUNCTIONS (CONTROLLED)



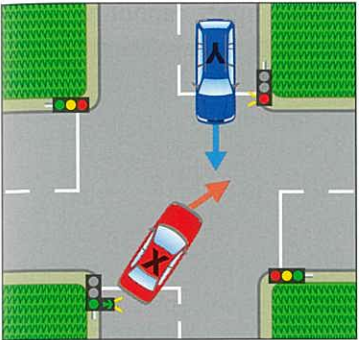
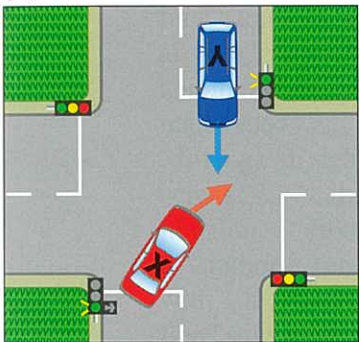
	SCENARIO	REASON(S)
4. (a)	 <p>Diagram 1.7</p> <p>In Scenarios 1 and 2 above, where the junction is controlled by traffic lights</p>	<p>Liability should be apportioned at 100% in favour of the driver entering the junction with the light showing "green" in his favour.</p> <p>Reason(s): The driver in whose favour the light is showing "green" has the right of way. The other driver must stop in compliance with the "red" light.</p>
	<p>(b)</p> <p>Both drivers claim that the light is "green" in their favour and the state of the lights cannot be determined because there is no evidence in favour of either driver. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident.</p>	<p>Both drivers could consider an equal sharing of liability solely for settlement purposes, i.e. 50-50 basis.</p>



(ii) Cross-Junctions



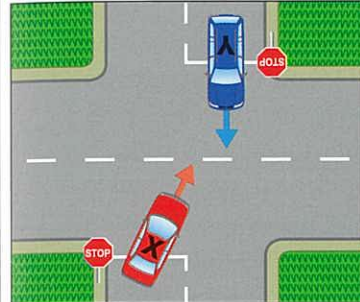
CROSS-JUNCTIONS (Controlled)				
5.	 <p style="text-align: right;"><i>Diagram 1.8</i></p>	<p>Vehicle X – Moving straight across the junction</p> <p>Vehicle Y – Moving straight across the junction, perpendicular and from the right of Vehicle X</p>		
SCENARIO		REASON(S)	X %	Y %
(a)	 <p style="text-align: right;"><i>Diagram 1.9</i></p> <p>The traffic light is showing “green” in favour of Vehicle X and showing “red” against Vehicle Y.</p>	<p>Reason(s): Driver X travelling across the junction on “green” light has right of way. Driver Y approaching from a direction perpendicular to Vehicle X must stop at the junction in compliance with the “red” light.</p>	0	100



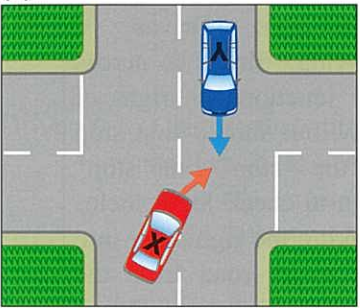
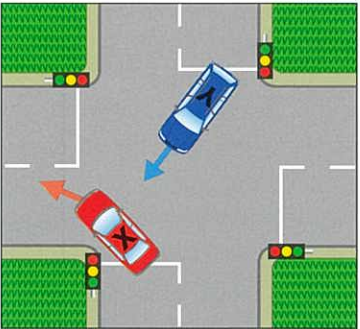
SCENARIO		REASON(S)	X %	Y %
(b)	 <p style="text-align: right;"><i>Diagram 1.10</i></p> <p>The traffic light is showing “red” against Vehicle X and showing “green” in favour of Vehicle Y.</p>	<p>Reason(s): Driver Y travelling across the junction on “green” light has right of way. Driver X approaching from a direction perpendicular to Vehicle Y must stop at the junction in compliance with the “red” light.</p>	100	0
(c)	<p>Both drivers claim that the traffic lights are showing “green” in their favour and there is a conflict of versions as to the state of the traffic lights.</p>	<p>Reason(s): The state of the traffic lights cannot be determined in the absence of evidence in favour of either driver. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident.</p> <p>(Solely for settlement purposes)</p>	50	50



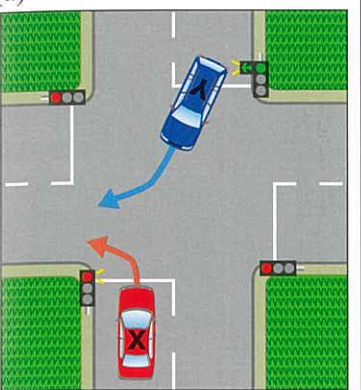
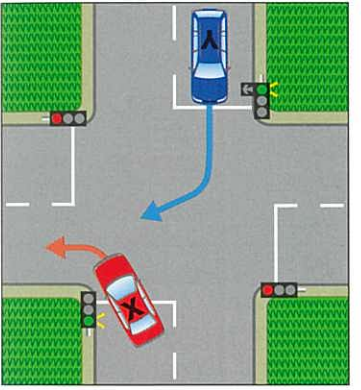
	SCENARIO	REASON(S)	 X %	 Y %
CROSS-JUNCTIONS (Uncontrolled)				
6.	 <p><i>Diagram 1.11</i></p> <p>Vehicle X – Entering the cross-junction from a minor road with a “stop” line/”stop” sign at the junction adjoining the major road</p> <p>Vehicle Y – Moving straight across the junction on the major road</p>	<p>Reason(s): Driver Y on the major road has right of way, but should keep a lookout for vehicles entering the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X approaching the major road from a minor road should stop at the “stop” line/”stop” sign to give way to oncoming traffic from both directions of the major road.²¹</p>	80	20
CROSS-JUNCTIONS (Controlled)				
7.	 <p><i>Diagram 1.12</i></p> <p>Vehicle X – Turning right</p> <p>Vehicle Y – Moving straight across the junction from the opposite direction</p>			

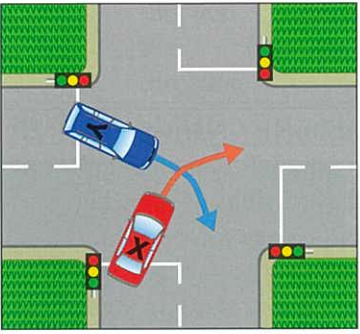
	SCENARIO	REASON(S)	 X %	 Y %
(a)	 <p><i>Diagram 1.13</i></p> <p>The “green arrow” is lit up in favour of Vehicle X and the traffic light is showing “red” against Vehicle Y.</p>	<p>Reason(s): Driver X turning right when the “green arrow” is lit up has right of way. Driver Y moving straight across the junction must stop in compliance with the “red” light.</p>	0	100
(b)	 <p><i>Diagram 1.14</i></p> <p>The traffic lights are showing “green” for both Vehicle X and Vehicle Y and the “green arrow” in favour of Vehicle X has not come on/lit up.</p>	<p>Reason(s): Driver Y moving straight across the junction on “green” light has right of way, but should keep a lookout for vehicles turning across his path at the junction. Driver Y should also take evasive action to avoid a collision. Driver X making the right turn should give way to oncoming traffic from the opposite direction.²²</p>	80	20

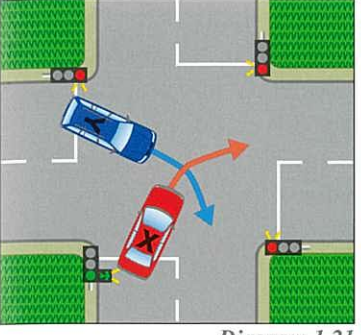
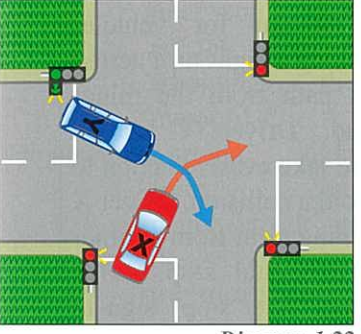
	SCENARIO	REASON(S)	 X %	 Y %
(c)	Driver X – Claims that the “green arrow” is lit up. Driver Y – Claims that the traffic light is showing “green” in his favour. There is a conflict of versions as to the state of the traffic lights.	Reason(s): The state of the traffic lights cannot be determined in the absence of evidence in favour of either driver. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident. (Solely for settlement purposes)	50	50

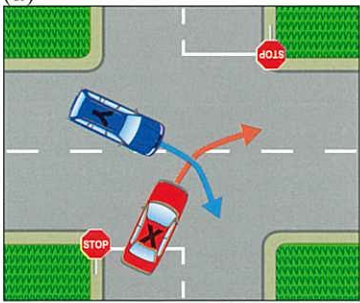
	SCENARIO	REASON(S)	 X %	 Y %
	CROSS-JUNCTIONS (Uncontrolled)			
8.	(a)  <i>Diagram 1.15</i> Vehicle X – Turning right into the major road from a minor road with a “stop” line/“stop” sign at the junction adjoining the major road Vehicle Y – Moving straight across the junction from a minor road with a “stop” line/“stop” sign in the opposite direction	Reason(s): Driver Y moving straight across the junction has right of way, but should first stop at the “stop” line/“stop” sign to check for vehicles making the right turn into the major road from the opposite direction. Driver Y should also take evasive action to avoid a collision. Driver X turning right into the major road should stop at the “stop” line/“stop” sign to give way to oncoming traffic. ²³	80	20

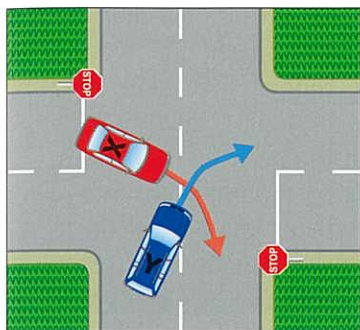
	SCENARIO	REASON(S)	X % 	Y % 
	(b)  <p>Diagram 1.16</p> <p>Vehicle X – Turning right Vehicle Y – Moving straight across the junction from the opposite direction</p>	Reason(s): Driver Y travelling straight across the junction has right of way, but should keep a lookout for vehicles turning across his path at the junction. Driver Y should also take evasive action to avoid a collision. Driver X making the right turn should give way to oncoming traffic from the opposite direction. ²⁴	80	20
CROSS-JUNCTIONS (Controlled)				
9.	 <p>Diagram 1.17</p>	Vehicle X – Turning left Vehicle Y – Turning right across the junction from the opposite direction		

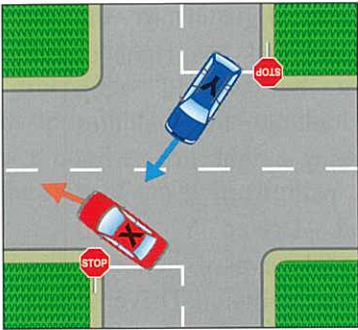
	SCENARIO	REASON(S)	X % 	Y % 
	(a)  <p>Diagram 1.18</p> <p>The traffic light is showing “red” against Vehicle X and the “green arrow” is lit up in favour of Vehicle Y.</p>	Reason(s): Driver Y turning right when the “green arrow” is lit up has right of way. Driver X turning left must stop in compliance with the “red” light. ²⁵	100	0
	(b)  <p>Diagram 1.19</p> <p>The traffic lights are showing “green” for both Vehicle X and Vehicle Y and the “green arrow” in favour of Vehicle Y has not come on/lit up.</p>	Reason(s): Driver X turning left on “green” light has right of way, but should keep a lookout for vehicles making a right turn from the opposite direction. Driver X should also take evasive action to avoid a collision. Driver Y turning right from the opposite direction should give way to traffic on his right, i.e. vehicles turning left.	20	80

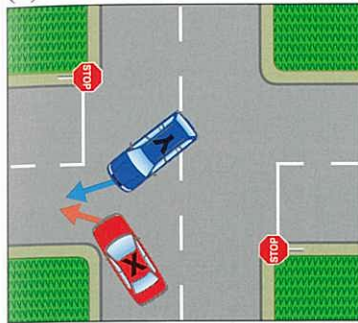
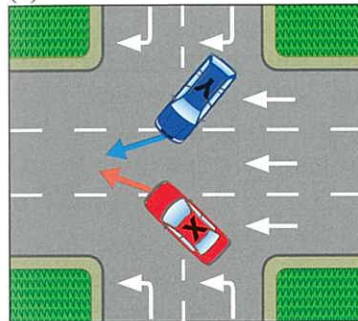
	SCENARIO	REASON(S)	X %	Y %
	<p>(c)</p> <p>Driver X – Claims that the traffic light is showing “green” in his favour.</p> <p>Driver Y – Claims that the “green arrow” is lit up.</p> <p>There is a conflict as to the state of the traffic lights.</p>	<p>Reason(s): The state of the traffic lights cannot be determined in the absence of evidence in favour of either driver. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident.</p> <p>(Solely for settlement purposes)</p>	50	50
CROSS-JUNCTIONS (Controlled)				
10.	 <p style="text-align: right;"><i>Diagram 1.20</i></p>	<p>Vehicle X – Turning right</p> <p>Vehicle Y – Turning right from direction perpendicular and to the left of Vehicle X</p>		



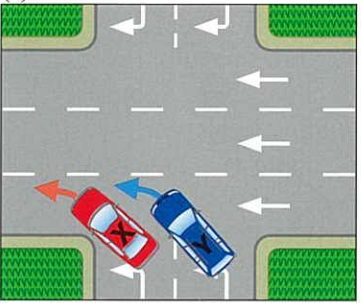
	SCENARIO	REASON(S)	X %	Y %
(a)	 <p style="text-align: right;"><i>Diagram 1.21</i></p> <p>The traffic light is showing “green”/the “green arrow” is lit up in favour of Vehicle X and the traffic light is showing “red” against Vehicle Y.</p>	<p>Reason(s): The driver in whose favour the traffic light is showing “green”/the “green arrow” is lit up has right of way. The other driver making the right turn from the perpendicular direction must stop in compliance with the “red” light.</p>	0	100
(b)	 <p style="text-align: right;"><i>Diagram 1.22</i></p> <p>The traffic light is showing “green”/the “green arrow” is lit up in favour of Vehicle Y and the traffic light is showing “red” against Vehicle X.</p>		100	0



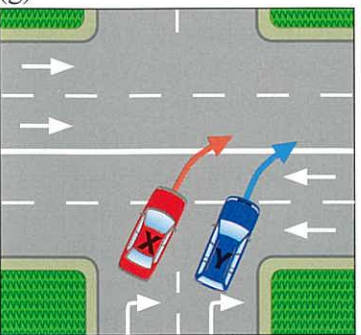
	SCENARIO	REASON(S)	X %	Y %
	(c) Both drivers claim that the traffic lights are showing "green"/the "green arrow" is lit up in their favour and there is a conflict of versions as to the state of the traffic lights.	Reason(s): The state of the traffic lights cannot be determined in the absence of evidence in favour of either driver. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident. (Solely for settlement purposes)	50	50
CROSS-JUNCTIONS (Uncontrolled)				
11.	(a)  <i>Diagram 1.23</i> Vehicle X – Turning right into the major road from a minor road with a "stop" line/"stop" sign at the junction adjoining the major road Vehicle Y – Turning right from the major road in the direction perpendicular and to the left of Vehicle X	Reason(s): Driver Y turning right from the major road has right of way but should keep a lookout for vehicles making a right turn across his path from the minor road. Driver Y should also take evasive action to avoid a collision. Driver X turning right from a minor road should stop at the "stop" line/"stop" sign to give way to traffic on the major road. ²⁶	80	20

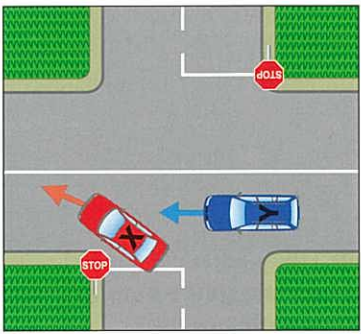
	SCENARIO	REASON(S)	X %	Y %
	(b)  <i>Diagram 1.24</i> Vehicle X – Turning right into the major road from a minor road with a "stop" line/"stop" sign at the junction adjoining the major road Vehicle Y – Turning right from the major road in the direction perpendicular and to the right of Vehicle X	Reason(s): Driver Y turning right from the major road has right of way but should keep a lookout for vehicles making a right turn across his path from the minor road. Driver Y should also take evasive action to avoid a collision. Driver X turning right from a minor road should stop at the "stop" line/"stop" sign to give way to traffic on the major road. ²⁷	80	20

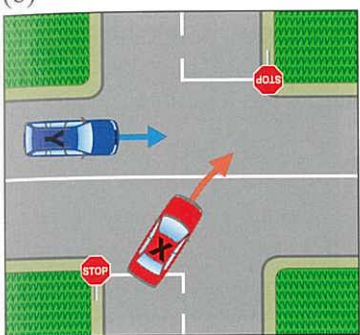
SCENARIO	REASON(S)	X %	Y %
<p>(c)</p>  <p>Diagram 1.25</p> <p>Vehicle X – Turning left into the major road from a minor road with a “stop” line/“stop” sign at the junction adjoining the major road</p> <p>Vehicle Y – Turning right into the major road from a minor road with a “stop” line/“stop” sign in the opposite direction</p>	<p>Reason(s): Driver X turning left into the major road has right of way, but should first stop at the “stop” line/“stop” sign to check for vehicles making the right turn into the major road from the opposite direction. Driver X should also take evasive action to avoid a collision. Driver Y turning right from the opposite direction should stop at the “stop” line/“stop” sign to give way to traffic on his right, i.e. vehicles turning left.²⁸</p>	20	80

SCENARIO	REASON(S)	X %	Y %
<p>(d)</p>  <p>Diagram 1.26</p> <p>Vehicle X – Turning left</p> <p>Vehicle Y – Turning right across the junction from the opposite direction</p>	<p>Reason(s): Driver X turning left has right of way, but should keep a lookout for vehicles making a right turn from the opposite direction. Driver X should also take evasive action to avoid a collision. Driver Y turning right from the opposite direction should give way to traffic on his right, i.e. vehicles turning left.²⁹</p>	20	80
<p>(e)</p>  <p>Diagram 1.27</p> <p>Vehicle X – Turning left into the major road</p> <p>Vehicle Y – Turning right from the opposite direction into the same lane on the major road</p>	<p>Reason(s): Both drivers have an equal obligation to (i) keep a proper lookout when turning into a common lane from opposite directions and (ii) take evasive action to avoid a collision.³⁰</p>	50	50

	SCENARIO	REASON(S)	 X %	 Y %
(f)	 <p>Diagram 1.28</p> <p>Vehicle X – Turning left into the extreme left lane of the major road</p> <p>Vehicle Y – Turning left, on the right of Vehicle X, into the extreme left lane of the major road</p>	Reason(s): Driver Y should turn into the 2nd lane from the left and not into the extreme left lane. Driver X, although turning into the correct lane, should keep a lookout for vehicles entering his path of travel from the adjacent lane and take evasive action to avoid a collision.	10	90

	SCENARIO	REASON(S)	 X %	 Y %
(g)	 <p>Diagram 1.29</p> <p>Vehicle X – Turning right</p> <p>Vehicle Y – Turning right, beside Vehicle X</p> <p>Vehicle X has encroached into the path of Vehicle Y which is turning within its own lane.</p>	Reason(s): Driver X should keep a proper lookout and maintain a margin of safety from vehicles in the adjacent lane when turning right. Driver Y should keep a lookout for vehicles entering his path of travel from the adjacent lane and take evasive action to avoid a collision. ³¹	90	10
(h)	<p>Both drivers claim that the other encroached into his path while making the right turn and there is a conflict of versions.</p>	Reason(s): Both drivers have an equal obligation to keep a proper lookout and maintain a margin of safety when turning right from adjacent lanes. ³² Which of the vehicles has encroached into the path of the other cannot be determined in the absence of evidence in favour of either party. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident. (Solely for settlement purposes)	50	50

	SCENARIO	REASON(S)	X %	Y %
	CROSS-JUNCTIONS (Uncontrolled)			
12.	<p>(a)</p>  <p style="text-align: center;"><i>Diagram 1.30</i></p> <p>Vehicle X – Turning left into the major road from a minor road with a “stop” line/“stop” sign at the junction adjoining the major road</p> <p>Vehicle Y – Moving straight ahead on the major road from the right</p>	<p>Reason(s): Driver Y on the major road has right of way, but should keep a lookout for vehicles turning into the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X approaching the major road from a minor road should stop at the “stop” line/“stop” sign to give way to oncoming traffic on the major road.³³</p>	80	20

	SCENARIO	REASON(S)	X %	Y %
	<p>(b)</p>  <p style="text-align: center;"><i>Diagram 1.31</i></p> <p>Vehicle X – Turning right into the major road from a minor road with a “stop” line/“stop” sign at the junction adjoining the major road</p> <p>Vehicle Y – Moving straight ahead on the major road from the left</p>	<p>Reason(s): Driver Y on the major road has right of way, but should keep a lookout for vehicles turning into the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X turning right from a minor road should stop at the “stop” line/“stop” sign to give way to traffic approaching from both sides/directions of the major road.³⁴</p>	80	20

CROSS-JUNCTIONS: FACTORS AFFECTING LIABILITY OF DRIVER HAVING THE RIGHT OF WAY

Factor present	How liability of driver having the right of way may be affected
Driver having the right of way is travelling at an excessive speed, beyond the speed limit ³⁵	Increase liability by 10%.

The other vehicle has crossed/ substantially crossed the junction when the vehicle having the right of way collided into its rear/towards its rear

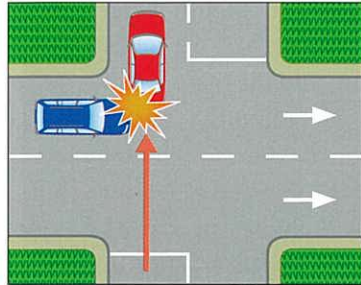


Diagram 1.32

Increase liability by 5-10%.

Reason(s): The driver having the right of way would have greater opportunity to avoid the collision than if the other driver has only just entered the junction.

Driver having the right of way enters a controlled junction immediately after the light has changed from "red" to "green" ³⁶

Increase liability by 5%.

Reason(s): The driver having the right of way must keep a lookout for any vehicles that may have entered the junction before the light turned "green" in his favour.

There is no "stop" line/"stop" sign where the slip or adjacent road joins the major road but a broken white line or continuity line only

Increase liability by 5%.

Reason(s): Driver having the right of way should exercise more caution. The vehicle approaching the major road from the minor road must give way to oncoming traffic on the major road but need not stop at the junction if it may safely enter the major road.

Driver having the right of way has substantially passed the junction and the other vehicle has collided into the rear/rear side of his vehicle³⁷

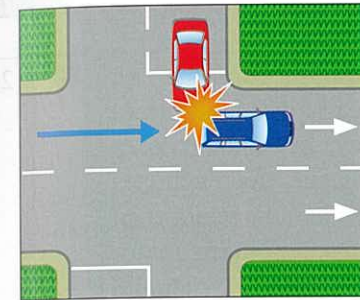
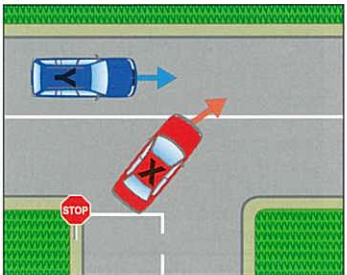


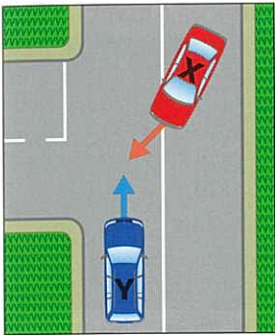
Diagram 1.33

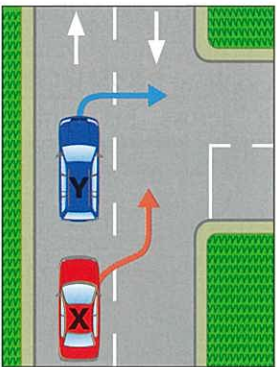
Decrease liability by 5-10%.

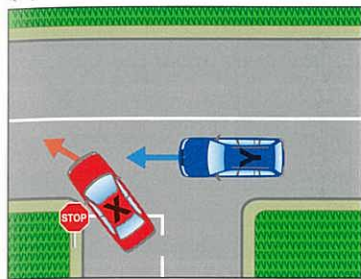
Reason(s): Driver having the right of way would have had less opportunity to avoid the collision.

(iii) T-Junctions

	SCENARIO	REASON(S)	X %	Y %
	T-JUNCTIONS			
13.	(a)  <i>Diagram 1.34</i> Vehicle X – Turning right into the major road from a minor road with a “stop” line/“stop” sign at the junction adjoining the major road Vehicle Y – Moving straight ahead on the major road from the left	Reason(s): Driver Y on the major road has right of way, but should keep a lookout for vehicles turning into the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X turning right from a minor road should stop at the “stop” line/“stop” sign to give way to traffic approaching from both sides/directions of the major road. ³⁸	80	20

	SCENARIO	REASON(S)	X %	Y %
(b)	 <i>Diagram 1.35</i> Vehicle X – Turning right from a major road to enter a minor road on the opposite side Vehicle Y – Moving straight ahead in the opposite direction	Reason(s): Driver Y has right of way, but should keep a lookout for vehicles turning across his path at the junction. Driver Y should also take evasive action to avoid a collision. Driver X making the right turn should give way to oncoming traffic from the opposite direction. ³⁹	80	20

	SCENARIO	REASON(S)	X %	Y %
(c)	 <p>Diagram 1.36</p> <p>Vehicle X – Overtaking from the right and encroaching into the oncoming lane</p> <p>Vehicle Y – Turning right and crossing the oncoming lane to enter a side road on the opposite side</p>	Reason(s): Driver X should not overtake from the right at a road junction by travelling against the flow of traffic. Driver Y's attention is focused on oncoming traffic and he may not foresee that Driver X would cross his path from the rear. Driver Y should signal his intention to turn right and check also for vehicles overtaking from the rear. ⁴⁰		
	Vehicle Y has signalled to turn right		90	10
	Vehicle Y has not signalled to turn right		80	20

	SCENARIO	REASON(S)	X %	Y %
(d)	 <p>Diagram 1.37</p> <p>Vehicle X – Turning left into the major road from a minor road with a “stop” line/“stop” sign at the junction adjoining the major road</p> <p>Vehicle Y – Moving straight ahead on the major road from the right</p>	Reason(s): Driver Y on the major road has right of way, but should keep a lookout for vehicles turning into the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X approaching the major road should stop at the “stop” line/“stop” sign to give way to oncoming traffic on the major road. ⁴¹	80	20

T-JUNCTIONS: FACTORS AFFECTING DRIVER Y'S LIABILITY

Factor present	How Driver Y's liability may be affected
Driver Y is travelling at an excessive speed, beyond the speed limit ⁴²	Increase liability by 10%.

Driver X has completed/substantially completed the turn into the major road and Vehicle Y has collided into the rear or rear side of Vehicle X

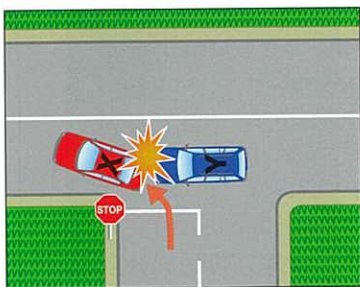


Diagram 1.38

Increase liability by 5-10%.

Reason(s): Driver Y would have greater opportunity to avoid the collision than if Driver X has only just begun to make the turn.

There is no "stop" line/"stop" sign where the slip or adjacent road joins the major road but a broken white line or continuity line

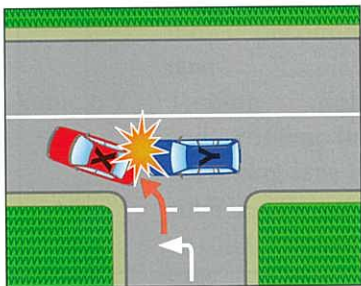


Diagram 1.39

Increase liability by 5%.

Reason(s): Driver Y should exercise more caution. The vehicle turning out from the minor road (Vehicle X) must give way to oncoming traffic on the major road but need not stop at the junction if it may safely turn into the major road.

Vehicle Y has substantially passed the junction and Vehicle X has collided into the rear/rear side of Vehicle Y⁴³

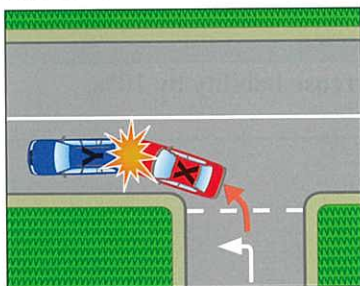


Diagram 1.40

Decrease liability by 5-10%.

Reason(s): Driver Y would have had less opportunity to avoid the collision.

(iv) *Yellow boxes at junctions*

YELLOW BOXES at any junction – Entering (Uncontrolled)

14.

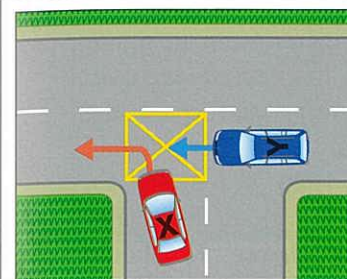


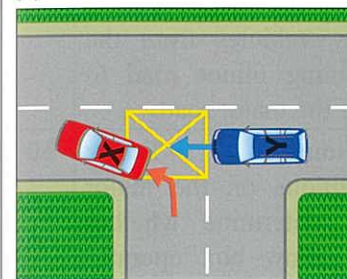
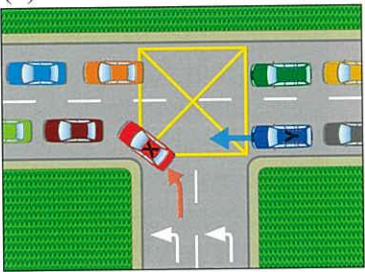


Diagram 1.41

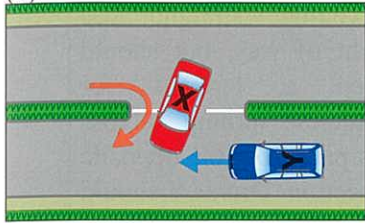
Vehicle X – Turning left from a minor road into the yellow box on the major road

Vehicle Y – Moving straight ahead on the major road across the yellow box

	SCENARIO	REASON(S)		
			X %	Y %
(a)	 <p>Diagram 1.42</p> <p>Traffic on the major road is free-flowing</p>	<p>Reason(s): Driver Y on the major road has right of way but should keep a lookout for vehicles turning into the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X approaching the major road from a minor road should stop to give way to oncoming traffic on the major road.⁴⁴</p>	80	20

	SCENARIO	REASON(S)	X %	Y %
	<p>(b)</p>  <p><i>Diagram 1.43</i></p> <p>Traffic on the major road has stopped up to the edge of the yellow box</p>	<p>Reason(s): Driver X turning out from the minor road has precedence over oncoming traffic on the major road but should still keep a lookout for vehicles along the major road. Driver X should also take evasive action to avoid a collision. Driver Y on the major road should not proceed into the yellow box; he should stop behind the yellow box to allow vehicles from the adjoining minor road to enter the major road.</p>	20	80
	<p>(c)</p> <p>Vehicle X – Claims that traffic on the major road has stopped up to the edge of the yellow box.</p> <p>Vehicle Y – Claims that traffic on the major road was free-flowing.</p> <p>There is a conflict of versions as to the state of the traffic on the major road.</p>	<p>Reason(s): Traffic conditions on the major road determine whether the yellow box operates to give precedence to vehicles turning out from the minor road. The state of the traffic on the major road cannot be determined in the absence of evidence in favour of either party. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident.</p> <p>(Solely for settlement purposes)</p>	50	50

B. U-TURNS

U-TURNS or 3-POINT TURNS at any junction (Uncontrolled)				
15.	<p>(a)</p>  <p><i>Diagram 1.44</i></p>	<p>Vehicle X – Making a U-turn</p> <p>Vehicle Y – Moving straight ahead in the opposite direction</p>		
	SCENARIO	REASON(S)	X %	Y %
	Where U-turn is not permitted (See Diagram 1.44 above)	<p>Reason(s): Driver X should not make a U-turn in the absence of a “U-turn” sign.⁴⁵</p> <p>Driver Y travelling straight has right of way, but should keep a lookout for vehicles turning across his path from the opposite direction. Driver Y should also take evasive action to avoid a collision. Driver X when making a U-turn at any junction should stop at the intersection to give way to oncoming traffic.</p>	90	10



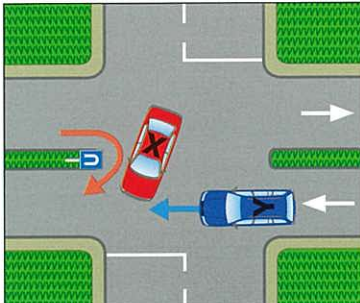
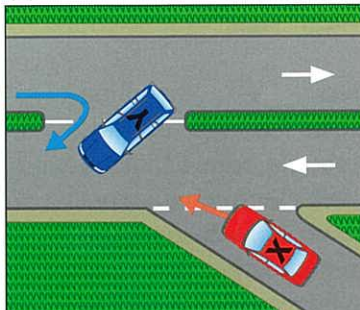


	SCENARIO	REASON(S)	 X %	 Y %
	Where U-turn is permitted 	Reason(s): Driver Y travelling straight has right of way, but should keep a lookout for vehicles turning across his path from the opposite direction. Driver Y should also take evasive action to avoid a collision. Driver X when making a U-turn at any junction should stop at the intersection to give way to oncoming traffic.	80	20
	(b) 	Vehicle X – Turning left into the major road from a minor road Vehicle Y – Making a U-turn from the opposite direction on the major road		

Diagram 1.45

Diagram 1.46

	SCENARIO	REASON(S)	 X %	 Y %
	Where U-turn is not permitted (See Diagram 1.46 above)	Reason(s): Driver Y should not make a U-turn in the absence of a “U-turn” sign. ⁴⁶ Driver X turning left into the major road has right of way, but should first stop at the junction to check for vehicles making a U-turn from the opposite direction. Driver X should also take evasive action to avoid a collision. Driver Y making a U-turn should stop at the intersection to give way to oncoming traffic from the opposite direction, including vehicles turning left from a minor road. ⁴⁷	20	80



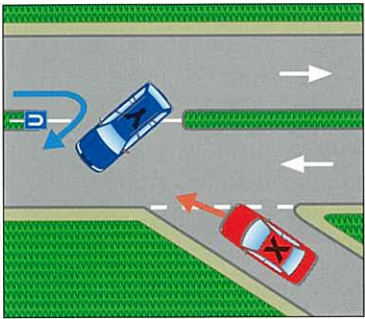
	SCENARIO	REASON(S)	 X %	 Y %
	Where U-turn is permitted 	Reason(s): Driver X turning left into the major road has right of way, but should first stop at the junction to check for vehicles making a U-turn from the opposite direction. Driver X should also take evasive action to avoid a collision. Driver Y making a U-turn should stop at the intersection to give way to oncoming traffic from the opposite direction, including vehicles turning left from a minor road.	30	70

Diagram 1.47



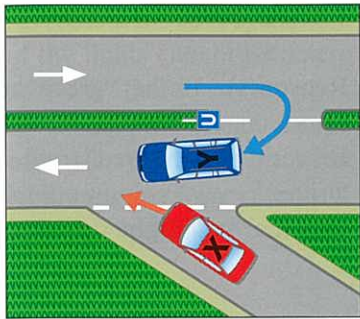
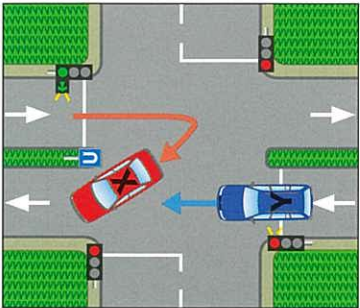
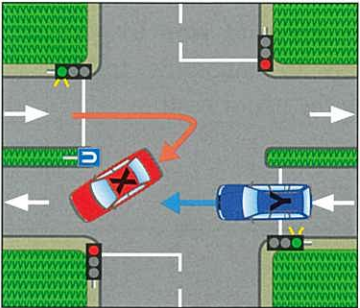
	SCENARIO	REASON(S)	 X %	 Y %
	(c) 	Reason(s): Driver Y, having completed the U-turn and travelling straight on the major road has right of way, but should keep a lookout for vehicles turning into the major road from an adjoining minor road. Driver Y should also take evasive action to avoid a collision. Driver X approaching the major road from a minor road should stop to give way to oncoming traffic on the major road.	70	30

Diagram 1.48

Vehicle X – Turning left into the major road from a minor road
Vehicle Y – Moving straight ahead on the major road after completing a U-turn from the opposite direction

	SCENARIO	REASON(S)
	U-TURNS: CONTROLLED JUNCTIONS	
16.	<p>(a)</p>  <p style="text-align: center;"><i>Diagram 1.49</i></p> <p>Driver X makes the U-turn while the “green arrow” is lit up</p>	<p>Liability should be apportioned at 100% in favour of Driver X.</p> <p>Reason(s): If the “green arrow” came on, it simply means that Driver Y beat the “red” traffic light. Driver Y must stop in compliance with the “red” light.</p>
	<p>(b)</p>  <p style="text-align: center;"><i>Diagram 1.50</i></p> <p>The lights are showing “green” in the directions of both Driver X and Driver Y</p>	<p>Liability should be the same as in Scenario 15.(a) above where the junction is uncontrolled.</p>

(c)	<p>Driver X claims that the “green arrow” is lit up. Driver Y claims that the traffic light is showing “green” in his favour and the state of the lights cannot be determined because there is no evidence in favour of either driver. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident.</p>	<p>Both drivers could consider an equal sharing of liability solely for settlement purposes, i.e. 50-50 basis.</p>
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U-TURNS: FACTORS AFFECTING THE LIABILITY OF DRIVER HAVING THE RIGHT OF WAY

Factor present	How liability of driver having right of way may be affected
Driver having the right of way is travelling at an excessive speed, beyond the speed limit ⁴⁸	Increase liability by 10%.
The other vehicle has completed/substantially completed the U-turn when the vehicle having the right of way collided into its rear/towards its rear	<p>Increase liability by 5-10%.</p> <p>Reason(s): The driver having the right of way would have greater opportunity to avoid the collision than if the other driver has only just begun to make the U-turn.</p>

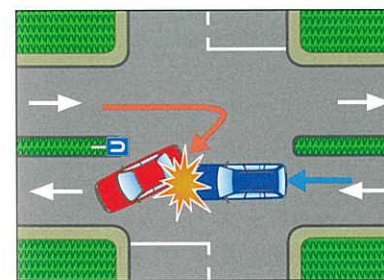


Diagram 1.51

Driver having the right of way enters a controlled junction immediately after the light has changed from "red" to "green"⁴⁹

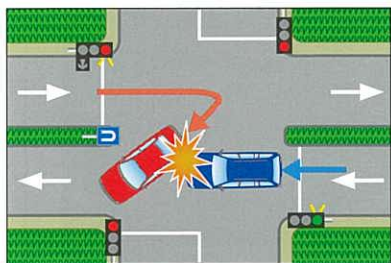


Diagram 1.52

Increase liability by 5%.

Reason(s): The driver having the right of way must keep a lookout for any vehicles that may have entered the junction before the light turned "green" in his favour.

Driver having the right of way has substantially passed the junction and the other vehicle has collided into the rear/rear side of his vehicle

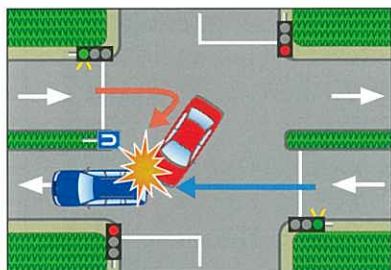
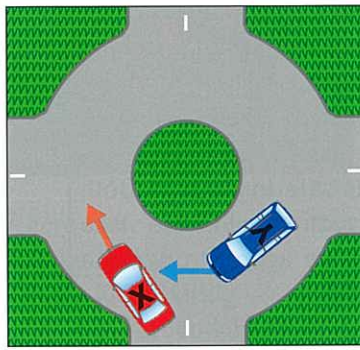
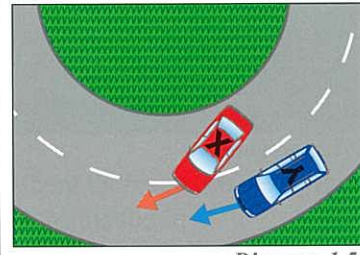


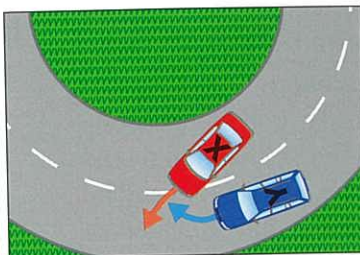
Diagram 1.53

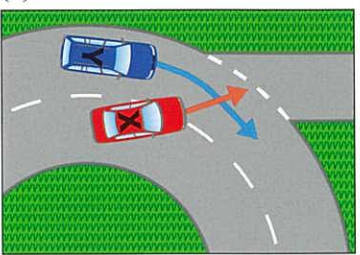
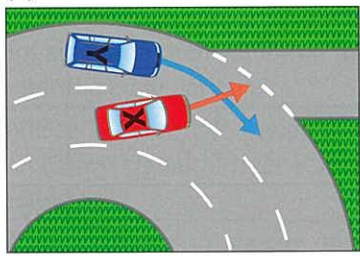
Decrease liability by 5-10%.

Reason(s): Driver having the right of way would have had less opportunity to avoid the collision.

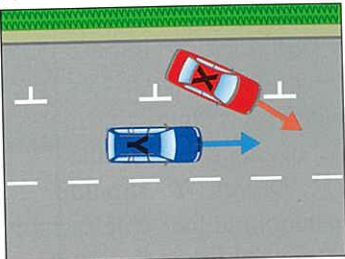
C. ROUNDABOUTS

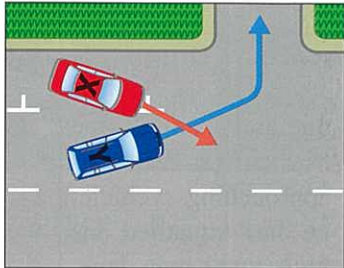
	SCENARIO	REASON(S)	X %	Y %
ROUNDABOUTS – Entering (Uncontrolled)				
17.	 <p>Diagram 1.54</p> <p>Vehicle X – Entering the roundabout from an adjoining road</p> <p>Vehicle Y – Moving along within the roundabout</p>	<p>Reason(s): Driver Y, already in the roundabout, has right of way but should keep a lookout for vehicles entering the roundabout from adjoining roads. Driver Y should also take evasive action to avoid a collision. Driver X should slow down or stop before entering the roundabout to give way to traffic approaching from the right.⁵⁰</p>	80	20
ROUNDABOUTS – Both drivers within				
18. (a)	 <p>Diagram 1.55</p> <p>Vehicle X – Changing lane from right to left/left to right</p> <p>Vehicle Y – Moving ahead within its own lane</p>	<p>Reason(s): Driver X should keep within his own lane and change lane only when (i) there is no approaching vehicle; (ii) he has signalled his intention to change lane; and (iii) it is safe to do so.⁵¹ Driver Y should keep a lookout for vehicles effecting a lane change and take evasive action to avoid a collision.</p>	80	20

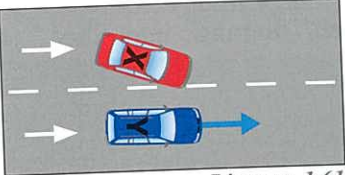
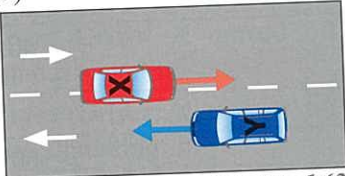
	SCENARIO	REASON(S)	X %	Y %
(b)	 <p>Diagram 1.56</p> <p>Vehicle X – Changing lane from right to left Vehicle Y – Changing lane from left to right</p>	Reason(s): Both drivers have an equal obligation to keep a proper lookout and change lane only when (i) there is no approaching vehicle; (ii) they have signalled their intention to change lane; and (iii) it is safe to do so. ⁵² Both drivers should also take evasive action to avoid a collision.		
	Where both drivers have/have not signalled their intention to change lane		50	50
	Where Driver X gave the necessary signal; Driver Y did not do so		40	60
	Where Driver Y gave the necessary signal; Driver X did not do so		60	40

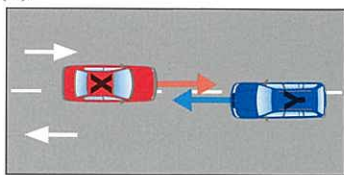
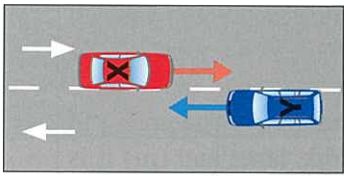
	SCENARIO	REASON(S)	X %	Y %
(c)	 <p>Diagram 1.57</p> <p>Where there are 2 lanes within the roundabout: Vehicle X – Exiting the roundabout from the inner lane Vehicle Y – Moving along the outer lane without exiting the roundabout</p>	Reason(s): Driver X should only exit the roundabout from the outer lane. Driver X should not move from the inner lane into the outer lane only on reaching the exit. He should have changed lane some distance before the exit. ⁵³ Driver Y should keep a lookout for vehicles effecting a lane change and take evasive action to avoid a collision.	80	20
(d)	 <p>Diagram 1.58</p> <p>Where there are 3 lanes within the roundabout: Vehicle X – Exiting the roundabout from the centre lane Vehicle Y – Moving along the outer lane without exiting the roundabout</p>	Reason(s): Driver Y should not travel in the outer lane if he is not exiting the roundabout at the nearest exit. Driver X should not exit the roundabout from the centre lane; he should not move from the centre lane into the outer lane only on reaching the exit, but should have changed lane some distance before the exit. ⁵⁴	50	50

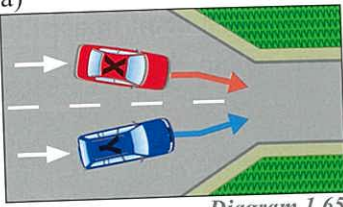
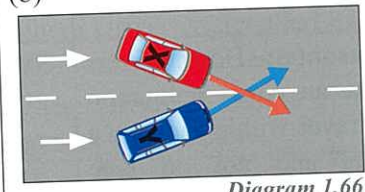
D. STRAIGHT ROADS

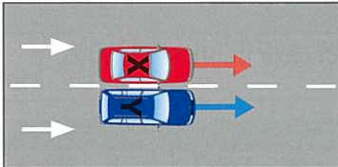
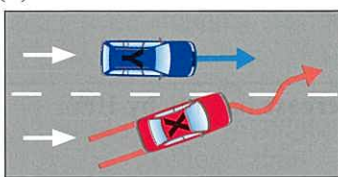
	SCENARIO	REASON(S)	X %	Y %
STRAIGHT ROADS				
19.	(a)  <i>Diagram 1.59</i>	Reason(s): Driver X, moving off from a stationary position, should keep a proper lookout and give way to approaching traffic. He should proceed only when (i) there is no passing/overtaking vehicle; (ii) he has given the proper signal; and (iii) it is safe to do so. Driver Y should keep a lookout for vehicles entering his path of travel and take evasive action to avoid a collision. ⁵⁵		
	Vehicle X – Moving off from stationary/parked position by the side of the road and merging into traffic			
	Vehicle Y – Moving straight ahead within its own lane			
	Where Driver X moved off without signalling		90	10
	Where Driver X moved off after signalling		80	20

	SCENARIO	REASON(S)	X %	Y %
	(b)  <i>Diagram 1.60</i>	Reason(s): Both drivers have an equal obligation to keep a proper lookout when filtering into the adjacent lane and should do so only when (i) there is no passing/overtaking vehicle; (ii) they have given the proper signal; and (iii) it is safe to do so. ⁵⁶		
	Vehicle X – Moving off from a stationary/parked position by the side of the road			
	Vehicle Y – Making a left turn across the path of Vehicle X to enter a side road			
	Where both drivers have/have not signalled their intention to enter the adjacent lane		50	50
	Where Driver X gave the necessary signal; Driver Y did not do so		40	60
	Where Driver Y gave the necessary signal; Driver X did not do so		60	40

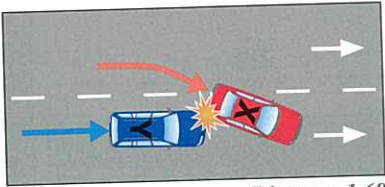
	SCENARIO	REASON(S)	X %	Y %
	STRAIGHT ROADS (With/Without lane markings and including collision at bends)			
20.	 <p><i>Diagram 1.61</i></p> <p>Vehicle X – Changing lane from left to right/right to left</p> <p>Vehicle Y – Moving straight ahead in the same direction within its own lane</p>	<p>Reason(s): Driver X should keep a proper lookout and change lane only when (i) there is no approaching vehicle; (ii) he has signalled his intention to change lane; and (iii) it is safe to do so.⁵⁷ Driver Y should keep a lookout for vehicles effecting a lane change and take evasive action to avoid a collision.⁵⁸</p>		
	Where Driver X signalled his intention to change lane		80	20
	Where Driver X did not give the necessary signal		90	10
21.	<p>(a)</p>  <p><i>Diagram 1.62</i></p> <p>Vehicle X – Encroaching into the adjacent lane/straddling lanes</p> <p>Vehicle Y – Moving straight ahead in the opposite direction within its own lane</p>	<p>Reason(s): Driver X should keep within his own lane.⁵⁹ Driver Y should keep a lookout for vehicles entering his path of travel and take evasive action to avoid a collision.</p>	90	10

	SCENARIO	REASON(S)	X %	Y %
	<p>(b)</p>  <p><i>Diagram 1.63</i></p> <p>Vehicle X – Encroaching into the adjacent lane/straddling lanes</p> <p>Vehicle Y – Encroaching into the adjacent lane/straddling lanes when approaching from the opposite direction</p>	<p>Reason(s): Both drivers have an equal obligation to keep within their own lanes.⁶⁰ They should keep a lookout for vehicles entering their path of travel and take evasive action to avoid a collision.</p>	50	50
	<p>(c)</p>  <p><i>Diagram 1.64</i></p> <p>Vehicle X – Travelling on lane marking</p> <p>Vehicle Y – Travelling on lane marking when approaching from the opposite direction, resulting in a side swipe</p>	<p>Reason(s): Both drivers have an equal obligation to travel within their own lanes and not on lane marking.⁶¹ They should keep a lookout for vehicles entering their path of travel and take evasive action to avoid a collision.</p>	50	50



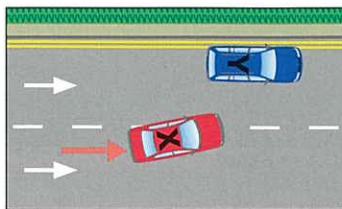
	SCENARIO	REASON(S)	X %	Y %
22.	(a)  <p>Diagram 1.65</p> <p>Vehicle X – Converging into a single lane by steering towards the right</p> <p>Vehicle Y – Converging into the same single lane by steering towards the left</p>	Reason(s): Both drivers have an equal obligation to keep a proper lookout for vehicles in the adjacent lane when merging into a single lane road. They should proceed only when it is safe to do so and should take evasive action to avoid a collision. ⁶²	50	50
	(b)  <p>Diagram 1.66</p> <p>Vehicle X – Changing lane from left to right</p> <p>Vehicle Y – Changing lane from right to left</p>	Reason(s): Both drivers have an equal obligation to keep a proper lookout and change lanes only when (i) there is no approaching vehicle; (ii) they have signalled their intention to change lane; and (iii) it is safe to do so. ⁶³		
	Where both drivers have/have not signalled their intention to change lanes		50	50
	Where Driver X gave the necessary signal; Driver Y did not do so		40	60
	Where Driver Y gave the necessary signal; Driver X did not do so		60	40

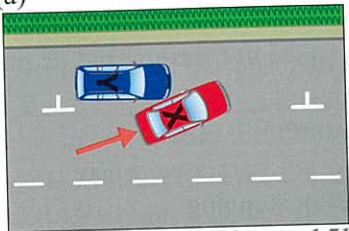
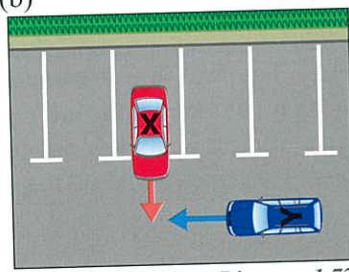
	SCENARIO	REASON(S)	X %	Y %
	(c)  <p>Diagram 1.67</p> <p>Vehicle X – Travelling on lane marking</p> <p>Vehicle Y – Travelling on lane marking in the same direction, next to Vehicle X resulting in a side swipe</p>	Reason(s): Both drivers have an equal obligation to travel within their own lanes and not on lane marking. They should keep a lookout for vehicles entering their path of travel and take evasive action to avoid a collision.	50	50
	(d)  <p>Diagram 1.68</p> <p>Vehicle X – Driver X losing control of vehicle and encroaching into the path of Vehicle Y in the adjacent lane</p> <p>Vehicle Y – Moving straight ahead within its own lane</p>	Reason(s): Driver X must be in full control of his vehicle at all times. ⁶⁴ Driver Y could not have foreseen Vehicle X skidding into his path. Driver Y is not contributorily negligent if he is unable to extricate himself from a dangerous situation in the agony of the moment. ⁶⁵	100	0

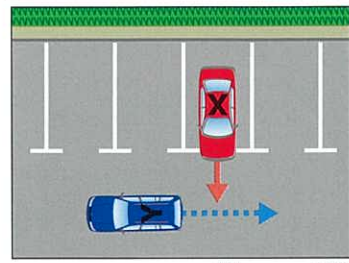
STRAIGHT ROADS: FACTORS AFFECTING DRIVER Y'S LIABILITY

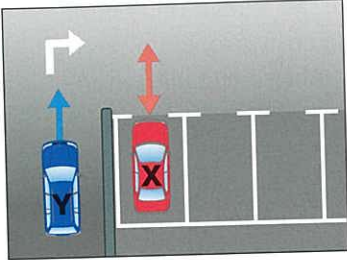
Factor present	How Driver Y's liability may be affected
In Scenarios 19.(a), 20 and 21.(a), Driver Y is travelling at an excessive speed, beyond the speed limit ⁶⁶	Increase liability by 10%.
In Scenarios 19.(a), 19.(b), 20, 22.(a) and 22.(b), where Vehicle X has entered/substantially entered the lane or has completed/substantially completed the lane change when Vehicle Y collided into the rear/towards the rear of Vehicle X ⁶⁷	Increase liability by 5-10%. Reason(s): Driver Y would have greater opportunity to avoid the collision than if Driver X has only just begun to change lanes.
 <p style="text-align: center;">Diagram 1.69</p>	
In Scenarios 19.(a), 20 and 21.(a), Driver Y has failed to keep a proper lookout for Vehicle X despite ample warning of the latter's encroachment ⁶⁸	Increase liability by 10%.

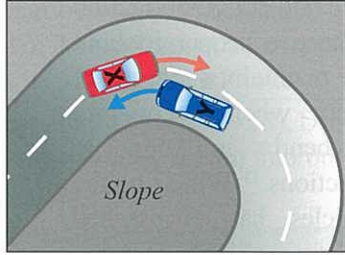
E. CAR PARKS

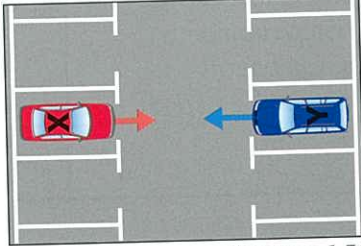
	SCENARIO	REASON(S)	 X %	 Y %	
	CAR PARKS (including parking space not designated as parking lot)				
23.	 <i>Diagram 1.70</i> Vehicle X – Moving straight ahead Vehicle Y– Parked/stopped by the roadside where parking/ stopping is not permitted (as denoted by 2 continuous yellow lines or a single yellow zig-zag line or a continuous centre white line (no parking) or double yellow zig-zag lines (no parking and stopping))	Reason(s): Driver Y must not park/stop where parking/stopping is prohibited. ⁶⁹ Driver Y should also turn on his hazard lights to warn other motorists of the presence of his stationary vehicle. Driver X travelling on the road should keep a lookout for obstructions such as stationary vehicles and take evasive action to avoid a collision. ⁷⁰			
	Where Driver Y has turned on his hazard lights		80	20	
	Where Driver Y has not turned on his hazard lights		70	30	

	SCENARIO	REASON(S)	X %	Y %
24.	<p>(a)</p>  <p><i>Diagram 1.71</i></p> <p>Vehicle X– Moving straight ahead or driving/reversing into a parking lot in front of/behind Vehicle Y</p> <p>Vehicle Y– Parked within a designated parking lot</p>	<p>Reason(s): Driver X should, when moving/reversing, keep a proper lookout and maintain a safe distance from parked vehicles.</p>	100	0
	<p>(b)</p>  <p><i>Diagram 1.72</i></p> <p>Vehicle X – Reversing/moving (head-first) out of a parking lot; or Adjusting/reversing into a parking lot</p> <p>Vehicle Y – Moving straight ahead on the driveway of the car park</p>	<p>Reason(s): Generally, Driver Y on the driveway of the car park has right of way but should keep a lookout for vehicles moving into/out of parking lots. Driver Y should also take evasive action to avoid a collision. Driver X when moving into/out of a parking lot should give way to vehicles approaching along the driveway.</p>	80	20

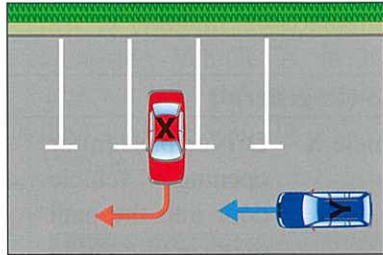
	SCENARIO	REASON(S)	X %	Y %
	<p>(c)</p>  <p><i>Diagram 1.73</i></p> <p>Vehicle X – Reversing/moving (head-first) out of a parking lot; or Adjusting/reversing into a parking lot</p> <p>Vehicle Y – Reversing along the driveway of the car park</p>	<p>Reason(s): Both drivers have an equal obligation to keep a proper lookout for other vehicles within the carpark.⁷¹ Driver X (if adjusting/reversing) and Driver Y should signal their intention to reverse. Both drivers should take evasive action to avoid a collision.</p>	50	50

	SCENARIO	REASON(S)	X %	Y %
(d)	 <p>Diagram 1.74</p> <p>With or without pillar</p> <p>Vehicle X – Reversing/moving (head-first) out of a parking lot; or Adjusting/reversing into a parking lot</p> <p>Vehicle Y – Going down/up a slope and rounding a corner; or Rounding a corner</p>	<p>Reason(s): Generally, Driver Y on the driveway of the car park has right of way. However, he should slow down on turning around a corner and warn other drivers of the presence of his vehicle. Driver X on moving into/out of a parking lot should (i) give way to vehicles approaching along the driveway; (ii) foresee that vehicles following the directional arrow on the driveway would turn around the corner; and (iii) proceed only when it is safe to do so.</p>	70	30

	SCENARIO	REASON(S)	X %	Y %
25. (a)	 <p>Diagram 1.75</p> <p>Vehicle X – Negotiating right bend while moving up/down slope and encroaching into the path of Vehicle Y which is moving within its own lane</p> <p>Vehicle Y – Negotiating left bend in the opposite direction while moving down/up slope</p>	<p>Reason(s): Driver X should keep a proper lookout and drive within his own lane so as to maintain a margin of safety when negotiating a bend.⁷² Driver Y should keep a lookout for vehicles entering his path of travel and take evasive action to avoid a collision.</p>	90	10

	SCENARIO	REASON(S)	X %	Y %
	(b) Both drivers claim that the other encroached into his path while negotiating the bend in the opposite direction and there is a conflict of versions.	Reason(s): Both drivers have an equal obligation to keep a proper lookout and maintain a margin of safety when negotiating a bend in opposite directions. ⁷³ Which of the vehicles has encroached into the path of the other cannot be determined in the absence of evidence in favour of either party. For example, there are no witnesses. Neither is there any video or CCTV footage capturing the accident. (Solely for settlement purposes)	50	50
26.	 <p style="text-align: center;"><i>Diagram 1.76</i></p> <p>Vehicle X – Reversing / moving (head-first) out of a parking lot</p> <p>Vehicle Y – Reversing / moving (head-first) out of a parking lot</p>	Reason(s): Both drivers have an equal obligation to keep a proper lookout for other vehicles as they move out of their respective parking lots. The driver(s) should signal their intention when reversing. Both drivers should take evasive action to avoid a collision.	50	50

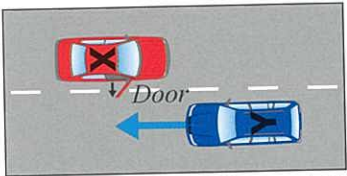
CAR PARKS: FACTORS AFFECTING DRIVER Y'S LIABILITY



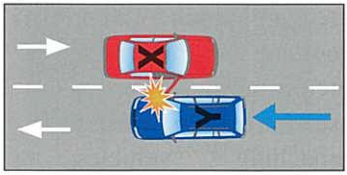
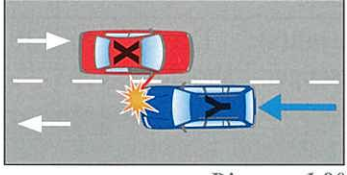
Factor present	How Driver Y's liability may be affected
In Scenarios 24.(b), 24.(d) and 25.(a), Driver Y is travelling at an excessive speed, beyond the speed limit	Increase liability by 10%.
In Scenarios 24.(b) and 24.(d), Driver X has substantially driven into/out of the parking lot  <p style="text-align: center;"><i>Diagram 1.77</i></p>	Increase liability by 10-30%. Reason(s): Driver Y should maintain a margin of safety and wait till Driver X has completely driven into/out of the parking lot before proceeding.

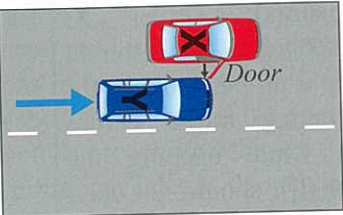
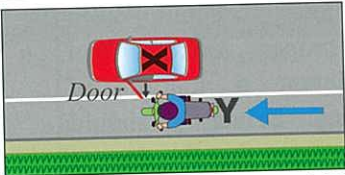
F. OPENING OF VEHICLE DOORS

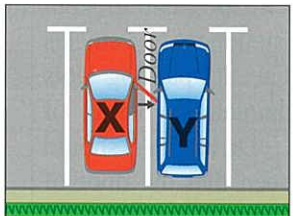
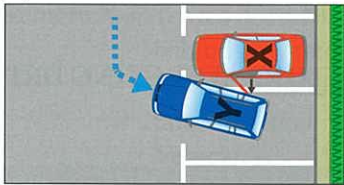
GENERAL NOTES

The general position is that a driver must exercise reasonable control over the actions of his passenger(s). He should stop or prevent his passenger from opening the vehicle door if the opened/opening door will pose an obstruction or danger to approaching vehicles. A driver who knows or ought to have known that his passenger intends to open the vehicle door will be liable to the extent indicated in the scenarios below if a collision is caused by the passenger in opening the door. See also the notes at the end of Section F hereinbelow on 'Opening of Vehicle Doors: Factors Affecting Drivers' Liability'.

OPENING OF VEHICLE DOORS (In general)		
27.	 <p style="text-align: center;">Diagram 1.78</p>	<p>Vehicle X – Driver/passenger opening vehicle door into the path of oncoming traffic on the offside, regardless whether driver/passenger is inside/outside the vehicle</p> <p>Vehicle Y – Moving straight ahead, beside the stationary Vehicle X on the offside</p>

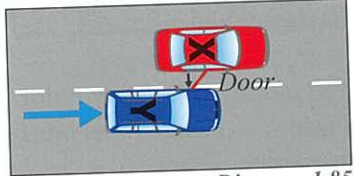
	SCENARIO	REASON(S)	 X %	 Y %
(a)	 <p style="text-align: center;">Diagram 1.79</p> <p>Where the door is opened just as Vehicle Y is passing alongside Vehicle X in the adjacent lane and the opening door collides into the side of Vehicle Y</p>	<p>Reason(s): Driver X/passenger (i) should keep a proper lookout for oncoming traffic before and while opening the door (ii) should not open the door so wide that it encroaches into the adjacent lane, obstructing/causing danger to vehicles passing alongside.⁷⁴</p>	100	0
(b)	 <p style="text-align: center;">Diagram 1.80</p> <p>Where Vehicle Y, travelling in the adjacent lane, collides into an opened door, as opposed to Driver X/passenger opening the door while Vehicle Y is passing alongside</p>	<p>Reason(s): Driver Y, proceeding towards Vehicle X, should keep a proper lookout and maintain a margin of safety. Driver Y should have seen that the door is already open and should take evasive action to avoid a collision. Driver X/passenger should not (i) open the door so wide that it encroaches into the adjacent lane, obstructing/causing danger to passing vehicles; and (ii) keep the door open longer than is necessary.⁷⁵</p>	50	50

	SCENARIO	REASON(S)	X %	Y %
28.	 <p><i>Diagram 1.81</i></p> <p>Where the door is opened within Vehicle X's lane and Vehicle Y, travelling on the right of Vehicle X in the same lane or encroaching into Vehicle X's lane, collides into the opened/opening door</p>	Reason(s): Driver X/passenger should keep a lookout for oncoming vehicles and not obstruct/cause danger to passing/approaching vehicles. Driver Y should (i) travel in the adjacent lane and not overtake Vehicle X by passing alongside in the same lane (ii) keep a proper lookout and foresee the opening of door(s) on the offside of a stationary vehicle.	30	70
29.	 <p><i>Diagram 1.82</i></p> <p>Vehicle X – Driver/passenger opening vehicle door on the nearside, regardless whether driver/passenger is inside/outside the vehicle</p> <p>Motorcyclist – Moving straight (Vehicle Y) ahead, beside the stationary Vehicle X on the nearside</p>	Reason(s): Driver X/passenger should keep a lookout for oncoming vehicles and not obstruct/cause danger to passing/approaching vehicles. ⁷⁶ Motorcyclist should not overtake Vehicle X from the left by squeezing through the space between the kerb and the stationary vehicle. Motorcyclist, approaching from the rear, should (i) keep a proper lookout; and (ii) foresee the opening of passenger door(s) on the nearside.	30	70

OPENING OF VEHICLE DOORS (In car parks)				
30.	 <p><i>Diagram 1.83</i></p>	Vehicle X – Driver/passenger opening vehicle door while Vehicle X is stationary in a car park, regardless whether driver/passenger is inside/outside the vehicle Vehicle Y – In adjacent parking lot		
	SCENARIO	REASON(S)	X %	Y %
	(a) Where Vehicle Y is stationary, parked in an adjacent parking lot	Reason(s): Driver X/passenger must ensure that vehicle door does not come into contact with the adjacent vehicle.	100	0
	(b)  <p><i>Diagram 1.84</i></p> <p>Where the door is opened just as Vehicle Y is moving into/out of adjacent parking lot and the opening door collides into Vehicle Y</p>	Reason(s): Driver Y should keep a proper lookout for stationary vehicles in adjacent parking lots and maintain a margin of safety. Driver X/passenger should keep a proper lookout and not open the door so wide as to obstruct/cause danger to adjacent vehicles.	50	50



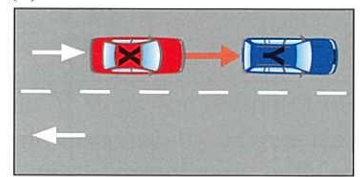
<p>(c) Where Vehicle Y, moving into/out of adjacent parking lot, collides into an opened door, as opposed to Driver X/passenger opening the door while Vehicle Y is moving alongside</p>	<p>Reason(s): Driver Y should keep a proper lookout for stationary vehicles in adjacent parking lots and maintain a margin of safety. Driver Y should have seen that the door of Vehicle X is already open and take evasive action to avoid a collision. Driver X/passenger (i) should not open the door so wide as to obstruct/cause danger to the vehicle in the adjacent parking lot; and (ii) should keep a proper lookout and close the door upon indication that Vehicle Y would move into/out of the adjacent parking lot.⁷⁷</p>	20	80
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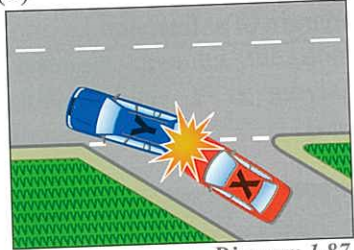
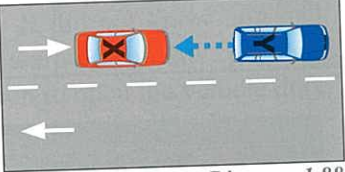
OPENING OF VEHICLE DOORS: FACTORS AFFECTING DRIVERS' LIABILITY

Factor present	How drivers' liability may be affected
<p>Driver X did not know and had no prior warning of his passenger's intention to open the vehicle door⁷⁸</p>  <p style="text-align: center;"><i>Diagram 1.85</i></p>	<p>Driver X is not liable for the accident.</p> <p>Reason(s): Driver X could not have taken reasonable steps to prevent or stop his passenger from opening the vehicle door.</p>

<p>In Scenario 27.(a), where Vehicle Y is travelling very close to Vehicle X⁷⁹</p>	<p>Driver Y's liability should be increased by 10%.</p> <p>Reason(s): Driver Y should maintain a margin of safety.</p>
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G. FRONT-TO-REAR COLLISIONS/REVERSING

	SCENARIO	REASON(S)	 X %	 Y %
FRONT-TO-REAR COLLISIONS/REVERSING				
31.	<p>(a)</p>  <p style="text-align: center;"><i>Diagram 1.86</i></p> <p>Vehicle X – Travelling behind Vehicle Y and colliding into the rear of Vehicle Y</p> <p>Vehicle Y – Stationary / travelling straight ahead in front of Vehicle X</p>	<p>Reason(s): Driver X travelling behind Vehicle Y must keep a safe distance.⁸⁰</p>	100	0

	SCENARIO	REASON(S)	X %	Y %
	<p>(b)</p>  <p><i>Diagram 1.87</i></p> <p>An example of a common scenario:</p> <p>Vehicle X – Travelling behind Vehicle Y along a slip road and entering into a major road. Colliding into the rear of Vehicle Y</p> <p>Vehicle Y – Stationary / travelling in front of Vehicle X along a slip road and entering into a major road</p>	<p>Reason(s): Driver X travelling behind Vehicle Y must keep a safe distance.</p>	100	0
32.	 <p><i>Diagram 1.88</i></p> <p>Vehicle X – Stationary / travelling behind Vehicle Y</p> <p>Vehicle Y – Stopping and reversing into Vehicle X</p>	<p>Reason(s): Driver Y, when reversing, must keep a lookout for vehicles at/ approaching from the rear.</p>	0	100

FRONT-TO-REAR COLLISIONS: FACTORS AFFECTING DRIVER Y'S LIABILITY

Factor present	How Driver Y's liability may be affected
Vehicle Y has stopped or slowed down suddenly	Increase liability by 10%.
Vehicle Y, having moved forward from a stationary position, stops suddenly (for example, when entering a major road from a minor/slip road or at a traffic light junction when the light has changed from "red" to "green")	Increase liability by 10% to 20%.
Vehicle Y stops for reason(s) other than in response to exigencies of traffic or in compliance with road signs or traffic lights or to give way to pedestrians at pedestrian crossings ⁸¹	Increase liability by 50% to 80%.
Vehicle Y stops suddenly, beyond the "stop" line upon the traffic lights changing from "green" to "amber"	<p>Increase liability by 20%.</p> <p>Reason(s): Driver Y, having crossed the "stop" line, should continue to cross the junction. Driver X should slow down to stop in anticipation of the traffic light changing from "amber" to "red".</p>

H. CHAIN COLLISIONS

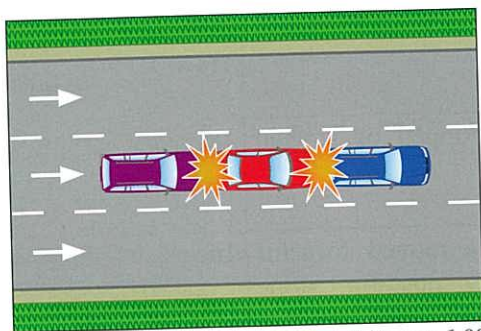


Diagram 1.89

As a general rule, in chain collisions involving three or more vehicles in a straight line, liability is ascertained with reference to the damage pattern of all the vehicles. In a straight line chain collision, damage is generally found at the front and rear of the vehicles with the exception of the first vehicle which will not have frontal damage and the last vehicle in the chain which will not have rear damage. Hence, once a chain collision happens, it is important for the drivers involved to take photographs that capture the full frontal and rear views of each of the vehicles at the scene of the accident. By comparing the nature and extent of the damage sustained by each of the vehicles as depicted in the photographs and applying the guidelines set out below, it is usually possible in the majority of cases to draw fairly accurate conclusions as to which of the driver(s) is/are to bear the major share of blame for the accident.

Assessment of liability in straight-line chain collisions

- (a) Generally, no liability is attached to the driver of the first vehicle in the chain if he is travelling straight ahead or has stopped within his own lane at the time of the chain collision. Insofar as it relates to the first vehicle, a chain collision is similar to a front-to-rear collision (shown in Scenario 31.(a)). However, if the driver of the first vehicle has contributed to the chain collision in the manner described above in “Front-to-Rear Collisions: Factors Affecting Driver Y’s Liability”, then the relevant percentage of liability indicated thereunder will apply.

(b)

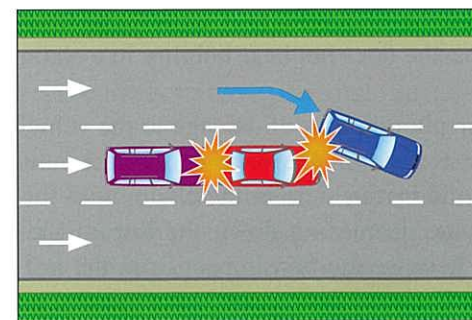


Diagram 1.90

Where the first vehicle has cut in from another lane, causing the vehicles behind it to be involved in a chain collision, the driver of the first vehicle should bear 50% to 60% liability. This assessment of liability applies, even if there is no impact against the first vehicle.

- (c) Apportionment of liability amongst the other vehicles in the chain, excluding the first vehicle, involves a consideration as to whether
- (i) the accident was caused by the last vehicle in the chain, with the initial impact from the last vehicle against the second last vehicle causing subsequent collisions down the line, ending with the second vehicle in the chain colliding into the first (‘Scenario (A)’); or
 - (ii) two or more of the vehicles were already involved in a ‘prior collision(s)’ before the involvement of the last vehicle. In this scenario, a collision would already have happened amongst the vehicles in front, before the arrival of the last vehicle to join the chain (‘Scenario (B)’).

Chain collision – Scenario (A)

The chain collision is likely to have been caused by the last vehicle in the chain (Scenario (A) above) if:

- (i) the driver of the first vehicle in the chain states in his/her Singapore Accident Report, police report or any other written statement that he/she felt one impact during the collision. The

driver of the first vehicle is akin to an independent witness as often, he/she does not bear liability in a chain collision;

- (ii) from the photographs of damage to the vehicles, the most severe damage is seen on the front of the last vehicle and the rear of the second last vehicle in the chain, with the degree of severity of damage decreasing down the line of the vehicles involved. This is because the first impact from the last vehicle carries the greatest force and hence causes the greatest resultant damage; the degree of force declines with each vehicle that is pushed forward in turn by the initial impact.

In Scenario (A) above, the intermediate vehicle(s) (i.e. vehicles positioned between the first and last vehicles in the chain) should each bear 10% liability if it/they had stopped suddenly, with the last vehicle bearing the remaining bulk of liability adding up to 100% in total.⁸²

The following is an illustration of how liability may be apportioned in Scenario (A) above, where the claimant is the owner/driver of the first vehicle:

Position of Vehicle in Chain Collision	Nature of Involvement	Apportionment of liability
1 st Vehicle	Stopped suddenly	10%
2 nd Vehicle	Stopped suddenly	10%
3 rd Vehicle	Stopped in time, without sudden stopping	0%
Last Vehicle	Collided into the rear of the 3 rd Vehicle, the impact of which pushed the 3 rd Vehicle forward to hit the rear of the 2 nd Vehicle which was in turn pushed forward to hit the rear of the 1 st Vehicle	80%

Chain collision – Scenario (B)

A prior collision(s) is/are likely to have occurred (Scenario (B) above) if:

- (i) the driver of the first vehicle in the chain states in his/her Singapore Accident Report, police report or any other written statement that he/she felt two or more impacts during the collision. The driver of the first vehicle is akin to an independent witness as often, he/she does not bear liability in a chain collision;
- (ii) the photographs of damage to the vehicles do not show the degree of severity of damage decreasing down the line of the vehicles in the chain; rather, depending on the number of prior collisions, the most severe damage is seen on the front and the rear of two or more of the intermediate vehicles (possibly including the rear of the first vehicle) that were involved in the prior collision(s).

In Scenario (B) above, the intermediate vehicle(s) with the most severe frontal damage should bear the greatest proportion of liability. Other intermediate vehicle(s) which has/have not caused the prior collision(s) should each bear 10% liability if it/they had stopped suddenly. The last vehicle in the chain should bear liability in accordance with the degree to which it had contributed to the claimant's damage, adding up to 100% in total.

The following is an illustration of how liability may be apportioned in Scenario (B) above, where the claimant is the owner/driver of the first vehicle:

Position of Vehicle in Chain Collision	Nature of Involvement	Apportionment of liability
1 st Vehicle	Stopped, without sudden stopping	0%
2 nd Vehicle	Stopped suddenly; no prior collision with 1 st Vehicle	10%
3 rd Vehicle	Involved in prior collision by hitting the rear of the 2 nd Vehicle, the impact of which pushed the 2 nd Vehicle to hit the rear of the 1 st Vehicle	60%

4 th Vehicle	Stopped in time, without sudden stopping	0%
Last Vehicle	Collided into the rear of the 4 th Vehicle causing serious damage, the impact of which pushed the 4 th Vehicle forward to hit the rear of the 3 rd Vehicle and continuing in turn down the line. Since the Last Vehicle is separated from the 1 st Vehicle by three intervening vehicles, the collision caused by the Last Vehicle could not have contributed significantly to the 1 st Vehicle's damage	30%

Break in the chain of causation

- (d) In certain instances, a break in the chain may be created where two or more collisions are separate and distinct from one another. In this scenario, only the driver(s) who had effectively caused damage to the claimant's vehicle and/or injury to the claimant will be liable. This is well illustrated in the case of *Erin Brooke Mullin v Rosli Bin Salim* [2012] SGHC 27 where a car overtook a school bus and cut into its path suddenly. As a result, the school bus collided into the rear of the car (the first accident). Instead of braking and stopping, the car driver continued to step on the accelerator and collided into a third and fourth vehicle and also injured a pedestrian (the second accident). The High Court found the car driver fully liable for the pedestrian's injuries. The school bus driver was absolved from liability because the car driver's act of stepping on the accelerator, instead of braking, constituted an intervening act that effectively broke the chain of causation, if there was indeed a causal link between the first and second accidents.

I. INTRODUCTION

Drivers have a duty to avoid causing harm to pedestrians. This duty entails "an avoidance of excessive speed, keeping a good lookout, observing traffic rules and signals and so on".⁸³ Likewise, pedestrians owe a corresponding duty as road users to take reasonable care for their own safety.⁸⁴ A breach of their respective duties will inevitably affect the apportionment of liability in cases where the injured pedestrian makes a claim for compensation. This section will first set out some general principles before turning to specific case scenarios.

II. GENERAL PRINCIPLES

A. Responsibilities of Drivers

(I) Driving generally

Drivers have a general duty of care to keep a proper lookout and not to drive at an excessive speed.

(II) At pedestrian crossings

Pedestrians have the right of way at pedestrian crossings.⁸⁵ In addition, drivers approaching a pedestrian crossing are "to keep a proper lookout to see that there are no pedestrians on it or about to enter it".⁸⁶ They also have to abide by the Road Traffic Act (Cap 276, Rev Ed 2004) ("Road Traffic Act"), the Road Traffic Rules (Cap 276, R 20, Rev Ed 1999) ("Road Traffic Rules"), the Road Traffic (Pedestrian Crossings) Rules (Cap 276, R 24, Rev Ed 1990) ("Pedestrian Crossings Rules") and the Highway Code (Cap 276, R 11, 1990 Rev Ed) ("Highway Code").

For example, when a driver approaches a pedestrian crossing, he shall proceed at such speed that will enable him to stop his vehicle before reaching the crossing unless he can see that there is no pedestrian at the crossing.⁸⁷

When a driver is at or approaching a pedestrian crossing where traffic is not being controlled by a police officer or light signals, he shall allow free and uninterrupted passage to any pedestrian who is either crossing or is starting to cross the road.⁸⁸ At such crossings, every pedestrian shall have the right of way over vehicles.⁸⁹

When a driver is at or approaching a pedestrian crossing at a road intersection or junction where traffic is controlled by a police officer or by light signals, he shall allow free and uninterrupted passage to any pedestrian who is either about to enter or has entered such a crossing. This is notwithstanding that the driver may have already received a signal to proceed either from the light signals or the police officer.⁹⁰ When the signal to stop is given, the driver shall give way to pedestrians who are crossing.⁹¹

When approaching a pedestrian crossing, a driver shall slow down and not overtake other vehicles.⁹² He shall also be ready to slow down or stop to give way to pedestrians, signal to other drivers his intention to slow down or stop and allow himself more time to stop when the road is wet.⁹³ In the event that there is any obstruction at that material time that limits his view, the driver shall adjust his speed to the conditions of the road and reduce his speed of travel accordingly.⁹⁴

B. Responsibilities of Pedestrians

A pedestrian has a duty to take care of his or her own safety. A pedestrian may be contributorily negligent if he or she "ought to have objectively foreseen that his failure to act prudently could result in hurting himself."⁹⁵

A pedestrian also has the duty to abide by the Pedestrian Crossings Rules and the Highway Code.

For example, any pedestrian who is within 50 metres of either side of a pedestrian crossing, or within such shorter distance, as indicated by traffic signs shall make use of the pedestrian crossing for the purpose of crossing the road.⁹⁶ A pedestrian shall not remain upon any pedestrian crossing longer than it is necessary for the purpose of crossing from one side of the road to the other.⁹⁷

When there is an intersection or a pedestrian crossing in the vicinity, a pedestrian shall only cross the road at the intersection or at the marked pedestrian crossing. He should avoid crossing at other places in heavy traffic. When crossing, he should always use the shortest possible route, which is from one side to the other. He should also ensure that he has a clear view of the

road both ways and take extra care if his view is limited by stationary vehicles or other obstruction.⁹⁸ At a pedestrian crossing where it is designated by two parallel yellow lines drawn across a road at a junction or an intersection, a pedestrian shall cross parallel with the flow of traffic.

Where the pedestrian crossing is designated by a signalised traffic sign, a pedestrian shall only cross when the "green man" in the signalised traffic sign is illuminated.⁹⁹ Further, the pedestrian shall wait on the footway until the traffic in front of which he intends to cross has come to a standstill.¹⁰⁰ If the traffic lights have a "cross" signal or a "green man" signal, the pedestrian shall not cross until the signal appears. If there is no "cross" signal or "green man" signal, the pedestrian shall only cross when the green light for pedestrians is illuminated.¹⁰¹

When crossing at a pedestrian crossing, a pedestrian shall not step onto the road until he sees a reasonable gap in the traffic. Moreover, he must be alert to vehicles being driven in an inconsiderate manner and without care or attention while crossing.¹⁰² Before a pedestrian steps off the kerb onto a pedestrian crossing, he shall allow approaching vehicles ample time to give way, especially if the road is wet.¹⁰³ This is because a motor vehicle would have to travel a considerable distance before it stops. A car travelling at a speed of 50km/h would have to travel approximately 23 metres before it stops if the road is dry.¹⁰⁴ Once on the pedestrian crossing, the pedestrian shall look to his right and left as he crosses.¹⁰⁵

A pedestrian should as far as possible use a pavement or footpath when walking. If there is no footpath and the pedestrian has to walk along the road, then when doing so, he should always walk facing oncoming traffic and not with his back towards it. He should also walk as close as possible to the edge of the road so as to enable him to step off the road to avoid any danger. Further, he should never step onto the road suddenly without looking.¹⁰⁶ If a pedestrian walks on an unlighted road at night, he should always wear or carry something white to make him more visible to drivers.¹⁰⁷

III. CONSEQUENCES OF BREACH BY PEDESTRIANS



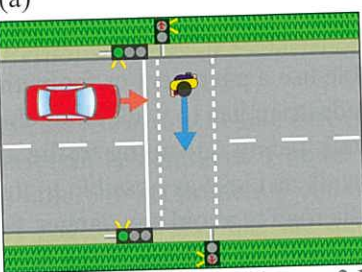
A breach of the Pedestrian Crossings Rules constitutes an offence punishable under s121(6) of the Road Traffic Act. For pedestrians, the fact that a particular act is an offence indicates that the inherent danger involved may be greater. This means that a pedestrian who has committed an offence may have to assume a higher degree of contributory negligence for civil claims.¹⁰⁸



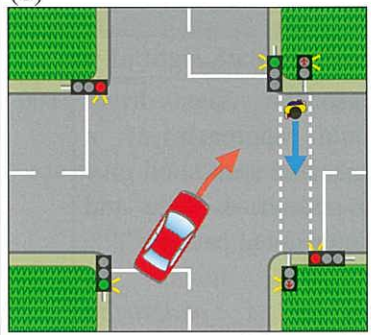
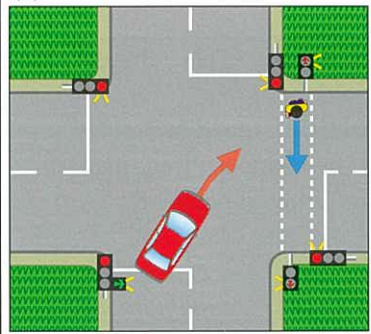
In contrast, a contravention of the Highway Code will not render the driver or pedestrian liable to criminal proceedings of any kind. The Highway Code is a code of conduct and not a digest of traffic laws. It lays stress on the responsibilities of road users towards each other as stated in Part 1 No. 1 of the Highway Code. Yet, such a breach may still be relied upon to establish liability.¹⁰⁹ The severity of the consequence for liability apportionment will depend on factors such as:

- the particular provision of the Highway Code breached;
- the circumstances in which the breach occurred;
- whether the breach was conscious or inadvertent.¹¹⁰



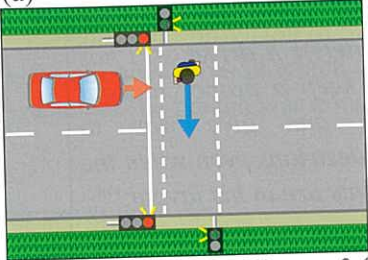
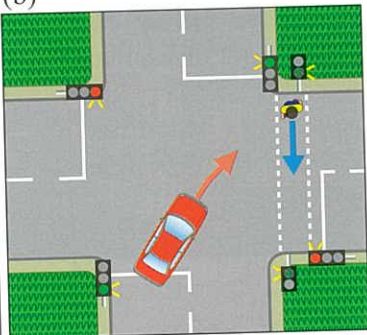
IV. SCENARIOS



A. Signalised Pedestrian Crossing – Pedestrian has no right of way

	SCENARIO	REASON(S)	 %	 %
	PEDESTRIAN CROSSING (Pedestrian has no right of way)			
1.	(a)  <i>Diagram 2.1</i> Vehicle – Going straight, on “green” Pedestrian – Crossing road, on “red man”	Reason(s): The pedestrian should not have crossed when the “red man” is lit. ¹¹¹ Note(s): A driver still has to keep a proper lookout for and give way to pedestrians even when the lights are in his favour. ¹¹²	20	80



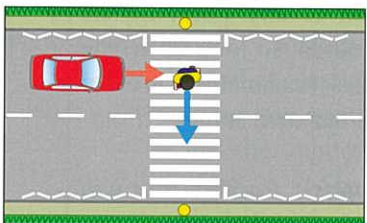
	SCENARIO	REASON(S)	 %	 %
	(b)  <i>Diagram 2.2</i> Vehicle – Turning on “green” Pedestrian – Crossing road, on “red man”	Reason(s): The pedestrian should not have crossed when the “red man” is lit. ¹¹³ Note(s): A driver still has to keep a proper lookout for and give way to pedestrians even when the lights are in his favour. ¹¹⁴	30	70
	(c)  <i>Diagram 2.3</i> Vehicle – Turning on “green arrow” Pedestrian – Crossing road, on “red man”	Reason(s): The pedestrian should not have crossed when the “red man” is lit. ¹¹⁵ The driver has complete right of way but should still keep a proper lookout for pedestrians crossing at the pedestrian crossing.	10	90

B. Signalised Pedestrian Crossing – Pedestrian has right of way



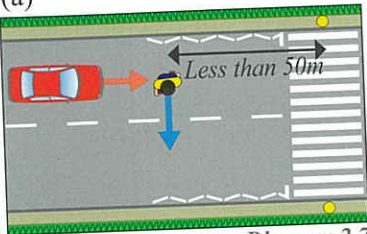
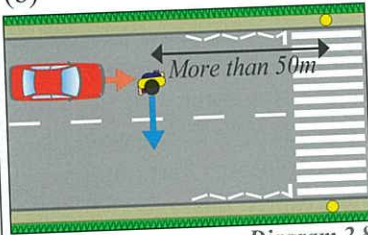
	SCENARIO	REASON(S)	 %	 %
	PEDESTRIAN CROSSING (Pedestrian with right of way)			
2.	<p>(a)</p>  <p>Diagram 2.4</p> <p>Vehicle – Going straight, on “red” and speeding</p> <p>Pedestrian – Crossing road, on “green man”</p>	<p>Reason(s): The driver should approach at a reasonable speed and give the pedestrian “free and uninterrupted passage”.¹¹⁶</p> <p>Note(s): A pedestrian will be contributorily negligent if he/she fails to take reasonable care for his/her own safety (by checking it is safe to cross, etc).¹¹⁷</p>	100	0
	<p>(b)</p>  <p>Diagram 2.5</p> <p>Vehicle – Turning, on “green”</p> <p>Pedestrian – Crossing road, on “green man”</p>	<p>Reason(s): The driver should approach at a reasonable speed and give the pedestrian “free and uninterrupted passage”.¹¹⁸</p> <p>Note(s): A pedestrian will be contributorily negligent if he fails to take reasonable care for his own safety (by checking it is safe to cross, etc).¹¹⁹</p>	80	20



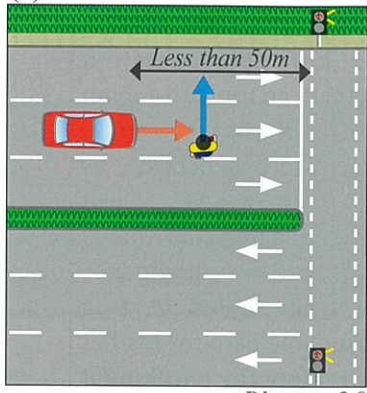
	SCENARIO	REASON(S)	 %	 %
	<p>(c)</p> <p>Vehicle – Claims that the “green arrow” is showing in his favour</p> <p>Pedestrian – Claims that the “green man” is showing in his favour</p> <p>There is a conflict of versions as to the state of the traffic lights</p>	<p>Reason(s): The state of the traffic lights cannot be determined in the absence of evidence in favour of either party. For example, there are no independent witnesses or any video/CCTV footage capturing the accident.</p> <p>(Solely for settlement purposes)</p>	50	50



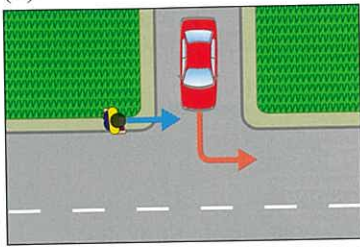
C. Unsignalised Pedestrian Crossing

	SCENARIO	REASON(S)	 %	 %
3.	 <p>Diagram 2.6</p> <p>Vehicle – Going straight, approaching zebra crossing</p> <p>Pedestrian – Crossing road, on zebra crossing</p>	<p>Reason(s): The driver should approach at a reasonable speed and give the pedestrian “free and uninterrupted passage”.¹²⁰</p> <p>Note(s): A pedestrian will be contributorily negligent if he fails to take reasonable care for his own safety (by checking it is safe to cross, etc).¹²¹</p>	80	20



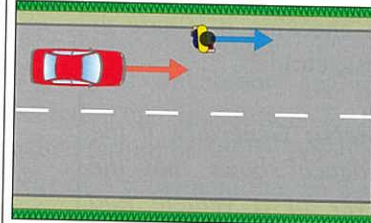
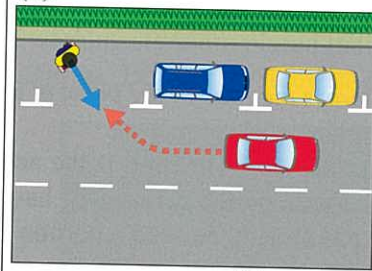
D. Crossing Away from Pedestrian Crossing



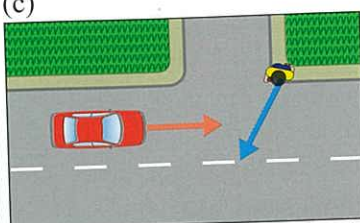
	SCENARIO	REASON(S)	 %	 %
	AWAY FROM PEDESTRIAN CROSSING			
4.	<p>(a)</p>  <p>Diagram 2.7</p> <p>Vehicle – Moving Straight Pedestrian – Crossing road, within 50m of pedestrian crossing</p>	<p>Reason(s): The pedestrian should have crossed the road at the pedestrian crossing instead.¹²²</p>	50	50
	<p>(b)</p>  <p>Diagram 2.8</p> <p>Vehicle – Moving Straight Pedestrian – Crossing road, more than 50m from pedestrian crossing</p>	<p>Reason(s): The pedestrian may choose to cross the road at any point he/she chooses, so long as he/she takes reasonable care for his/her own safety.¹²³</p> <p>Note(s): Factors that will shift liability in favour of the driver, include: the pedestrian did not keep a proper lookout for oncoming traffic; the pedestrian dashes across the road suddenly; the pedestrian had notice of the vehicle but proceeded regardless.</p>	70	30

	SCENARIO	REASON(S)	 %	 %
	<p>(c)</p>  <p>Diagram 2.9</p> <p>Crossing from centre divider to the side of the road</p> <p>Vehicle – Moving Straight along the centre lane of a 3-lane road Pedestrian – Have already crossed at least 1 lane of the road from the centre divider. The pedestrian did not use pedestrian crossing located less than 50m away¹²⁴</p>	<p>Reason(s): The pedestrian has already crossed a portion of the road from the centre divider and the driver should have been able to see the pedestrian crossing the road if he had taken reasonable care like not driving at an excessive speed.</p>	70	30

	SCENARIO	REASON(S)	 %	 %
(d)	 <p><i>Diagram 2.10</i></p> <p>Vehicle – Turning in/out of road/building grounds</p> <p>Pedestrian – Walking on the pedestrian footpath and crossing straight road opening</p>	Reason(s): The driver needs to exercise caution as he approaches a footpath en route to a main road as the driver should anticipate that pedestrians may cross the road opening. The pedestrian is contributorily negligent as he/she failed to take reasonable care for his/her own safety (by checking it is safe to cross, etc). ¹²⁵	70	30

E. Pedestrian walking along the road

	SCENARIO	REASON(S)	 %	 %
OTHER SCENARIOS INVOLVING PEDESTRIANS				
5.	<p>(a)</p>  <p><i>Diagram 2.11</i></p> <p>Vehicle – Moving Straight</p> <p>Pedestrian – Walking by the side of the road with his back against the traffic (adjoining pavement available)</p>	Reason(s): The pedestrian is contributorily negligent as he/she should not have his/her back to traffic and should have used the adjoining pavement. ¹²⁶	85	15
	<p>(b)</p>  <p><i>Diagram 2.12</i></p> <p>Vehicle – Reversing into parking lot</p> <p>Pedestrian – Crossing road</p>	Reason(s): The driver should not have reversed almost the entire length of the road to get into the parking bay. The pedestrian is equally liable because he/she would probably have seen the vehicle unless he/she was not alert or failed to lookout for traffic. ¹²⁷	50	50

SCENARIO	REASON(S)	 %	 %
<p>(c)</p>  <p>Diagram 2.13</p> <p>Vehicle – Driving with all reasonable care</p> <p>Pedestrian – Dashing out suddenly from the side of the road in a manner which could not be anticipated by the driver of the vehicle</p>	<p>Reason(s): The pedestrian is negligent as he/she failed to take reasonable care for his/her own safety (by checking it is safe to cross, etc).¹²⁸</p> <p>Note(s): Generally, if the evidence shows that the driver of a vehicle had exercised all reasonable care and the pedestrian had dashed out onto the road suddenly, leaving hardly any reaction time for the motorist, then it is possible that the driver may not be found negligent at all.</p>	0	100

V. GENERAL FACTORS AFFECTING THE LIABILITY OF PEDESTRIANS AND DRIVERS

(a) Distance traversed by pedestrian across the road at the point of impact

The pedestrian may have to bear a greater degree of liability if the accident occurred just as he was about to cross the road as the driver will have less reaction time. However, if the pedestrian has already crossed a portion of the road, the driver's contributory negligence may increase as he would have greater opportunity to see the pedestrian and consequently slow down.

VI. CHILD PEDESTRIANS

The issue is whether child pedestrians should bear a lesser proportion of liability as compared to adult pedestrians given the same circumstances. This

is because children are not as good at judging distances and speeds of vehicles travelling as compared to adults. Hence, children are not expected to act with the same degree of caution as an adult.¹²⁹

As a general rule, the apportionment of liability against an adult pedestrian and a child pedestrian appears to be similar based on similar factual scenarios. The issue of contributory negligence on the part of a child is dependent on the circumstances. The Courts may find that a very young child cannot be guilty of negligence while an older child may be. A court may find a child guilty of contributory negligence if he or she was of such an age as to be expected to take precautions for his or her own safety and that blame could be attached to him or her.¹³⁰ For example, in *Ang Eng Lee v. Lim Lye Soon*,¹³¹ the Court of Appeal held that an 8-year old child was old enough to exercise reasonable care in not running across the road into the path of an oncoming lorry. The child was held with contributory negligence of 1/3 liability.¹³² On the other hand, in *Y v. National Parks Board & Ors*,¹³³ the Court held that there was no contributory negligence on the part of a 5-year old child when an accident occurred between himself and a moving lorry while he was cycling on a footpath in a park. It was not expected that a 5-year old was old enough to take precautions for his own safety when the lorry appeared in his path.

However, there are designated school zone areas. These areas are demarcated by start of school zone and end of school zone signs. Drivers should slow down and look out for children walking or crossing the road. If an accident happens within the school zone area, the driver may have to bear a greater liability than the child pedestrian. Similarly, there are also areas where warning signs are placed indicating children frequently cross the roads in these areas. Drivers are likewise expected to slow down.

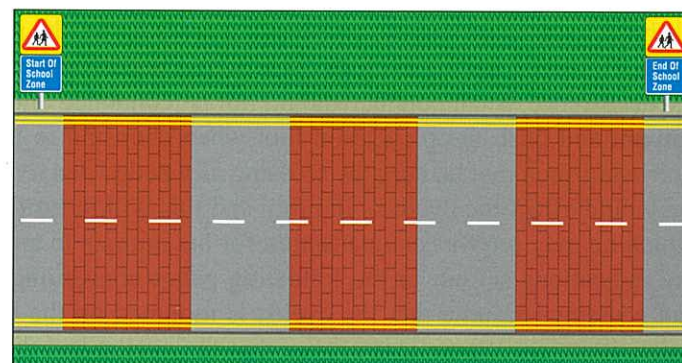


Diagram 2.14

CHAPTER 3

CYCLISTS

I. INTRODUCTION

Cyclists are an increasingly common sight on the roads. Reported incidents in the newspapers have brought to the forefront the dangers cyclists face, and occasionally cause, as they navigate through traffic. While one may be tempted to view cyclists in a different light and seek to ascribe a different standard of duty of care to them, it must be noted that section 2 of the Road Traffic Act (Cap 276, 2004 Rev Ed) defines 'driver' to include the rider of a bicycle. Thus a cyclist bears the general responsibilities of a motorist listed in the earlier chapters whilst riding on the road. Cyclists are to ride in an orderly manner and with due regard for the safety of others and their own safety. Provisions of the Road Traffic (Bicycles) Rules (Cap 276, R 3, 1990 Rev Ed) and the Highway Code (Cap 276, R 11, 1990 Rev Ed) clearly set out these duties.



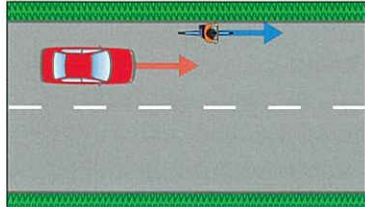
II. RESPONSIBILITIES OF CYCLISTS AT PEDESTRIAN CROSSINGS



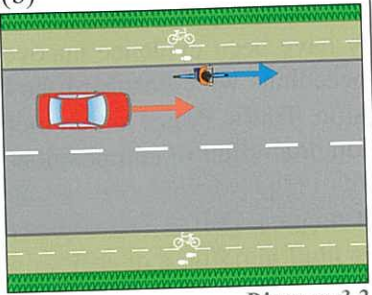
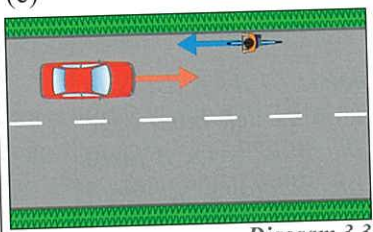
A contravention of a cyclist's duty of care will invariably be regarded as negligence/contributory negligence and so affect the apportionment of liability. One clear and common example is that under the Road Traffic (Bicycle Crossings) Rules (Cap 276, R 36, 1997 Rev Ed) and the Road Traffic (Pedestrian Crossings) Rules (Cap 276, R 24, 1990 Rev Ed), a cyclist should use a bicycle crossing and not a pedestrian crossing for the purpose of crossing roads. However, having cyclists cycle across pedestrian crossings is an everyday occurrence. Such conduct should not be condoned and a cyclist should dismount and push the bicycle on foot when choosing to navigate a pedestrian crossing such that he uses the crossing as a pedestrian. A breach of this practice would affect the cyclist's liability and this will in turn affect the extent to which he may recover compensation for his injuries in an accident. The liability indications set out in the following pages concerning a cyclist at pedestrian crossings assume that the cyclist is mounted on the bicycle as is the common situation. Where it is proven that the cyclist had dismounted at the crossing, the cyclist should bear liability at 10% less than the liability indicated against the cyclist in the scenarios shown.



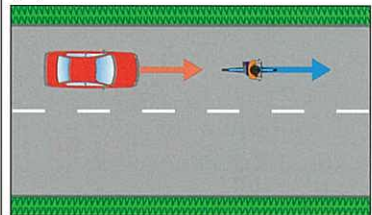
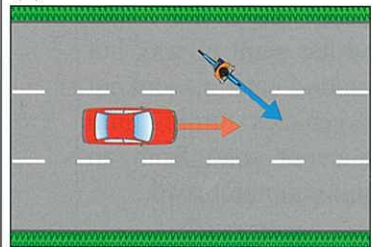
In accidents involving cyclists where different versions of the facts are presented and the Traffic Police has taken action against, or the Court has convicted one of the parties for the commission of a traffic offence, the parties may consider not disputing the facts and abiding by the liability indicated. In this connection, there would normally have been evidence uncovered in the course of investigations or Court proceedings which enabled the Traffic Police or the Court to arrive at their decision. Traffic Police action includes a warning, a notice to commence prosecution or an offer of composition.



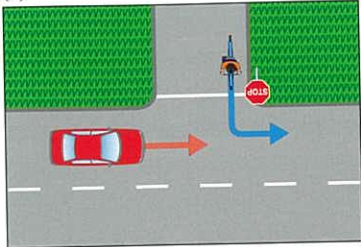
III. SCENARIOS



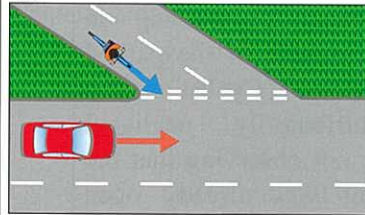
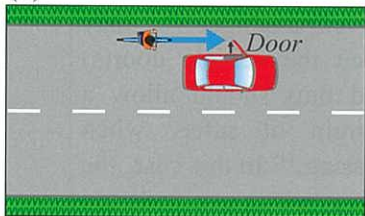
A. Cyclist on road



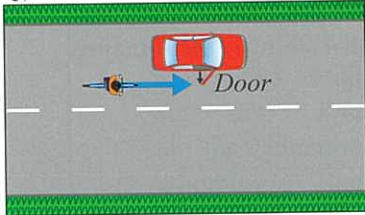
	SCENARIO	REASON(S)	 %	 %
1.	<p>(a)</p>  <p style="text-align: center;"><i>Diagram 3.1</i></p> <p>Vehicle – Going straight Cyclist – Cycling on the left-hand edge of the road (no adjoining cycling track)</p>	<p>Reason(s): Driver should keep a proper lookout for other road users, including cyclists.</p> <p>Note(s): (i) A cyclist is to ride on the left-hand edge of the road, even if there is an adjoining footpath as a cyclist should not ride on a footpath.¹³⁴ (ii) However, a cyclist may be liable if he rides in such a manner as to obstruct vehicles moving at a faster speed.¹³⁵</p>	100	0



	SCENARIO	REASON(S)	 %	 %
(b)	 <p><i>Diagram 3.2</i></p> <p>Vehicle – Going straight Cyclist – Cycling on the left-hand edge of the road (with an adjoining cycling track)</p>	Reason(s): A cyclist must use a cycle track if there is one. ¹³⁶ Driver should also maintain a proper lookout for other road users.	10	90
(c)	 <p><i>Diagram 3.3</i></p> <p>Vehicle – Going straight Cyclist – On the left-hand edge of the road but against the flow of traffic</p>	Reason(s): Cyclist should keep to the left-hand edge of the road and will in such a case be in full view of the driver who should keep a lookout for road users, including this cyclist. ¹³⁷ However, the cyclist would be contributorily negligent as he should observe traffic rules and not ride against the flow of traffic. ¹³⁸	50	50



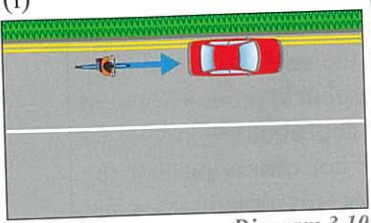
	SCENARIO	REASON(S)	 %	 %
(d)	 <p><i>Diagram 3.4</i></p> <p>Vehicle – Going straight Cyclist – In the middle of the road in the same direction</p>	Reason(s): Cyclist should ride close to the left-hand edge of the road and not obstruct other vehicles moving at a faster speed. ¹³⁹	50	50
(e)	 <p><i>Diagram 3.5</i></p> <p>Vehicle – Going straight Cyclist – Crossing road diagonally, away from any cycle or pedestrian crossing</p>	Reason(s): Cyclist would be negligent in cycling diagonally across the road without regard to the safety of other road users and his own safety. However the driver should also take precautionary measures to avoid a collision. Sounding the horn alone may not be sufficient. ¹⁴⁰	30	70

SCENARIO	REASON(S)	 %	 %
<p>(f)</p>  <p><i>Diagram 3.6</i></p> <p>Vehicle – Moving straight ahead on the major road</p> <p>Cyclist – Turning left into the major road from a minor road with a “stop” sign/“stop” line at the junction adjoining the major road</p>	<p>Reason(s): Cyclist approaching the major road from a minor road should stop at the “stop” sign/“stop” line to give way to oncoming traffic on the major road. Even if cyclist stops, he should keep a lookout for vehicles on the main road and wait to ensure that the main road is safe to turn into before proceeding.¹⁴¹ The driver on the major road has right of way but should keep a lookout for vehicles turning into the major road from an adjoining minor road.</p>	20	80



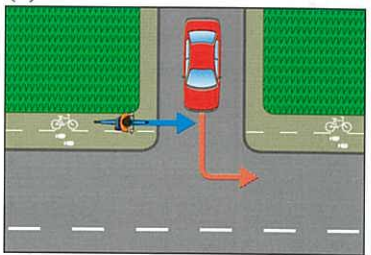
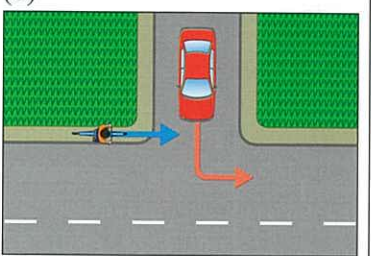
SCENARIO	REASON(S)	 %	 %
<p>(g)</p>  <p><i>Diagram 3.7</i></p> <p>Vehicle – Moving straight ahead on the major road</p> <p>Cyclist – Turning into the major road from a minor road with “stop” line/parallel broken white lines marking the slip road at the point of merging</p>	<p>Reason(s): Cyclist approaching the major road from a minor road should stop at the “stop” line/parallel broken white lines and give way to oncoming traffic on the major road. The driver on the main road has right of way, but would be contributorily liable for failing to keep a proper lookout for other road users on the minor road approaching the major road.¹⁴²</p>	20	80
<p>(h)</p>  <p><i>Diagram 3.8</i></p> <p>Vehicle – Stationary and vehicle door suddenly opens on the nearside</p> <p>Cyclist – Going straight ahead beside the vehicle on the nearside</p>	<p>Reason(s): Driver/passenger should check and keep a lookout for oncoming traffic. He should not obstruct/cause danger to vehicles passing alongside. While a cyclist should ride close to the left-hand edge of the road, a cyclist should overtake a parked vehicle by passing on the offside of the vehicle. The cyclist should therefore bear the bulk of liability.¹⁴³</p>	30	70

	SCENARIO	REASON(S)	 %	 %
(i)	Vehicle – Stationary and vehicle door is already partially or fully open on the nearside Cyclist – Going straight on the nearside and colliding into the opened door	Reason(s): Cyclist should overtake by passing on the offside of the parked vehicle. ¹⁴⁴ Cyclist is also contributorily negligent for not observing that the door was already open and taking precautionary measures to avoid colliding into it. The cyclist should therefore bear the bulk of liability.	20	80
(j)	 <i>Diagram 3.9</i> Vehicle – Stationary and vehicle door suddenly opens into the path of oncoming traffic on the offside Cyclist – Going straight ahead, beside the vehicle on the offside	Reason(s): Driver/passenger should check and keep a lookout for oncoming traffic. He should not obstruct/cause danger to vehicles passing alongside. When passing a parked vehicle, a cyclist should anticipate that the driver/passenger may open the vehicle door(s) and thus should allow a margin of safety when passing. ¹⁴⁵ In this case, the driver/passenger should therefore bear the bulk of liability.	90	10



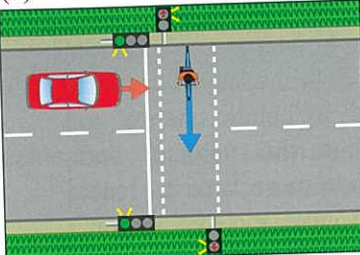
	SCENARIO	REASON(S)	 %	 %
(k)	Vehicle – Stationary and vehicle door is already partially or fully open on the offside Cyclist – Going straight on the offside and colliding into the opened door	Reason(s): Cyclist approaching from the rear of the vehicle should keep a proper lookout. He would be contributorily negligent for not observing that the door was already open and taking precautionary and evasive measures to avoid colliding into it. He should cycle with regard for his own safety as well. Driver/passenger should not (i) open the door so wide that it obstructs/causes danger to passing vehicles; nor (ii) keep the door open longer than is necessary.	50	50



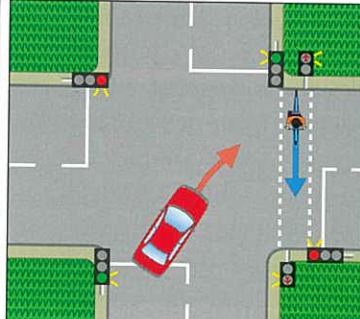
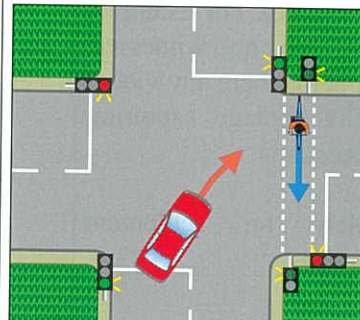
	SCENARIO	REASON(S)	 %	 %
(1)	 <p><i>Diagram 3.10</i></p> <p>Vehicle – Parked/stopped by the roadside where parking/stopping is not permitted (as denoted by 2 continuous yellow lines or a single yellow zig-zag line (no parking) or a continuous centre white line (no parking) or double yellow zig-zag lines (no parking and stopping))</p> <p>Cyclist – Moving straight ahead</p>	Reason(s): Driver must not park/stop where parking/stopping is prohibited. ¹⁴⁶ Driver should also turn on his hazard lights to warn other motorists of the presence of his stationary vehicle. Cyclist travelling on the road should keep a lookout for obstructions such as stationary vehicles and take evasive action to avoid a collision.		
	Where Driver has turned on hazard lights		20	80
	Where driver has not turned on hazard lights		30	70



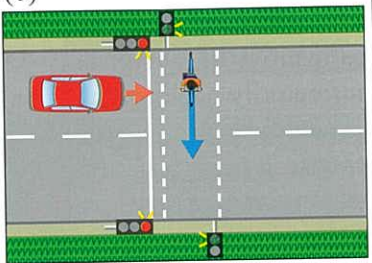
B. Cyclist cycling across road opening

	SCENARIO	REASON(S)	 %	 %
2.	<p>(a)</p>  <p><i>Diagram 3.11</i></p> <p>Vehicle – Turning in/out of road/building grounds and cutting across cycle track</p> <p>Cyclist – Going straight across on cycle track</p>	Reason(s): Even though cyclist has the right of way on the cycle track, he still has to keep a lookout for other vehicles. A cyclist has a better chance to notice the vehicle, and hence more time to react and take evasive action. The driver also needs to exercise caution as he approaches a cycle track.	70	30
	<p>(b)</p>  <p><i>Diagram 3.12</i></p> <p>Vehicle – Turning in/out of road/building grounds</p> <p>Cyclist – Cycling on the pedestrian footpath straight across road opening</p>	Reason(s): The driver needs to exercise caution as he approaches a footpath en route to a main road as the driver should anticipate that a pedestrian/cyclist may cross the road opening. A cyclist should ride on the left-hand edge of the road and not ride on the pedestrian footpath.	60	40



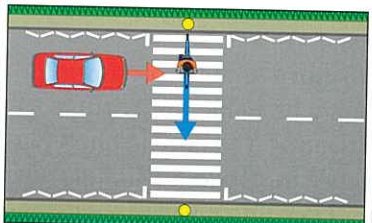
C. Cyclist crossing the road at controlled pedestrian crossings

	SCENARIO	REASON(S)	 %	 %
PEDESTRIAN CROSSING (Cyclist has no right of way)				
3.	(a)  <i>Diagram 3.13</i> Vehicle – Going straight on “green” Cyclist – Crossing road on “red man”	Reason(s): Cyclist should not have crossed when the “red man” is lit. Driver is contributorily negligent as he should keep a proper lookout, slow down and give way even when the lights are in his favour. Note(s): (i) The cyclist may have to bear greater liability if the accident occurred just as he was starting to cross the road as the driver will have less reaction time. (ii) If the cyclist has already crossed a portion of the road before impact, the driver may have to bear greater liability for the accident as he ought to have seen the cyclist and slowed down.	10	90

	SCENARIO	REASON(S)	 %	 %
	(b)  <i>Diagram 3.14</i> Vehicle – Turning on “green” Cyclist – Crossing road on “red man”	Reason(s): Cyclist should not have crossed when the “red man” is lit. Driver is contributorily negligent as he should keep a proper lookout, slow down and give way even when the lights are in his favour. Note(s): If the driver was making the turn when the “green arrow” was lit, the cyclist’s liability would go up to 90%.	20	80
PEDESTRIAN CROSSING (Cyclist with right of way)				
4.	(a)  <i>Diagram 3.15</i> Vehicle – Turning on “green” Cyclist – Crossing road on “green man”	Reason(s): The driver should approach at a reasonable speed and give way to people using the pedestrian crossing. Note(s): A cyclist will be contributorily negligent if he fails to take reasonable care for his own safety (by checking it is safe to cross, etc).	70	30

	SCENARIO	REASON(S)	 %	 %
	(b)  Vehicle – Going straight on “red” Cyclist – Crossing road on “green man” <p style="text-align: right;"><i>Diagram 3.16</i></p>	Reason(s): Driver should approach at a reasonable speed, keep a proper lookout and stop for people using the pedestrian crossing, in compliance with the red light. Cyclist is contributorily negligent if he noticed the vehicle but proceeded to cross before checking that it is safe to cross (eg. only after the vehicle comes to a stop).	90	10
	(c) Vehicle – (i) where driver is turning, claims that the “green arrow” is lit up; or (ii) where driver is going straight, claims that the traffic light is showing “green” in his favour Cyclist – Claims that the “green man” is in his favour There is a conflict of versions as to the state of the traffic lights.	Reason(s): The state of the traffic lights cannot be determined in the absence of evidence in favour of either party. For example, there are no witnesses. Neither is there any video/ CCTV footage capturing the accident. (Solely for settlement purposes)	50	50

D. Cyclist crossing the road at an uncontrolled Pedestrian/Zebra Crossing

	SCENARIO	REASON(S)	 %	 %
5.	 Vehicle – Going straight, approaching zebra crossing Cyclist – Crossing road on zebra crossing <p style="text-align: right;"><i>Diagram 3.17</i></p>	Reason(s): Driver should approach the crossing at a reasonable speed. Cyclist is contributorily negligent for failing to take reasonable care to ensure it was safe to cross having seen the vehicle's approach. ¹⁴⁷ Note(s): <i>Technically a cyclist is not to use pedestrian crossings. However if the cyclist had already crossed a portion of the pedestrian crossing before impact, the driver's liability for the accident may go up by 20%. The driver ought to have seen the cyclist on the pedestrian crossing and should have stopped.</i>	70	30

CHAPTER 4

PASSENGERS

I. GENERAL DUTY OWED TO PASSENGERS

Any driver or motorist who undertakes to carry another person in or on his vehicle either for reward or gratuitously may be liable to his passenger if he causes him damage or injury through negligence. The duty to one's passenger is to use reasonable care and skill in driving for the safety of the passenger during the period of the journey. A breach of the duty owed to a passenger will affect the apportionment of liability between the drivers or motorists involved in the accident *vis-a-vis* the passenger.¹⁴⁸

II. GENERAL DUTY OF PASSENGERS

While it may seem odd at first instance to say that a passenger likewise has a general duty to other road users, it may be likened to the duty of a pedestrian to take reasonable care of his own safety. A breach of this duty will similarly affect the apportionment of liability between parties as it would amount to contributory negligence on the part of the passenger. However, it would be safe to say that in most instances, the average passenger in a motor car or pillion rider on a motor cycle would not have contributed to the cause of the accident. The scenarios set out in the following pages are examples of exceptions to the general position.

III. ON WEARING OF SEATBELTS


The use of seat belts is one area where both the driver and passenger in vehicles such as motor cars, taxis, light goods vehicles and goods-cum-passengers vehicles have a specific duty and responsibility to each other. Under the Road Traffic (Motor Vehicles, Wearing of Seat Belts) Rules 2011 (Cap 276) ("the Seat Belt Rules"), the driver and every passenger of a motor vehicle to which the Seat Belt Rules apply shall wear a body-restraining seat belt or a lap belt where such a seat belt or lap belt is available for his use. Correspondingly, every driver of a motor vehicle to which the Seat Belt Rules apply shall ensure

that every passenger on his motor vehicle complies with the Seat Belt Rules. A breach of the Seat Belt Rules constitutes an offence and the offender may be liable on conviction to a fine or to imprisonment.


A contravention of a passenger's duty to wear a seat belt may thus be regarded as contributory negligence on the part of the passenger and would therefore affect the apportionment of liability between the driver and passenger.


IV. SCENARIOS

A. Passengers on public transport


	SCENARIO	REASON(S)	Driver %	Passenger %
	DUTY OF DRIVER			
1.	 <p style="text-align: center;"><i>Diagram 4.1</i></p> <p>Driver – Suddenly brakes to avoid hitting an animal that runs across vehicle's path of travel.</p>	<p>Reason(s): Driver can give a reasonable explanation for sudden braking. An ordinary, reasonable and careful driver may be expected to brake suddenly when faced with such an emergency.¹⁴⁹</p> <p>Passengers on public transport take the risk that the driver may effect emergency braking causing inconvenience.¹⁵⁰</p>	0	100

SCENARIO	REASON(S)	Driver %	Passenger %
<p>Passenger – Standing up and walking (for example, preparing to alight) when the passenger loses his/her balance and falls. (The seated passengers are not hurt)</p>	<p>Note(s): (i) All the circumstances surrounding the sudden braking must be looked at to see if precautions could have been taken by the driver to pre-empt the need for sudden braking. (ii) If the driver cannot give a reasonable explanation for braking suddenly, the driver (or his employers) would be liable for his negligence. Furthermore, if there is no reasonable explanation for the driver's sudden braking and there is no evidence that the passenger could have taken any reasonable precautions/done anything else which would have enabled him to avoid, either totally or partially, sustaining the injuries, the passenger would not be found to have contributed to the injuries he sustained.¹⁵¹ (iii) If the reason for the driver's sudden braking is a direct reaction to a situation caused by the carelessness or negligence of a third party vehicle/pedestrian, the third party may be jointly or severally liable for the injuries caused to the passenger depending on the circumstances.</p>		

SCENARIO	REASON(S)	Driver %	Passenger %
PASSENGER ENTERING THE VEHICLE			
<p>2.</p>  <p style="text-align: center;">Diagram 4.2</p> <p>Driver – Drives off with a sudden jerk or makes a sudden emergency stop soon after driving off, before the boarding passenger is seated</p> <p>Passenger – Falls and sustains injury as a result of the movements of the bus</p>	<p>Reason(s): The driver will not be solely negligent as drivers of public transport cannot sensibly be expected to wait for all boarding passengers to be seated, wherever they may choose to sit, before they can properly drive away. However the driver should check that it is safe to drive off before doing so, and drive off carefully without the need for any sudden unexpected movements. The passenger should take reasonable measures or care while walking to find a seat on the bus for example, by holding on to secure points or supports.</p>	50	50

SCENARIO	REASON(S)	Driver %	Passenger %
	<p>Note(s): (i) The measures that ought to be taken by passengers to guard against injury whilst travelling on board buses have been set down by common practice, and it would be a question of fact in each case whether a passenger has complied with the objective norms.¹⁵²</p> <p>(ii) It may be different if the passenger is elderly, handicapped or a child. If it is foreseeable, or that there is a particular risk of an accident happening, then the driver in such cases may need to take extra steps.¹⁵³</p>		
OTHER INSTANCES OF CLAIM BY PASSENGERS			
3.	 <p><i>Diagram 4.3</i></p> <p>Driver – Pulling out of the bus -stop</p> <p>Passenger – Falling when trying to board the bus</p> <p>Reason(s): Passenger's claim will fail if it can be established that the passenger was running for the bus which had already begun to move and the passenger tripped on his own accord.¹⁵⁴</p> <p>Note(s): If however the driver starts to move as the passenger is boarding without taking steps to ensure the passenger's reasonable safety, the driver may be found to be liable.</p>	0	100

B. Passengers on private vehicles

SCENARIO	REASON(S)	Driver %	Passenger %
PASSENGERS WITHOUT SEATBELTS			
4.	 <p><i>Diagram 4.4</i></p> <p>Driver – Driver's negligence caused the accident</p> <p>Passenger – Not wearing a seat belt in the vehicle</p> <p>Reason(s): The law requires everyone to exercise all such precautions as a person of ordinary prudence. A person failing to wear a seat belt should accept some share of responsibility for the injury if it could have been prevented or lessened by wearing one.¹⁵⁵</p> <p>Note(s): (i) The current Seat Belt Rules make it compulsory for both drivers and passengers to wear seat belts. A contravention of the Seat Belt Rules would be an offence and that may affect the apportionment of liability between parties. (ii) It is for the driver who asserts contributory negligence on the part of the passenger in failing to wear a seatbelt, to produce evidence that had the seatbelt been worn, the passenger would have suffered either no, or less severe injuries. Each case will depend upon its facts and upon the state of the other evidence.¹⁵⁶</p>	80	20

CHAPTER 5

DEFENCES

I. INTRODUCTION

In simple terms, if a claimant is unable to prove his case of negligence against the defendant, his claim for damages will be dismissed. In addition, there are certain specific defences available to a defendant facing a claim in negligence. The main purpose of this chapter is to let the road user know of the common defences available in a motor accident claim, namely:

- Contributory negligence;
- Agony of the moment;
- Inevitable accident;
- Involuntary act;
- Agreement to run the risk: *Volenti non fit injuria*;
- Illegality: *Ex turpi causa non oritur actio*;
- *Res Judicata*; and
- Limitation of action.

It is not intended that this publication provide an in-depth coverage of each defence set out above. It should also be noted that the list of defences above is not exhaustive. If the road user is unsure of whether a particular defence applies in a particular case, it is of vital importance that the road user seeks proper legal advice.

II. CONTRIBUTORY NEGLIGENCE

Contributory negligence when set up as a defence does not depend on any duty owed by the injured party (claimant) to the party sued (defendant). All that is necessary to establish such a defence is for the defendant to prove that the injured party (claimant) did not in his own interest take reasonable care of himself and contributed, by his want of care, to his own injury.¹⁵⁷ A person may be guilty of contributory negligence if he ought to have objectively foreseen that his failure to act prudently could result in hurting himself.¹⁵⁸

The onus is on the defendant to prove contributory negligence on the part of the claimant. Having proved contributory negligence, the question then arises as to the extent to which it is just and fair to reduce the claimant's

damages having regard to the contribution by the claimant to his own injury/death.¹⁵⁹

So in an accident at a crossroads involving the claimant who was riding a motorcycle and a motor van driven by the defendant, where the bulk of the blame lies on the defendant for trying to beat the traffic lights and travelling at an excessive speed, the claimant ought to, when entering the junction and in his own interest, have kept a look out for vehicles coming from the other direction of the road. Had he done so, he would have seen the defendant's motor van coming and would have been able to take effective steps to avoid a collision. Hence, four-fifths of the blame rested on the defendant and one-fifth on the claimant.¹⁶⁰

In an accident where the claimant's motorcycle collided with the defendant's lorry as the defendant was turning onto a major road from a minor road, the court found that the defendant failed to give way to the claimant who was coming from his right. The court held that the defendant was far more at fault and ought to bear a greater share of the responsibility for the accident. However, the court also held that the claimant was contributorily negligent in failing to keep a proper lookout. Accordingly, the court apportioned 80% of the liability against the defendant and 20% against the claimant.¹⁶¹

Where the claimant was attempting to cross the road when he was hit by the defendant's car, the claimant had on the facts proven that the defendant was negligent. The court however held that the claimant had failed to keep a proper lookout for his own safety by crossing the road at an unmarked spot when there was a nearby pedestrian crossing within 50m of the accident site. The claimant's lack of care for his own safety justified a finding of contributory negligence and each party was held to bear equal responsibility.¹⁶²

Where the claimant rode a bicycle diagonally across a three-lane road, the first defendant pressed the horn of the lorry he was driving in an attempt to warn the claimant but the warning was unheeded and the claimant collided into the lorry. The court held that while the bulk of responsibility had to lie on the claimant for cycling diagonally across the road in a manner without regard for other road users, the first defendant should have done more than just pressing the horn when he saw that the claimant did not respond to this warning. By continuing to drive forward without taking other measures to avoid a collision, the first defendant was also negligent. The appropriate apportionment of liability between the claimant and the first defendant would be two-thirds and one-third respectively.¹⁶³

The claimant, whilst jogging along Lower Delta Road, was killed when he was knocked down by the defendant who was riding a motorcycle.

The defendant was held to be 85% responsible for the accident. He had been negligent by travelling at a high speed and failing to keep a proper lookout. The deceased was also contributorily negligent as he was jogging with his back to the traffic and had failed to use the adjoining pavement.¹⁶⁴

III. AGONY OF THE MOMENT

If the claimant is placed in a situation of imminent danger through the fault or negligence of the defendant, the claimant who acts reasonably to extricate himself from danger is not guilty of contributory negligence even if, through his evasive actions, he unintentionally aggravated the situation or caused more harm. All that is necessary in such a circumstance is that the claimant's conduct should not have been unreasonable taking into account the exigencies of the particular situation. The question is merely whether the claimant behaved reasonably in the dilemma in which the defendant had negligently placed him, due account being taken of what a reasonable person similarly placed in such a situation would do. He is not to blame if he does not do quite the right thing in those circumstances. Perfect foresight or presence of mind are not required. The 'agony of the moment' rule is sometimes referred to as 'acting in an emergency' or 'doctrine of alternative danger'.¹⁶⁵

Thus, in a head-on collision between the claimant's motor bus and the defendant's lorry, a tree had fallen and was lying across the lorry's side of the road. The road on which the bus was travelling was clear. The lorry, in attempting to proceed past the fallen tree, went on to the bus's side of the road and collided into the bus. The trial judge found that the lorry driver's negligence was the substantial but not sole cause of the accident, and that the bus driver had also been negligent, and apportioned liability in the proportion 75%–25%. On appeal, the decision was reversed. The lorry driver was held wholly to blame for the accident. As it was the lorry driver that had placed the bus driver into this situation of extreme peril, the bus driver acted in the agony of the moment and was held not to be negligent.¹⁶⁶

In another accident, the claimant was travelling on his motorcycle on the right lane of the road. The defendant, a school minibus driver, had stopped her minibus on the left lane of the road in order to allow a student to alight. After the student had alighted, the defendant drove the minibus from the stationary position on the left lane to the right lane of the road. This movement of the minibus caused the claimant to swerve his motorcycle in an attempt to perform an evasive manoeuvre in order to avoid a collision. Despite the manoeuvre,

the claimant's motorcycle collided with the minibus. The claimant was thrown off the motorcycle and sustained injuries. The trial judge found the claimant 75% contributorily negligent. The appeal was allowed wherein the defendant was found to be 100% responsible for the accident. The defendant placed the claimant in dangerous circumstances. The latter's choice to brake and swerve to the right could not be said to be unreasonable in light of the surrounding circumstances. His actions to attempt to save his own life were actions which a reasonably prudent man in his position would take. The claimant's actions were taken in the 'agony of the moment'. He had acted reasonably in the circumstances and there had been no negligence on his part in swerving to the right.¹⁶⁷

IV. INEVITABLE ACCIDENT

To establish this defence, the defendant had to show that he could not, by exercising ordinary care, caution and skill, have prevented the accident. In considering whether the defendant had made out his defence, the claimant's allegations of negligence also had to be considered as the two matters were opposite sides of the same coin; if the defendant was negligent, then the accident could not have been inevitable. If the court finds that the accident was inevitable, then the defendant cannot be considered to have been negligent.¹⁶⁸ This defence was successfully applied in the matters described below.

An accident occurred when the deceased and his family, and the defendant and his family were holidaying together in South Africa. The group had hired a driver and a car for a private tour. On the day of the accident, the defendant took over the driving for about two hours when the right rear tyre of the vehicle burst. The defendant stepped lightly on the brakes, but the vehicle veered right. He released the brakes and corrected the vehicle to the left. He then stepped hard on the brakes with a view to bringing the vehicle to a halt. Instead, it veered right and went off the road. There was insufficient evidence to conclude that the defendant had not paid proper attention. The evidence proved that the defendant had not been driving at an excessive speed at the time. The defendant's actions after the bursting of the tyre were also not negligent. The court held that the accident was inevitable, and there was no basis for holding that the defendant's reactions were any different from those of the ordinary and careful driver placed in the same situation.¹⁶⁹

In another accident, the claimant rode a bicycle across a yellow box junction along a pedestrian crossing. It was a rainy day. Visibility was poor.

Road surface was wet. Spanning this box junction was a two-way road with four lanes each. At the time of his crossing, the traffic light showed a green man in his favour. But shortly after commencing the crossing, the light signalled red. By then, the traffic lights facing the motor vehicles on the claimant's left turned green. At that point, an SBS bus had paused at the junction waiting to turn right. This bus obscured the claimant's view of vehicles emerging from his left. The claimant ought to have stopped. But he did not. Instead, he raced at high speed trying to beat the 'red man' signal. In so doing, he pedalled straight into the front right side of a passing taxi. At the time of accident, the taxi had the right of way. But the taxi driver could not see the claimant because of the stationary SBS bus. Conversely, the claimant also did not see the oncoming taxi. The impact was so great that it flung the claimant over the taxi to land at the rear of the vehicle. At that instance, a goods van was following behind the taxi. On seeing the accident between the claimant and the taxi, the van driver immediately swerved left to avoid a collision with the taxi and the claimant. He missed the taxi but crashed into the claimant's legs. For some reason, the claimant did not sue the taxi driver and instead, sued the van driver as the defendant. His case was that the defendant had failed to take due care to avoid colliding into him, that the defendant had caused the accident by driving his van too closely to the taxi, and that the defendant had failed to keep a safe distance between vehicles. The court held, amongst others, that the defendant had discharged the requisite burden of proof to show that the accident could not be prevented by the exercise of ordinary care, caution and skill.¹⁷⁰

V. INVOLUNTARY ACT

This defence is established when the defendant driver is able to prove that he was in a 'state of automatism', that is, he suffered a complete loss of consciousness. A driver will escape liability only if his actions at the relevant time were wholly beyond his control. There may be cases where the circumstances are such that the defendant driver could not be said to be driving at all, in circumstances such as when the driver suffered a stroke or an epileptic fit. It should be cautioned that this defence is *very rarely* used in practice.¹⁷¹ The onus of proof is on the defendant. The defendant would probably require a medical expert to provide expert evidence to support the defendant's claim that due to his medical condition, his actions at the time of accident were wholly beyond his control.

A driver of the defendant's lorry failed to negotiate a left-hand bend and crashed into the claimant's shop causing extensive damage. At the time of the accident, the driver had an impaired degree of consciousness because of a malfunction of his brain caused by deficiency of glucose, a condition known as malignant insulinoma. It was accepted that the driver was a careful and considerate driver who would not have driven had he known that his ability to drive was impaired. However, one of the features of this rare condition is that the affected individual would not be aware that his senses were impaired. At first instance, the defendant was held liable. The appeal was allowed and the court held that there was no reason in principle why a driver should not escape liability where the disabling event was gradual rather than sudden, and provided that the driver was unaware of it.¹⁷²

VI. AGREEMENT TO RUN THE RISK: *VOLENTI NON FIT INJURIA*

In order to succeed on this defence, the defendant must prove that the claimant had agreed, whether expressly or impliedly, to run the risk of any harm or injury that may be inflicted on him due to the defendant's negligence. The claimant is taken to have waived his right of action against the defendant in respect of the defendant's breach of a duty of care owed to him by the defendant. This defence has traditionally been expressed by the maxim *volenti non fit injuria*. In the context of motor accident cases, the claimant is usually the passenger/pillion in a car/motorcycle driven/ridden by the defendant.

Consent is distinct from mere knowledge. In one case, the claimant was a passenger in a car driven by the defendant from Port Swettenham to Klang. It appeared that the car was driven at high speed and that the claimant warned the defendant to slow down and to be careful as he thought that the defendant was going too fast for the safety of the public on the road. The car collided with a cyclist, the defendant lost control of his car and the accident took place as a result of which the claimant sustained injuries and sued for damages. Even if the claimant had knowledge that the defendant was travelling at a high speed, evidence that the claimant warned the defendant to slow down and to be careful was held to be inconsistent with the claim that he had assented to any risk. The defence of *volenti non fit injuria* failed.¹⁷³

In another case, the claimant, an experienced driver, agreed to give the defendant, a friend's wife, driving lessons, after satisfying himself that the car was insured against the risk of injury to a passenger. He took her out on the road and found her to be a careful learner. But on the third occasion, when she

was holding the steering wheel and controlling the pedals and he was moving the gear lever and handbrake, she failed to straighten out after turning left and panicked. The car mounted a kerb and struck a lamp post. The claimant sustained injuries and sued the defendant for negligence. It was held that the claimant, by checking on the car insurance before agreeing to give lessons, had shown that he did not consent to run the risk of injury which might occur through the defendant's lack of skill. The defendant could not therefore rely on the defence of *volenti non fit injuria*.¹⁷⁴

Another line of cases involve accidents occurring where the defendant was clearly drink driving. In some cases, although the claimant was fully aware of the intoxicated condition of the driver, it was held that the claimant did not impliedly consent to run the risk of injury or absolve the defendant from liability for any negligence on the defendant's part. The defence of *volenti non fit injuria* did not apply and the claimant was entitled to succeed on the claim.¹⁷⁵ There may be cases in which the drunkenness of the driver at the material time is so *extreme and so glaring* that to accept a lift from him is like engaging in an intrinsically and obviously dangerous act. The courts have held, in such a situation, that the defence of *volenti non fit injuria* would apply.¹⁷⁶

VII. ILLEGALITY: EX TURPI CAUSA NON ORITUR ACTIO

This defence is also known by the old maxim *ex turpi causa non oritur actio* (no cause of action arises out of a base cause). The basis for its application is simple; it would not be fair, just or reasonable to give a remedy to someone who suffers injury while engaged in some immoral or illegal act. It should also be cautioned that this defence is *very rarely* used in practice. As a rule of public policy, this defence will apply in the law of contract to prevent a claimant founding a claim on an illegal act or agreement. It is clear, however, that the defence has only very limited application in tort and, in general, the fact that the claimant is involved in some wrongdoing does not of itself provide the defendant with a good defence. The only exceptions would appear to be the limited range of cases in which, on the facts of the case, an injury can be held to have been directly incurred in the course of the commission of a crime.¹⁷⁷

Hence, in a local case, the claimant was a passenger seated at the back of a motor pick-up driven by the defendant when it overturned. The court found that the defendant was negligent and was solely to blame for the accident. The claimant was employed by the owner of the motor pick-up. A complication

arose due to the fact that the claimant, who was a Malaysian, was not issued with a work permit at the time of the accident. The court held that the defence of illegality had very limited application in tort. The fact that the claimant was involved in some wrongdoing did not itself provide the defendant with a good defence. The claimant, in not having a work permit, was not precluded from claiming damages from the defendant. However, on the issue of the quantum of damages, the court held that the immigration laws and regulations which required work permits to be obtained by foreign workers before they could work in Singapore were designed to implement a basic public policy. To compensate the claimant on the basis of what he might have earned by working illegally in Singapore without a valid work permit would be against public policy and wholly improper. His loss of earnings should be based on an estimate of what he would have earned in Malaysia, had there been no accident.¹⁷⁸

As stated above, there *may* be exceptional cases where this defence *may* succeed. One of those cases involved a claimant as a pillion passenger on the first defendant's motorcycle. The claimant and the first defendant had been drinking together one evening. After the accident the first defendant's blood alcohol was twice the legal limit for driving. The claimant was aware that the first defendant was not even licensed to drive the motorcycle, or insured. There was evidence that on the way home, the first defendant, encouraged by the claimant, drove the motorcycle in a fast and haphazard manner deliberately intending to frighten members of the public. The motorcycle collided with a car driven by the second defendant. The first defendant was killed and the claimant seriously injured. The claimant sued both defendants. In the end, the claimant's claim failed. The court held that the maxim *ex turpi causa non oritur actio* applied as the claimant and the first defendant were engaged in a joint illegal enterprise. It would be against public policy for the claimant to succeed. The nature of the joint illegal enterprise was such that it precluded the court from finding that the defendant owed any duty of care to the claimant.¹⁷⁹

VIII. RES JUDICATA

Generally, a claim may fail if, in commencing it, the claimant is attempting to re-open litigation already decided; or if the claim could and should have been raised in the course of already-decided litigation. When a matter has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal

was dismissed, neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again.¹⁸⁰ Further, a judgment or order obtained by consent is final and can form the basis for the application of the doctrine of *res judicata*.¹⁸¹ The principle of *res judicata* is based on the need to achieve finality in litigation. In the absence of special circumstances, parties should bring their whole case before the court so that all aspects may be decided once and for all (subject to appeals). In the interests of the parties and the public as a whole, litigation should not drag on forever and a defendant should not be oppressed by successive suits when just one suit would do.

So where a motorist, who sustained injury in a road accident, brought a claim against a local highway authority, his claim was prevented because it could and ought to have been made in an earlier action by his front seat passenger.¹⁸²

In a local case, the claimant was a pillion rider on a motorcycle ridden by the first defendant, which collided with a car driven by the second defendant. The motorcyclist was injured and filed a claim against the car driver in a District Court, which proceeded for court dispute resolution where the settlement judge indicated preliminary liability apportionment to be 80% as against the driver. However, the motorcyclist subsequently consented to interlocutory judgment being recorded for 60% as against the driver. In the present suit, the pillion rider claimed damages from both the motorcyclist and the driver for injuries sustained from the same accident. The issue before the court was whether the consent judgment between the driver and motorcyclist was *res judicata* in this action by the pillion rider arising from the same accident against the driver and the motorcyclist. The court held that *res judicata* applies in the present suit and that interlocutory judgment should be entered in favour of the claimant pillion rider against the first and second defendants on the same apportionment of 60% liability on the part of the driver and 40% liability on the part of the motorcyclist.¹⁸³

There may be other vital aspects of this defence not covered in this section as they are beyond the scope of this Guide. Accordingly, as to whether or not a plea of *res judicata* applies in a particular case, the road user is strongly encouraged to seek legal advice if in doubt.

IX. LIMITATION OF ACTION

The doctrine of limitation is based on two broad considerations. First, there is a presumption that a right not exercised for a certain length of time is abated.

The other consideration is that it is necessary that matters of right in general should not be left too long in a state of doubt or uncertainty. The primary objective of the limitation doctrine is to discourage claimants from sleeping on their actions and more importantly, to have a definite end to litigation.¹⁸⁴

In general, actions for damages for negligence may not be brought after the expiration of six (6) years from the date on which the cause of action occurred.¹⁸⁵ Where the damages claimed by the claimant consist of or include damages in respect of personal injuries to the claimant or any other person, no such action may be brought after the expiration of three (3) years from that date, or the earliest date on which the claimant has the knowledge required for bringing the action.¹⁸⁶ If the claimant's action is filed after the prescribed limitation period, the plea of limitation would serve as a complete defence and the claimant's action will be deemed time-barred.

In respect of this defence, there may be other issues which need to be considered such as when time begins to run in connection with claims for personal injuries, what part does knowledge play and what constitutes knowledge. Hence, as to whether or not this defence of limitation applies in a particular case, the road user is strongly encouraged to seek legal advice if in doubt.