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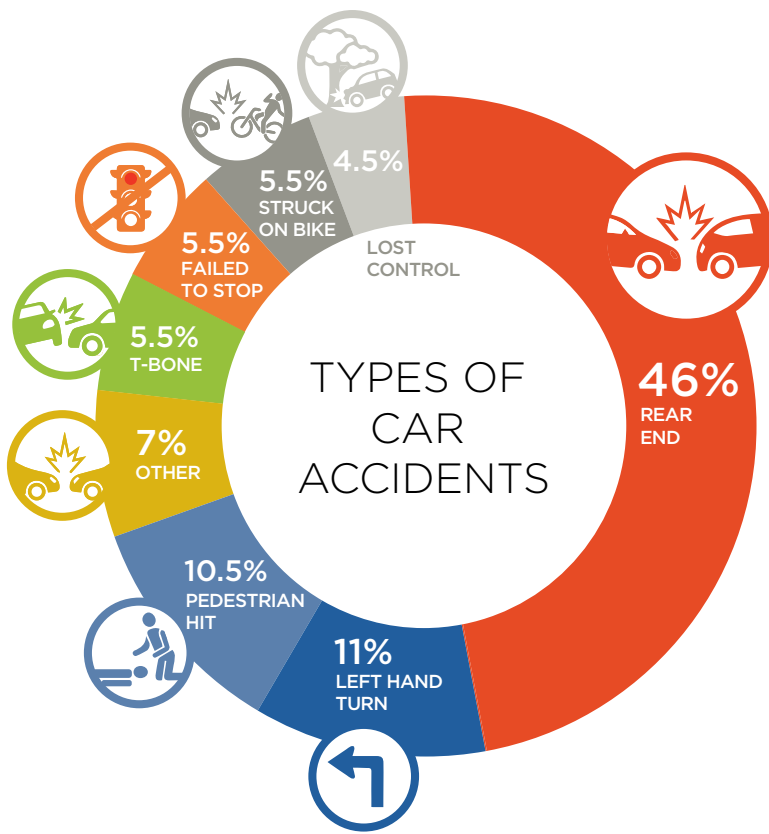
CARRANZA LLP Spring 2016 Newsletter

Avoid becoming a statistic

Car accidents form the majority of personal injury cases. How can you avoid a car accident?

We looked at Carranza's personal injury cases over a 10-month period in 2015 and noticed some interesting data – for example, car accidents make up over 70% of our cases.

So what can we do, as drivers, to avoid being one of these cases? How can we avoid a car accident? Of course, some car accidents are unavoidable – but following these tips can help us do our best to avoid them.

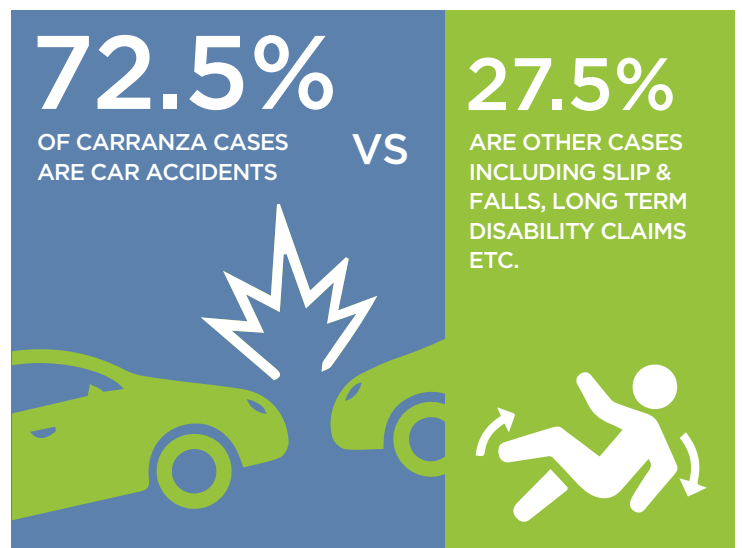


- Make sure you're wearing your glasses or contact lenses (if necessary).
- Have your vehicle maintained on a regular basis.
- Pay attention to the flow of traffic, even further ahead, so that you can anticipate any changes.
- Know your car's blind spots and always double check them before changing lanes.
- Avoid the fast lane during your commute by using either the center or right lanes whenever possible.
- Avoid driving in hazardous weather, if possible.

*TWO SECOND RULE VIA ONTARIO MINISTRY OF TRANSPORTATION WINTER DRIVING BROCHURE

How to avoid being in an accident

- Follow the rules of the road, including speed limit.
- Avoid distracted driving! Leave your cell phone switched off or out of reach, and program your route ahead of time. Avoid other driving distractions like eating, drinking, putting on makeup, and pets running around in the car. Children can be a big distraction, too - do your best to give them anything they might need before you set off. And if you really do need to check your phone, attend to a pet or child, or do any other thing besides driving, then pull over safely first.
- Always give adequate space between you and the car in front of you. You should maintain at least the two second rule*:
 - Pick a marker on the road ahead, such as a road sign.
 - When the rear of the vehicle ahead passes the marker, count "one thousand and one, one thousand and two".
 - When the front of your vehicle reaches the marker, stop counting.
 - If you reach the marker before you count "one thousand and two" you are following too closely.
 - In winter, and especially during poor weather conditions, double the two-second rule.
- Always be on the look out for pedestrians, bikes and other potential hazards.
- Position your hands correctly, at the 3 and 9 o'clock positions.



In our next issue, we'll talk about one of the most common causes of serious car accidents in Toronto: left-hand turns.



Changes to Accident Benefits: Another new regime

In 2010, Ontario overhauled its Accident Benefits system with significant changes that included the introduction of the “Minor Injury Guideline (MIG).” Today, just when lawyers, medical professionals and patients had become accustomed to the changes, the Ontario government has decided to revamp the system yet again. **BY: KIRAN GURESHI**

The MIG is what is currently used by health care professionals and insurance companies to “speed access to rehabilitation for persons who sustain minor injuries in auto accidents; improve utilization of health care resources; provide certainty around cost and payment for insurers and regulated health professionals; and be more inclusive in providing immediate access to treatment without insurer approval”.

Last year, the Financial Services Commission of Ontario (FSCO) received a report they had commissioned called “Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person”. The report was prepared by the Ontario Protocol For Traffic Injury Management (Optima) Collaboration. The report was concerned primarily with the treatment of musculoskeletal injuries (such as neck pain and associated disorders, and sprains and strains of the spine and limbs); traumatic radiculopathies (nerve pain); mild traumatic brain injuries; and post-traumatic psychological symptoms such as anxiety and stress.

Based on the findings in this report, FSCO released the [Draft Super-](#)

[intendent’s CTI Guideline](#) on August 19, 2015, which contained a categorization of injuries called “Common Traffic Impairment (CTI).” Note that these are still in draft form and haven’t been adopted yet, but if adopted, would replace the Minor Injury Guidelines.

What is a Common Traffic Impairment?

As indicated in the Draft Superintendent’s Report, a “Common Traffic Impairment” (CTI) means any one or more of the following impairments that result from a motor vehicle accident:

- Physical impairments: neck pain and its associated disorders; headaches associated with neck pain; thoracic and lumbar spine pain; nerve pain and nerve root injury; sprains and strains; cuts and bruises; and pain associated with any of the above listed impairments.
- Mental impairments: mild traumatic brain injury (MTBI) with resulting signs and symptoms lasting no more than 3 months.
- Psychological impairments: early psychological signs and symptoms, including: depressed mood, anxiety, fear, anger frustration and poor expectation of recovery.

That difference between the MIG and CTI is that under the MIG, a patient could receive treatment beyond the \$3,500.00 cap if they had a mental or psychological impairment as a result of the accident. Once out of the MIG, a patient could be potentially eligible to receive up to a maximum of \$50,000 in medical/rehabilitation benefits. Now, under the CTI, a person with a mental or psychological impairment will be treated within set and pre-determined treatment guideline.

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New accident benefits regime

Continued from page 3.

These guidelines are also called “care pathways” and they are listed and described in the Commission’s report.

EXEMPTIONS FROM THE CTI

Under the new system, treatment beyond the CTI guidelines will only be available if a health practitioner confirms in writing and provides compelling evidence that:

- the CTI is not the most serious impairment sustained by the insured person as a result of the motor vehicle accident

or

- the CTI is the most serious impairment sustained by the insured person as a result of the motor vehicle accident, but the insured person:
 - has any of the following conditions (which may pre-date the accident or develop during the course of treatment under this Guideline):
 - Neurological disorder (for example, cervical spondylotic myelopathy)
 - Autoimmune disorder with or without joint involvement (for example, Type 1 Diabetes in an uncontrolled state)
 - Psychiatric condition (for example, active psychoses, severe PTSD)
 - Other serious pathology (for example, active cancer)

and

- the condition is likely to prevent the insured person from recovering if treated only under the care pathways.

That is, under the CTI, the exemptions have become more detailed and circumscribed. Likewise, the definition of “health practitioner” has been circumscribed and now consists of only chiropractors, dentists, nurse practitioners, physicians and physiotherapists – excluding psychologists and occupational therapists from initiating treatment.

LENGTH OF TREATMENT UNDER THE CTI

Whereas previously there was no set timeframe for exhausting treatment under the MIG, under the new system, the “Care pathways” set out available treatment for 2 phases: recent onset phase (0-3 months) and persistent phase (4-6 months).

Effectively, there is a maximum 6-month timeframe for treatment from the date of the crash. This means that people who adopt a

“wait and see” approach to their injuries, or who cannot partake in continuous treatment for personal reasons, or who may wish to try other therapies first,

may effectively be effectively forfeiting

Accident Benefits

medical and rehabilitation benefits.



WHAT MIGHT WE EXPECT UNDER THE CTI?

While the final changes have not been released, the draft changes are concerning. Health practitioners and lawyers for the injured have already seen problems with the guidelines – for example a claimant with a partial muscle tear has their treatment capped at \$3,500.00, and then spirals into chronic and debilitating pain once the money runs out.

The unfortunate outcome of the CTI will be that we will now be able to add people with psychological and brain injuries to that list.

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Young drivers without auto insurance: To exclude or not to exclude, that is the question

Being a parent can be very challenging. We want the best for our children and we are always inclined to protect them. But sometimes our economic situations lead us to make decisions that are more driven by saving money.

BY: RONALD CARRANZA

An example of this is deciding whether to include or exclude children from our auto insurance policies. It's no secret that the cost of insurance increases when an adolescent with a new driver's licence is added to the policy. Thus, many parents decide to exclude their young drivers from their insurance policies but aren't aware of the grave implications that these decisions have.

If you decide to exclude your child from your insurance, you should add an excluded driver endorsement to your insurance policy. An excluded driver endorsement is an agreement signed by you and the driver(s) which excludes a specific driver or drivers from being covered under your insurance policy.

Typically, an [excluded driver endorsement](#) is used by people who want to exclude young inexperienced drivers or a driver with at-fault accidents or convictions who are living at home, to avoid paying higher premiums.

But it is also important to acknowledge that there are other alternatives to consider with respect to insuring your children. First of all, when your son or daughter is of driving age, you should seriously consider increasing the car insurance coverage for third party liability, as it can be beneficial to you in the case that your teenager

is found at fault of an accident.

At the same time, it is important that parents establish strict rules with regards to allowing their children to borrow the car. Many of us make the mistake of leaving the car keys hanging by the entrance door. Naturally we want to believe that our son or daughter will be responsible enough to only take the car under reasonable and necessary circumstances, but unfortunately, reality can be very different from our beliefs. Therefore, the best thing to do to control the usage of our car by our children, is to have a serious talk with them every time they need to borrow the car so that parents can assess the situation and decide whether they want to lend it or not.

It is important to keep in mind that every time we lend our car to someone, the owner of the car is liable for all the damage caused to a third party; it is the same as if we were driving. In other words, if your child is driving your car and is involved in an accident, injuring several people, you can be liable for millions of dollars. At the same time, if you lend the car to your child and then he/she lends it to someone else who is also a teenager, (without your knowledge) even then, you are still liable for damages caused by this unknown person.

Before your child loses control of your car, you should take control of the situation and ensure the safety of your child, community and the roads. If you decide that excluding your daughter or son from your insurance policy permanently is your best option, make sure that your son/daughter will not drive your vehicle under any circumstance. As previously mentioned, the owner of the vehicle is personally liable.



Children have rights, too

Has your child been injured at school? Either physically injured or mentally, such as being bullied or taunted? Unfortunately more and more parents have to answer 'yes' to this question.

BY: ALIZA KAROLY

Your children should be safe when they cross the threshold of their school entrance. Parents should be aware that the law holds schools accountable and provides strong direction when a school or another student crosses the line. Every parent and student has the right to challenge the misconduct that caused them harm.

What if your 7-year old child is injured by a group of older students during lunch break? In one case, a 7-year old boy was play fighting with older boys for several minutes while a teacher on yard duty. The 7-year old was seriously hurt. An appellate court in this case held the school liable in this situation. The teacher should have realized that it was inappropriate for a 7-year old to be playing in such a rough manner with older boys and the teacher should have intervened.

That scenario is a common sense legal outcome. The school and its employees are held to the standard of a reasonably careful and prudent parent. What is reasonable is looked at on a case-by-case basis, but it is common sense to look at the size of the area the teacher has to watch, the ratio of students to supervising teacher, the relative sizes of the children, the roughness of the activity and whether anyone would think that a child could get hurt.

Of course not every school experience is negative, but more

parents and care providers need to think about challenging the status quo or at least asking more questions when their child is hurt.

What if your child gets injured in gym class? He or she is on apparatus, falls and the mat is not directly underneath. If a leg was broken, is it not common sense that someone should have checked to make sure that the matting was adequate and placed correctly? Yes, and a school was held liable for such an injury.

Another scenario where a school has been held liable is when a child is injured but the school does not take the injury seriously and provide adequate medical care, even aggravating the injury by sending the child back to class. What if this is an emotional bullying incident? What would you do? Harm can be physical and psychological. Teachers are required to follow guidelines and report any injuries. Schools should be an environment where that is indeed the case, and minimize harm once an injury occurs.

Most interesting of all, the law notes that the standard of care should be higher when it comes to supervising a child with a history of behaviour problems, bullying and causing injuries. Has your child been seriously hurt by one of those bullies?

You have every right to get involved, stand up for your child and seek compensation when your child gets hurt. Children are people, too, and they have rights. An individual's rights should not be overlooked or minimized in any circumstance.



In the community

Carranza strikers raise money for a good cause

In early November the Carranza Strikers participated in the annual Workers' Bowl. Besides receiving an honourable mention for our striking costumes, pun intended, the event was a great success with a total of over \$89,000 raised! We

look forward to participating again this year and raising more funds for The Ontario Employment Education & Research Centre.



Canadian Association of Black Lawyers' 19th Gala Celebration

We were incredibly honoured to have been invited to attend the Canadian Association of Black Lawyers' 19th Gala Celebration.

On behalf of Carranza LLP, we would like to congratulate all the well-deserved award recipients for their tremendous contributions to the black community and their outstanding work in the field of law.

This year's theme was titled "Answering the Call for Change: JUSTICE IN ACTION". We were left in awe of the speech given by keynote speaker Desmond Cole

who is an activist, author and award-winning freelance journalist. Desmond Cole's speech in which he retold his story about growing up as a black man in Canada, highlighted the challenges he faced and his call for action: an end to silence about racism. What an inspiring night!



Maximum compensation in any language

At Carranza LLP, we specialize in personal injury law. Speaking over 24 different languages, we are committed to helping injury survivors achieve maximum recovery and compensation.

We specialize in the following areas of personal injury law:

- **Car accident claim**
- **Long term disability claim**
- **Slip and fall claim**
- **Brain injury**
- **Spinal cord injury**
- **Paediatric injury**
- **Orthopaedic injury**

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